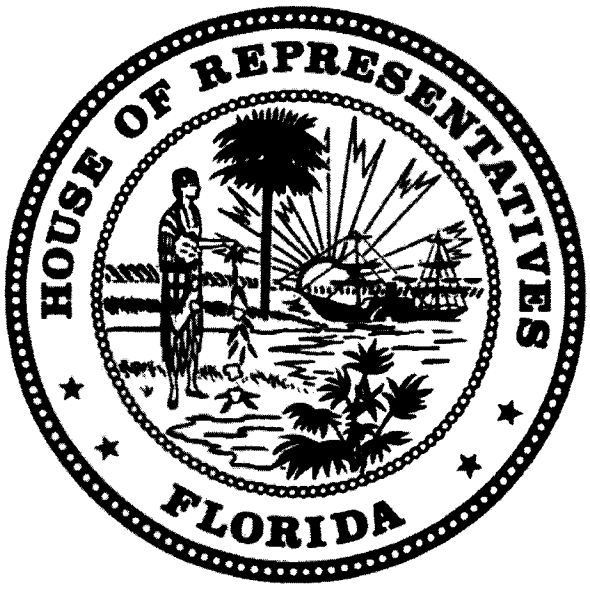

Regulatory Affairs Committee

Thursday, March 12, 2015
1:00 PM
Sumner Hall (404 HOB)

MEETING PACKET

Steve Crisafulli
Speaker

Jose Diaz
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Regulatory Affairs Committee

Start Date and Time:	Thursday, March 12, 2015 01:00 pm
End Date and Time:	Thursday, March 12, 2015 03:00 pm
Location:	Sumner Hall (404 HOB)
Duration:	2.00 hrs

Consideration of the following bill(s):

HB 221 Long-Term Care Insurance by Drake
CS/HB 239 Medication and Testing of Racing Animals by Business & Professions Subcommittee, Fitzenhagen, Stone
CS/HB 413 Low-Voltage Alarm Systems by Business & Professions Subcommittee, Cortes, B.

Consideration of the following proposed committee bill(s):

PCB RAC 15-01 -- Financial Literacy Program for Individuals with Developmental Disabilities

Pursuant to rule 7.12, the filing deadline for amendments to bills on the agenda by a member who is not a member of the committee or subcommittee considering the bill is 6:00 p.m., Wednesday, March 11 2015.

By request of the Chair, all Regulatory Affairs Committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Wednesday, March 11, 2015.

NOTICE FINALIZED on 03/10/2015 16:14 by Ellinor.Martha

The Florida House of Representatives

Regulatory Affairs Committee

Steve Crisafulli
Speaker

Jose Diaz
Chair

AGENDA

March 12, 2015
404 HOB
1:00 PM – 3:00 PM

I. Call to Order and Roll Call

II. HB 221 by *Rep. Drake*
Long-Term Care Insurance

III. CS/HB 239 by *Business & Professions Subcommittee; Reps. Fitzenhagen; Stone*
Medication and Testing of Racing Animals

IV. CS/HB 413 by *Business & Professions Subcommittee; Rep. B. Cortes*
Low-Voltage Alarm Systems

V. PCB RAC 15-01 by *Regulatory Affairs Committee*
Financial Literacy Program for Individuals with Developmental Disabilities

VI. ADJOURNMENT

303 House Office Building, 402 South Monroe Street , Tallahassee, FL 32399-1300
(850) 717-4870

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 221 Long-Term Care Insurance
SPONSOR(S): Drake
TIED BILLS: **IDEN./SIM. BILLS:** SB 520

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	12 Y, 0 N	Gonzalez	Cooper
2) Health Innovation Subcommittee	12 Y, 0 N	Nilson	Poche
3) Regulatory Affairs Committee		Gonzalez	Hamon K.W.H.

SUMMARY ANALYSIS

Long-term care insurance is a type of insurance developed specifically to cover the costs of nursing homes, assisted living, home health care and other long-term care services. All insurance policies sold in Florida must be purchased from an insurance agent licensed by the Department of Financial Services. Insurance agents sell policies from insurance companies regulated by the Office of Insurance Regulation.

Under current law, an insurance company that offers long-term care insurance is required to offer the following options for nonforfeiture protection provisions: reduced paid-up insurance, extended term, shortened benefit period, or "any other benefits approved" by the Office of Insurance Regulation. This bill allows an insurance company to offer a return of premiums paid in the event of the death of the insured or a complete surrender or cancellation of the policy, in addition to the already required nonforfeiture benefits of a long-term care insurance policy, certificate, or rider.

This bill has no fiscal impact on the public sector.

This bill may have an indeterminate positive impact on the private sector.

This bill provides an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation of Long-term Care, Nonforfeiture Benefits, and Long-term Care Insurance

The term "long-term care" encompasses medical, social, and personal care services on a recurring or continuing basis for persons with chronic physical or mental illness, injury, or disability. Long-term care may be provided in environments ranging from institutions, such as nursing homes and assisted living facilities, to private homes. Long-term care services usually include symptomatic treatment, maintenance, and rehabilitation of patients.[1]

"Long-term care insurance policy" means "any insurance policy or rider . . . designed to provide coverage . . . for one or more necessary or medically necessary diagnostic, preventative, therapeutic, curing, treating, mitigating, rehabilitative, maintenance, or personal care services provided in a setting other than an acute care unit of a hospital. Long-term care insurance shall not include any insurance policy which is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident only coverage, specified disease or specified accident coverage, or limited health insurance coverage not otherwise defined as long-term care insurance."[2]

All insurance policies sold in Florida must be purchased from an insurance agent licensed by the Department of Financial Services. Insurance agents sell policies from insurance companies regulated by the Office of Insurance Regulation ("OIR").[3]

Generally, nonforfeiture protection provisions are contractual arrangements that are triggered when a policy ends leaving the policyholder with some benefit from paying into the policy but never using it. Upon lapse of premium payments, a nonforfeiture protection provision provides the policyholder with an option to continue the policy for a shorter period, to surrender the policy for its cash value, to continue the policy for a reduced amount, or to take some other action rather than forfeit the policy.[4]

Current law requires insurance companies to offer a nonforfeiture protection provision with long-term care insurance policies, and that provision must provide the following benefit options: reduced paid-up insurance, extended term, shortened benefit period, or any other benefits approved by OIR if all or part of a premium is not paid.[5] These benefit options must be offered by insurance companies, but the consumer is allowed to choose which options they would like to purchase for an additional premium.

Prior to 1997, the law allowed "cash surrender values which may include return of premiums," as a benefit option for a nonforfeiture protection provision.[6] The language was deleted in 1997 as a result of the passage of the federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA").[7] Subsequently, federal law changed to allow "qualified long-term insurance contracts" to provide for a return of premium, but only upon the death of the insured, or upon a complete surrender or cancellation of the contract.[8] While current Florida law does not explicitly preclude the return of premiums as a benefit, the

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[1] "Long-Term Care," MOSBY'S MEDICAL DICTIONARY (8th ed. 2009), available at: http://medical-dictionary.thefreedictionary.com/long-term+care (last visited Feb. 23, 2015).
[2] S. 627.9404(1), F.S.
[3] S. 624.401(1), F.S.
[4] "Option," BLACK'S LAW DICTIONARY (10th ed. 2014).
[5] S. 627.94072(2), F.S.
[6] S. 627.94072(2), F.S. (1996).
[7] *See* Ch. 97-179, s. 19, Laws of Fla.
[8] 26 U.S.C. § 7702B.

OIR interprets the removal of the prior language as a prohibition of the benefit for long-term care insurance.[9]

Effect of the Bill

This bill amends the law to allow the return of premiums paid as a nonforfeiture benefit for long-term care insurance. Unlike the current benefit options for nonforfeiture protection provisions, which are mandatory, this change would permit insurers to offer an additional benefit in the form of the return of premiums paid. Similar to the current process of purchasing nonforfeiture protection benefits with long-term care insurance, consumers would have the opportunity to purchase this new benefit for an additional premium.

B. SECTION DIRECTORY:

Section 1. Amends s. 627.94072(2), F.S., relating to mandatory offers of long-term care insurance.

Section 2. Provides an effective date of July 1, 2015.

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:

Uncertain. To the extent that insurance companies will choose to offer the return of premiums paid as a nonforfeiture protection benefit with long-term care insurance policies, the amount of policyholders that would purchase this option and the costs or savings to insurance companies are unknown.

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.

[9] *See* R. 69O-157.118, F.A.C.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to long-term care insurance; amending s. 627.94072, F.S.; providing additional forms for the mandatory offer of nonforfeiture benefits in long-term care insurance policies; providing an effective date.

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

Section 1. Subsection (2) of section 627.94072, Florida Statutes, is amended to read:

627.94072 Mandatory offers.—

(2) An insurer that offers a long-term care insurance policy, certificate, or rider in this state must offer a nonforfeiture protection provision providing reduced paid-up insurance, extended term, shortened benefit period, or any other benefits approved by the office if all or part of a premium is not paid. A nonforfeiture protection provision may be offered in the form of a return of premium upon the death of the insured or upon the complete surrender or cancellation of the policy or contract. Nonforfeiture benefits and any additional premium for such benefits must be computed in an actuarially sound manner, using a methodology that is ~~has been~~ filed with and approved by the office.

Section 2. This act shall take effect July 1, 2015.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 239 Medication and Testing of Racing Animals
SPONSOR(S): Business & Professions Subcommittee; Fitzenhagen; Stone
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 226

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	12 Y, 0 N, As CS	Anstead	Luczynski
2) Regulatory Affairs Committee		Anstead	Hamon

SUMMARY ANALYSIS

The Division of Pari-mutuel Wagering (division) within the Department of Business and Professional Regulation (Department) regulates the business of pari-mutuel wagering.

The bill modifies the current regulation of prohibited medications, drugs and naturally occurring substances in racing animals - both horses and greyhounds.

The bill makes it a violation for a racing animal to merely test positive for a prohibited substance and allows the prosecution of licensees without requiring evidence that such licensee administered the prohibited substance.

The bill allows an owner or trainer to request analysis by an independent laboratory after a positive test result from the division. No further administrative action may be taken if the test results are not confirmed by the independent laboratory. If there is an insufficient quantity of the sample from a racing greyhound to confirm the results by an independent laboratory, the owner or trainer may still be prosecuted. If a racehorse's results cannot be confirmed by an independent laboratory because there is insufficient quantity to confirm, the owner or trainer may not be prosecuted, and any suspended licensee must be reinstated.

The bill changes the maximum fine for violations from $5,000 to $10,000 or the amount of the purse, whichever is greater. Administrative prosecutions must be started within 90 days of the violation, which was reduced from the current 2 year standard.

The bill requires the division to adopt the Association of Racing Commissioners International (ARCI) rules regarding the medications, drugs, and naturally occurring substances given to racing animals, including a classification system for drugs that incorporates ARCI's Penalty Guidelines for drug violations, and updates current methodologies used in testing procedures. The bill requires that conditions and limitations be set for the use of furosemide, a diuretic used to treat exercise-induced pulmonary hemorrhage.

The bill requires an outside quality assurance program for the annual assessment of the ability of all laboratories approved by the division to analyze samples for the presence of medications, drugs, and prohibited substances. The findings must be reported to the division and the Department of Agriculture and Consumer Services.

The bill does not have a fiscal impact on state or local government.

The bill provides an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

I. Present Situation:

The majority of the current law related to the medication and testing of racing animals was adopted in the 1990's and has not been specifically revised to address current technology or current medical standards. Florida is the only equine state in the nation that has not adopted current national uniform racing rules developed by the Association of Racing Commissioners International (ARCI). Kentucky, New York, Maryland, California, and Pennsylvania have adopted all or some of such policies.[1] With more than 3,300 thoroughbred and quarter horse races a year, and as host to four Kentucky Derby qualifying races, Florida has a robust and prestigious equine industry. Florida's adoption of nationally recognized standards is supported by the Jockey Club, the Racing Testing and Medication Consortium (RMTC),[2] the Florida Thoroughbred Breeder's and Owners' Association, Florida Quarter Horse Racing Association, and Florida Horsemen's Benevolent & Protective Association.

Current law, s. 550.2415, F.S., prohibits the racing of an animal that has been impermissibly medicated and identifies certain medications or substances that are either prohibited or permitted under certain conditions. The division is authorized to adopt rules specifying acceptable levels of naturally occurring substances. Other drugs and substances are permitted under limited conditions, such as furosemide to treat exercise-induced bleeding, and vitamins and minerals that do not exceed acceptable levels are also permitted.

Currently, to determine whether certain substances are prohibited depends upon whether the substance was administered during a specific time frame prior to a race, whether the racing animal is approved or qualified to receive the substance, what level of the substance is detected as set by administrative rule and what method of administration was used.

The trainer of record for each animal is responsible for the condition of the animals he or she enters into a race, and for securing all prescribed medications, over-the-counter medicines, and natural or synthetic medicinal compounds.

Samples of bodily fluids may be collected from a racing animal immediately before and immediately after it has raced. If racing officials find that impermissible substances have been administered, or that permissible substances have been administered during prohibited periods before a race, such substances may be confiscated and the racing animal may be prohibited from racing.

The winner of every race is examined by an authorized representative of the division and samples are taken. Any other animals that participated in the race may be designated for examination and testing by the stewards, judges, racetrack veterinarian, or a division representative.

All samples are collected by staff of the Office of Operations of the division and sent to the University of Florida College of Medicine Racing Laboratory for analysis.[3] Blood specimens must be collected from racing animals by veterinarians employed by the division or any licensed veterinarian hired or retained by the division, and the collection must be witnessed by the animal's trainer, owner, or designee.

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[1] *See Blood-Horse, Foreman: Pace of Drug Reform 'Unprecedented',* http://www.bloodhorse.com/horse-racing/articles/84070/foreman-pace-of-drug-reform-unprecedented *(last visited Feb.26, 2015).*

[2] *Id.*

[3] See The Department of Business and Professional Regulation, Division of Pari-mutuel Wagering, *83rd Annual Report, Fiscal Year 2013-2014,* p. 3, http://www.myfloridalicense.com/dbpr/pmw/documents/AnnualReports/AnnualReport-2013-2014--83rd--20150114.pdf (last visited Feb. 26, 2015).

The 83rd Annual Report of the division reflects that during Fiscal Year 2013-2014, the laboratory received and processed 79,600 samples and performed 344,289 analyses, as follows:[4]

Sample Type	Horse Urine/Blood	Greyhound Urine	Investigative
Samples Received	15,816	63,757	27
Samples Analyzed	16,066	43,631	27
Number of Analyses	76,316	267,885	88
Positive Results	208	42	n/a

Some greyhound urine samples (20,044 or 31.4% of the total) were insufficient to allow for valid testing of those samples. Of the 79,573 non-investigative samples that were collected at racetracks, 59,697 samples were analyzed, but there were only 250 positive results for impermissible substances.

If a prohibited substance is found in a specimen, it is evidence that the substance was administered to and in the racing animal while racing. Test results are confidential and exempt from public records requirements for at least 10 days after the testing is completed. If the results are positive, they must be reported to the director of the division. If the test is positive, the results remain confidential and exempt until an action against the person licensed by the division has been commenced by the service of an administrative complaint, which is currently required to be commenced within two years after the violation.

Once the division notifies the owners or trainer of the results, the owner may request that each sample be split into a primary sample and a secondary (split) sample and that the secondary sample be sent to an independent laboratory. The splitting procedure must occur in the division's laboratory using procedures approved by the division by rule.

If a positive result found by the laboratory is not confirmed by the analysis made by the independent laboratory, no further administrative or disciplinary action may be pursued by the division.[5] If the positive result is confirmed, or if the volume of the secondary sample is insufficient to do so, then administrative action may proceed.

According to the division, there were 19 license suspensions, and $80,950 in fines assessed for violations of all pari-mutuel statutes and rules in Fiscal Year 2013-2014.[6]

II. Effect of Proposed Changes:

The bill modifies s. 550.2415, F.S., related to the prohibition of racing animals under certain conditions. The bill makes it a violation for a racing animal to test positive for a prohibited substance based on the testing of a sample of the racing animals bodily fluids collected before or after a race. Licensees responsible for a racing animal are held in violation if illegal substances are found, whether or not the actual perpetrator is known.

If a racing animal tests positive for a prohibited substance, the licensee's license can be suspended or revoked or the licensee may be fined. The bill increases the maximum fine for violations to $10,000 or the amount of the purse, whichever is greater.

In order to facilitate the quick removal of violators from the industry and ensure the health and safety of racing animals, the bill shortens the existing deadline for the initiation of administrative prosecutions from 2 years to 90 days from the date of the violation. The original bill set the deadline for filing an administrative action at 60 days. However, in order to ensure the timely prosecution of violators and

[4] *See* 83rd Annual Report, *supra* note 3, at page 37.
[5] Section 550.2415(5)(b), F.S.
[6] *See* 83rd Annual Report, *supra* note 3, at page 3.

based on input from the Department of Business and Professional Regulation, a 90 day deadline was determined to be appropriate.

The bill provides that the division may solicit input from the Department of Agriculture and Consumer Services when adopting rules that specify normal concentrations of naturally occurring substances and acceptable levels of other environmental contaminants and substances.

The bill does not change existing law as to the testing of samples from racing greyhounds. Samples from racing animals collected at racetracks are analyzed by the division's laboratory. The University of Florida College of Veterinary Medicine Equine Racing Laboratory is currently under annual contract for these services.[7]

The bill provides that the division must notify not only the owner or trainer of the outcome of all drug tests, but all the stewards (the racetrack officials responsible for enforcement of racing regulations) and the appropriate horsemen's association (which represents the majority of the racehorse owners and trainers at a track). The bill does not address the timing of such notification to the stewards and horsemen's association.

If the division's laboratory finds that the sample contains impermissible medications, prohibited substances, or a level of a naturally occurring substance exceeding normal concentrations, the owner or trainer has the right to request another analysis be made on the retained portion by an independent laboratory. If the independent laboratory's analysis confirms the finding made by the division laboratory, administrative proceedings may be pursued.

If the quantity of the split sample provided to the independent laboratory from a racing greyhound is insufficient to confirm the positive drug test result made by the division's laboratory, prosecution may still be pursued against the owner or trainer on the basis of the initial test result.[8] In 2013-2014, the volume of urine collected from greyhounds was insufficient for testing by the independent laboratory 31.4% of the time.[9]

As to the testing of samples from racehorses, the bill provides that if the quantity of the split sample provided to the independent laboratory is insufficient to confirm the positive drug test result, no prosecution may be pursued against the owner or trainer, and any suspended license must be immediately reinstated.

The division's laboratory and all laboratories approved by the division to analyze samples collected from racing animals must annually participate in an outside quality assurance program to assess their ability to detect and quantify medications, drugs, and naturally occurring substances that may be administered to racing animals. The quality assurance program administrator must report its findings to the division and the Department of Agriculture and Consumer Services.

The bill mandates the adoption by the division of rules that establish the use and allowed levels of medications, drugs, and naturally occurring substances that are in the Controlled Therapeutic Medication Schedule (schedule), Version 2.1, revised April 17, 2014,[10] by the Association of Racing

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[7] *See* Veterinary Diagnostic Laboratories, UF Large Animal Hospital, College of Veterinary Medicine, http://largeanimal.vethospitals.ufl.edu/services/veterinary-diagnostic-laboratories/ (last visited Feb. 26, 2015).

[8] Due to difficulties in collecting a sufficient amount of sample from a greyhound for the independent laboratory analysis, a greyhound trainer may still be prosecuted based on the original positive test result from the division's laboratory even if the results cannot be confirmed by an independent laboratory. However, because horses offer greater sample quantity, this same rule does not apply to racehorses.

[9] *See* 83rd Annual Report, *supra* note 5, at p. 37.

[10] *See* ARCI Controlled Therapeutic Medication Schedule - Version 2.1, Revised April 17, 2014, http://arcicom.businesscatalyst.com/assets/arci-controlled-therapeutic-medication-schedule---version-2.1.pdf (last visited Feb. 26, 2015).

Commissioners International, Inc. (ARCI),[11] which is a not-for-profit trade association with no regulatory authority. However, its members individually possess regulatory authority within their jurisdictions, and many have the authority to determine whether to adopt ARCI recommendations on policies and rules.[12]

The Association of Racing Commissioners International, Inc. has adopted Model Rules for Racing[13] for the use of the pari-mutuel industry.

The schedule includes maximum allowed concentrations and doses for 23 medications and three non-steroidal anti-inflammatory drugs, with guidelines for the termination of use of the medication or substance prior to racing, to avoid a positive drug test. The adoption of uniform medication rules using the schedule is an attempt to provide owners and trainers with uniformity of regulations across jurisdictions.[14]

The bill also requires the division to adopt rules designating the appropriate biological specimens to monitor the administration of certain substances, setting the testing methods for screening specimens to confirm the presence of certain substances, and establishing a classification system for drugs and substances, with a penalty schedule for violations.

The bill requires that the penalty schedule for violations must incorporate the Uniform Classification Guidelines for Foreign Substances, Version 8.0, revised December 2014, by ARCI.[15] These guidelines are "intended to assist stewards, hearing officers and racing commissioners in evaluating the seriousness of alleged violations of medication and prohibited substance rules . . . ."[16]

The bill requires the division to adopt rules specifying the conditions for the use of furosemide, a diuretic used to treat exercise-induced pulmonary hemorrhage and nose bleeds. The bill specifies that furosemide is the only medication that may be administered within the 24 hours before the "officially scheduled post time of a race," but not within the four hour period prior to that post time.

The bill deletes the specific requirement that the division adopt rules of the use and administration of prednisolone sodium succinate, phenylbutazone, and synthetic corticosteroids. Instead the bill provides for the reliance on ARCI's schedule and guidelines. The bill also deletes the division's authority to adopt rules for the use of furosemide, phenylbutazone, or prednisolone sodium succinate; those substances are addressed in ARCI's schedule and rules.

The bill deletes the requirement that the division use only thin layer chromatography (TLC) for the testing of urine and blood samples from race horses.

The bill deletes the use of 1995 standards, specifically to ARCI's uniform classification system for class IV and V medications adopted on February 14, 1995, and deletes the specific requirement that the testing for phenylbutazone be six full 15 milliliter blood tubes for each horse tested.

The bill retains existing law respecting the division's authority to adopt medication levels for racing greyhounds as may be recommended by the University of Florida College of Veterinary Medicine.

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[11] *See* Racing Commissioners International, http://arcicom.businesscatalyst.com/about-rci.html (last visited Feb. 26, 2015).
[12] *Id.*
[13] *See* University of Arizona, Race Track Industry Program, https://ua-rtip.org/industry_service/download_model_rules (last visited Feb. 26, 2015).
[14] See Gary West, *Churchill Could Spark Change, ESPN.com, (Dec. 17, 2014),* http://espn.go.com/espn/print?id=12043495&type=story; *See also* Racing Medication and Testing Consortium, *RMTC Executive Committee Responds to Proposal, Stresses Importance of Independence (Dec.18, 2014),* http://www.rmtcnet.com/content_pressreleases.asp?id=&s=&article=1942 .
[15] *See* Association of Racing Commissioners International, Inc., *Drug Testing Standards and Practices Program, Model Rules Guidelines (Dec. 2014),* http://arcicom.businesscatalyst.com/assets/uniformclassificationguidelines.pdf .
[16] *Id.* at p. ii.

The division notes that since the Controlled Therapeutic Medication Schedule adopted by the Association of Racing Commissioners International, Inc. appears to be limited to horses, the deletion of existing s. 550.2415(15), F.S., as to the medication of racehorses, removes its authority to adopt rules on medication levels that have not yet been addressed by ARCI.

The bill provides for an effective date of July 1, 2015.

B. SECTION DIRECTORY:

Section 1 amends s. 550.2415, F.S.:

- setting standards for medication and testing of racing animals;
- making it a violation for a racing animal to test positive for a prohibited substance and for a person to impermissibly medicate a racing animal;
- allowing the division to solicit input from the Department of Agriculture and Consumer Services;
- increasing the fine amounts for violations;
- decreasing the time for commencing an administrative action;
- requiring notification of certain persons; and
- requiring the adoption of rules related to the use of certain national testing standards.

Section 2 provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Collection of higher fine amounts could lead to increased revenue to the state.

2. Expenditures:

   None. Note: The negative fiscal impacts estimated by the division have been addressed and are no longer present in the proposed committee substitute.[17]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The changes in sampling of specimens from racing animals and the annual assessment of independent testing laboratories will have an indeterminate impact on horse and greyhound tracks, and the owners and trainers of racing animals.

D. FISCAL COMMENTS:

None.

[17] *See* Department of Business and Professional Regulation, *Legislative Bill Analysis of 2015 Senate Bill 226,* p. 6 (Feb. 4, 2015).

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:

The division is given the authority to make rules in accordance with national standards for medications and testing procedures used in the animal racing industry and as set out by the Controlled Therapeutic Medication Schedule adopted by the Association of Racing Commissioners International, Inc.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 3, 2015, the Business & Professions Subcommittee considered a proposed committee substitute and reported the proposed committee substitute favorably with a committee substitute.

The committee substitute made the following changes to the filed version of the bill:

- Changes the deadline in the original bill for initiating administrative action from 60 days to 90 days, which shortens the current two year deadline;
- Removes the requirement in the original bill to split the sample at the racetrack – returning to current law; and
- Specifies exact versions of the current Uniform Classification Guidelines for Foreign Substances and Controlled Therapeutic Medication Schedule that must be incorporated in rulemaking.

The staff analysis is drafted to reflect the committee substitute.

A bill to be entitled

An act relating to medication and testing of racing animals; amending s. 550.2415, F.S.; revising provisions that prohibit the use of certain medications or substances on racing animals; revising penalties that may be imposed by the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation; revising the timeframe in which certain prosecutions must begin; revising procedures; revising requirements for notification of drug test results; providing for secondary tests to confirm initial positive results; providing for actions of the division if there is insufficient sample material for a secondary test; requiring the division to require its laboratory and specified independent laboratories to annually participate in a quality assurance program; requiring the administrator of the program to submit a report; revising rulemaking authority of the division; directing the division to adopt certain rules relating to the conditions of use and maximum concentrations of medications, drugs, and naturally occurring substances; authorizing the division to solicit input from the Department of Agriculture and Consumer Services for purposes of adopting such rules; providing an effective date.

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

Section 1. Paragraphs (a) and (b) of subsection (1), paragraphs (a) and (b) of subsection (3), subsections (4) and (5), and subsections (7) through (16) of section 550.2415, Florida Statutes, are amended to read:

550.2415 Racing of animals under certain conditions prohibited; penalties; exceptions.—

(1)(a) The racing of an animal that has been impermissibly medicated or determined to have a prohibited substance present ~~with any drug, medication, stimulant, depressant, hypnotic, narcotic, local anesthetic, or drug-masking agent~~ is prohibited. It is a violation of this section for a person to impermissibly medicate an animal or for an animal to have a prohibited substance present resulting ~~administer or cause to be administered any drug, medication, stimulant, depressant, hypnotic, narcotic, local anesthetic, or drug-masking agent to an animal which will result~~ in a positive test for such medications or substances ~~such substance~~ based on samples taken from the animal before ~~immediately prior to~~ or immediately after the racing of that animal. Test results and the identities of the animals being tested and of their trainers and owners of record are confidential and exempt from s. 119.07(1) and from s. 24(a), Art. I of the State Constitution for 10 days after testing of all samples collected on a particular day has been completed and any positive test results derived from such

samples have been reported to the director of the division or administrative action has been commenced.

(b) It is a violation of this section for a race-day specimen to contain a level of a naturally occurring substance which exceeds normal physiological concentrations. The division may solicit input from the Department of Agriculture and Consumer Services and adopt rules that specify normal physiological concentrations of naturally occurring substances in the natural untreated animal and rules that specify acceptable levels of environmental contaminants and trace levels of substances in test samples.

(3)(a) Upon the finding of a violation of this section, the division may revoke or suspend the license or permit of the violator or deny a license or permit to the violator; impose a fine against the violator in an amount not exceeding the purse or sweepstakes earned by the animal in the race at issue or $10,000, whichever is greater ~~$5,000~~; require the full or partial return of the purse, sweepstakes, and trophy of the race at issue; or impose against the violator any combination of such penalties. The finding of a violation of this section does not prohibit ~~in no way prohibits~~ a prosecution for criminal acts committed.

(b) The division, notwithstanding ~~the provisions of~~ chapter 120, may summarily suspend the license of an occupational licensee responsible under this section or division rule for the condition of a race animal if the division

laboratory reports the presence of a prohibited ~~an impermissible~~ substance in the animal or its blood, urine, saliva, or any other bodily fluid, either before a race in which the animal is entered or after a race the animal has run.

(4) A prosecution pursuant to this section for a violation of this section must begin ~~be commenced~~ within 90 days ~~2 years~~ after the violation was committed. Service of an administrative complaint marks the commencement of administrative action.

(5) The division shall implement a split-sample procedure for testing animals under this section.

(a) ~~Upon finding a positive drug test result,~~ The division ~~department~~ shall notify the owner or trainer, the stewards, and the appropriate horsemen's association of all drug test ~~the~~ results. If a drug test result is positive ~~The owner may request that each urine and blood sample be split into a primary sample and a secondary (split) sample. Such splitting must be accomplished in the laboratory under rules approved by the division. Custody of both samples must remain with the division. However~~, and upon request by the affected trainer or owner of the animal from which the sample was obtained, the division shall send the split sample to an approved independent laboratory for analysis. The division shall establish standards and rules for uniform enforcement and shall maintain a list of at least five approved independent laboratories for an owner or trainer to select from if a drug test result is ~~in the event of a~~ positive ~~test sample~~.

(b) If the division ~~state~~ laboratory's findings are not confirmed by the independent laboratory, no further administrative or disciplinary action under this section may be pursued. ~~The division may adopt rules identifying substances that diminish in a blood or urine sample due to passage of time and that must be taken into account in applying this section.~~

(c) If the independent laboratory confirms the division ~~state~~ laboratory's positive result, ~~or if there is an insufficient quantity of the secondary (split) sample for confirmation of the state laboratory's positive result,~~ the division may commence administrative proceedings as prescribed in this chapter and consistent with chapter 120. For purposes of this subsection, the department shall in good faith attempt to obtain a sufficient quantity of the test fluid to allow both a primary test and a secondary test to be made.

(d) For the testing of a racing greyhound, if there is an insufficient quantity of the secondary (split) sample for confirmation of the division laboratory's positive result, the division may commence administrative proceedings as prescribed in this chapter and consistent with chapter 120.

(e) For the testing of a racehorse, if there is an insufficient quantity of the secondary (split) sample for confirmation of the division laboratory's positive result, the division may not take further action on the matter against the owner or trainer, and any resulting license suspension must be immediately lifted.

(f) The division shall require its laboratory and the independent laboratories to annually participate in an externally administered quality assurance program designed to assess testing proficiency in the detection and appropriate quantification of medications, drugs, and naturally occurring substances that may be administered to racing animals. The administrator of the quality assurance program shall report its results and findings to the division and the Department of Agriculture and Consumer Services.

(7)(a) In order to protect the safety and welfare of racing animals and the integrity of the races in which the animals participate, the division shall adopt rules establishing the conditions of use and maximum concentrations of medications, drugs, and naturally occurring substances identified in the Controlled Therapeutic Medication Schedule, Version 2.1, revised April 17, 2014, adopted by the Association of Racing Commissioners International, Inc. Controlled therapeutic medications include only the specific medications and concentrations allowed in biological samples which have been approved by the Association of Racing Commissioners International, Inc., as controlled therapeutic medications.

(b) The division rules must designate the appropriate biological specimens by which the administration of medications, drugs, and naturally occurring substances is monitored and must determine the testing methodologies, including measurement uncertainties, for screening such specimens to confirm the

presence of medications, drugs, and naturally occurring substances.

(c) The division rules must include a classification system for drugs and substances and a corresponding penalty schedule for violations which incorporates the Uniform Classification Guidelines for Foreign Substances, Version 8.0, revised December 2014, by the Association of Racing Commissioners International, Inc. The division shall adopt laboratory screening limits approved by the Association of Racing Commissioners International, Inc., for drugs and medications that are not included as controlled therapeutic medications, the presence of which in a sample may result in a violation of this section.

(d) The division rules must include conditions for the use of furosemide to treat exercise-induced pulmonary hemorrhage.

(e) The division may solicit input from the Department of Agriculture and Consumer Services in adopting the rules required under this subsection. Such rules must be adopted before January 1, 2016 ~~Under no circumstances may any medication be administered closer than 24 hours prior to the officially scheduled post time of a race except as provided for in this section~~.

~~(a) The division shall adopt rules setting conditions for the use of furosemide to treat exercise-induced pulmonary hemorrhage.~~

~~(b) The division shall adopt rules setting conditions for~~

~~the use of prednisolone sodium succinate, but under no circumstances may furosemide or prednisolone sodium succinate be administered closer than 4 hours prior to the officially scheduled post time for the race.~~

~~(c) The division shall adopt rules setting conditions for the use of phenylbutazone and synthetic corticosteroids; in no case, except as provided in paragraph (b), shall these substances be given closer than 24 hours prior to the officially scheduled post time of a race. Oral corticosteroids are prohibited except when prescribed by a licensed veterinarian and reported to the division on forms prescribed by the division.~~

(f) ~~(d)~~ This section does not ~~Nothing in this section shall be interpreted to~~ prohibit the use of vitamins, minerals, or naturally occurring substances so long as none exceeds the normal physiological concentration in a race-day specimen.

~~(e) The division may, by rule, establish acceptable levels of permitted medications and shall select the appropriate biological specimens by which the administration of permitted medication is monitored.~~

(8) ~~(a)~~ Furosemide is the only medication that may be administered within 24 hours before the officially scheduled post time of a race, but it may not be administered within 4 hours before the officially scheduled post time of a race ~~Under no circumstances may any medication be administered within 24 hours before the officially scheduled post time of the race except as provided in this section~~.

~~(b) As an exception to this section, if the division first determines that the use of furosemide, phenylbutazone, or prednisolone sodium succinate in horses is in the best interest of racing, the division may adopt rules allowing such use. Any rules allowing the use of furosemide, phenylbutazone, or prednisolone sodium succinate in racing must set the conditions for such use. Under no circumstances may a rule be adopted which allows the administration of furosemide or prednisolone sodium succinate within 4 hours before the officially scheduled post time for the race. Under no circumstances may a rule be adopted which allows the administration of phenylbutazone or any other synthetic corticosteroid within 24 hours before the officially scheduled post time for the race. Any administration of synthetic corticosteroids is limited to parenteral routes. Oral administration of synthetic corticosteroids is expressly prohibited. If this paragraph is unconstitutional, it is severable from the remainder of this section.~~

~~(c) The division shall, by rule, establish acceptable levels of permitted medications and shall select the appropriate biological specimen by which the administration of permitted medications is monitored.~~

(9)(a) The division may conduct a postmortem examination of any animal that is injured at a permitted racetrack while in training or in competition and that subsequently expires or is destroyed. The division may conduct a postmortem examination of any animal that expires while housed at a permitted racetrack,

association compound, or licensed kennel or farm. Trainers and owners shall be requested to comply with this paragraph as a condition of licensure.

(b) The division may take possession of the animal upon death for postmortem examination. The division may submit blood, urine, other bodily fluid specimens, or other tissue specimens collected during a postmortem examination for testing by the division laboratory or its designee. Upon completion of the postmortem examination, the carcass must be returned to the owner or disposed of at the owner's option.

(10) The presence of a prohibited substance in an animal, found by the division laboratory in a bodily fluid specimen collected <u>after the race or</u> during the postmortem examination of the animal, which breaks down during a race constitutes a violation of this section.

(11) The cost of postmortem examinations, testing, and disposal must be borne by the division.

(12) The division shall adopt rules to implement this section. ~~The rules may include a classification system for prohibited substances and a corresponding penalty schedule for violations.~~

~~(13) Except as specifically modified by statute or by rules of the division, the Uniform Classification Guidelines for Foreign Substances, revised February 14, 1995, as promulgated by the Association of Racing Commissioners International, Inc., is hereby adopted by reference as the uniform classification system~~

~~for class IV and V medications.~~

~~(14) The division shall utilize only the thin-layer chromatography (TLC) screening process to test for the presence of class IV and V medications in samples taken from racehorses except when thresholds of a class IV or class V medication have been established and are enforced by rule. Once a sample has been identified as suspicious for a class IV or class V medication by the TLC screening process, the sample will be sent for confirmation by and through additional testing methods. All other medications not classified by rule as a class IV or class V agent shall be subject to all forms of testing available to the division.~~

(13)~~(15)~~ The division may implement by rule medication levels for racing greyhounds recommended by the University of Florida College of Veterinary Medicine developed pursuant to an agreement between the Division of Pari-mutuel Wagering and the University of Florida College of Veterinary Medicine. The University of Florida College of Veterinary Medicine may provide written notification to the division that it has completed research or review on a particular drug pursuant to the agreement and when the College of Veterinary Medicine has completed a final report of its findings, conclusions, and recommendations to the division.

~~(16) The testing medium for phenylbutazone in horses shall be serum, and the division may collect up to six full 15-milliliter blood tubes for each horse being sampled.~~

Section 2. This act shall take effect July 1, 2015.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 413 Low-Voltage Alarm Systems
SPONSOR(S): Business & Professions Subcommittee; B. Cortes and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 466

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	13 Y, 0 N, As CS	Anstead	Luczynski
2) Local Government Affairs Subcommittee	10 Y, 0 N	Darden	Miller
3) Regulatory Affairs Committee		Anstead	Hamon

SUMMARY ANALYSIS

The bill amends current law related to permits required for low-voltage alarm system installation.

The bill clarifies that current law applies to "all" low-voltage alarm system projects for which a permit is required by local government or "local enforcement agencies," including both residential and commercial low-voltage alarm systems.

The bill clarifies that a permit is not required to install or service a "wireless alarm system," and defines "wireless alarm system" as a burglar alarm system or smoke detector that is not hardwired.

The bill lowers the maximum permitting fee from $55 to $40 per permit label and removes the exception from the statute that expired on January 1, 2015, which allowed some local governments to charge a fee up to $175 per permit label.

The bill clarifies that the local enforcement agency may not require the payment of any additional fees, charges, or expenses associated with the installation or replacement of a new or existing alarm system.

The bill clarifies that local enforcement agencies may coordinate directly with the owner or customer to inspect a low-voltage alarm system project to ensure compliance with applicable codes and standards and also clarifies the contractor may not be required to submit "any" information other than identification and proof of licensure as a contractor when purchasing the permit label.

The bill clarifies that local governments may not have "any" rule regarding low-voltage alarm system projects that conflict with state law.

The bill provides for an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida currently has a uniform system for alarm system permitting. A local government agency may not adopt an ordinance or rule regarding a low-voltage alarm system that conflicts with state law.[1] In order to install a low-voltage alarm system in Florida, current law requires contractors to obtain a permit label from a local government agency when such permit is required by local ordinance or rule. Current law also caps the fee for such permits.

The Florida Building Code, local enforcement agencies, and electrical and alarm system contractors

The Florida Building Code, ch. 553, Part IV, F.S., applies statewide to all construction. The intent of the Florida Building Code is to create a single source of uniform standards for all aspects of construction. The Florida Building Commission is responsible for its general administration. With certain exceptions, state and local agencies can enforce the Florida Building Code.

A "local enforcement agency" is an agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the codes which establish standards for design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities.[2]

The Electrical Contractor's Licensing Board within the Department of Business and Professional Regulation (DBPR) generally handles the licensing and regulation of electrical and alarm system contractors.

Low-voltage alarm systems

Uniform state law controls the installation of low-voltage alarm system projects, including home-automation equipment, thermostats, and video cameras. An alarm system is any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency.[3]

Uniform state law applies to low-voltage alarm system projects for which a permit is required by a local enforcement agency. Local enforcement agencies determine whether to require permitting for low-voltage alarm systems. If a local enforcement agency requires that a permit be obtained by an alarm system contractor for a low-voltage alarm system project in the jurisdiction, then the local government cannot charge more than $55 for the permit label.[4] Those labels are valid for one year from the date of purchase and may only be used in the jurisdiction that issued it.

History of permit labels

In 2013, an industry report concluded that 40 percent of local Florida jurisdictions did not require permits for low-voltage alarm systems while 60 percent did (or 182 required permits out of 304 local

[1] s. 553.793(9), F.S.
[2] s. 553.71(5), F.S.
[3] s. 489.505(1), F.S.
[4] s. 553.793(4), F.S.

jurisdictions that address residential permit requirements for basic hardwire installation).[5] In March 2013, residential permit prices ranged from $0 to $300.[6]

Another industry report in February 2015 showed 33 percent of jurisdictions are issuing permits in the manner allowed by s. 553.793, F.S., while 36 percent have permitting requirements that are not in compliance and 31 percent do not require permitting at all.[7] The prices charged by local governments for residential and/or small business permits still range from $0 to $300.[8]

Effect of Proposed Changes

The bill amends current Florida law related to the permitting and installation of low-voltage alarm systems.

Applicability

The bill clarifies that current Florida law applies statewide to "all" low-voltage alarm system projects for which a permit is required by local enforcement agencies. This would include both residential and commercial systems.

Clarification of what "low-voltage alarm system" means and exclusion of "wireless alarm system"

The bill modifies the definition of "low-voltage alarm system project" to limit it to "hardwired" alarm systems. The bill clarifies that a permit is not required to install, maintain, inspect, replace, or service a "wireless alarm system," including any ancillary components or equipment attached to the system. The bill defines "wireless alarm system" as a burglar alarm system or smoke detector that is not hardwired.

Local permit label requirement and local enforcement agencies

The bill requires local enforcement agencies that require permits to provide permit labels to the contractor for a fee that may not exceed $40. The bill lowers the permitted fee from $55 to $40 per permit label and deletes the exception which expired on January 1, 2015, which allowed some local governments to charge a fee up to $175 per permit label.

The bill clarifies that the local enforcement agency may not require the payment of any additional fees, charges, or expenses associated with the installation or replacement of a new or existing alarm system.

The bill clarifies that local enforcement agencies may coordinate directly with the owner or customer to inspect a low-voltage alarm system project to ensure compliance with applicable codes and standards. It also clarifies that in order to purchase the permit label, the contractor may not be asked to submit any information other than identification and proof of licensure as a contractor.

B. SECTION DIRECTORY:

Section 1: Amends s. 553.793(1) and (2), F.S.:

- clarifies applicability to residential and commercial systems;
- clarifies that only "hardwired" systems require conformity;
- clarifies that permits are not required for wireless alarm systems; and
- defines "wireless alarm system."

[5] Email from Jorge Chamizo, Floridian Partners, LLC, and Stephanie Wagner, ADT Licensing & Compliance Manager, Field Operations Training and Support – Eastern Regions, RE: Permitting Data for the State of Florida (March 15, 2013).
[6] Id.
[7] Email from Jorge Chamizo, Floridian Partners, LLC, RE: Florida Permitting Jurisdictions (Feb. 5, 2015) (89 of 272 jurisdictions (32.72%) require permit labels in compliance with s. 553.793, F.S.).
[8] Id.

Amends s. 553.793(4), F.S.:

- lowers the permit label fee from $55 to $40;
- removes the expired exception related to the fee cap; and
- clarifies that no additional fees may be charged.

Amends s. 553.793(8), F.S.:

- clarifies that local enforcement agencies may coordinate with the owner or customer for inspections.

Amends s. 553.793(9), F.S.:

- clarifies that the contractor purchasing the permit label may not be asked for any information other than identification and proof of licensure.

Section 2: Provides an effective date of July 1, 2015.

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 would reduce the ability of certain local jurisdictions to raise revenue, specifically reducing the ability of certain jurisdictions to charge more than $40 per permit for low-voltage alarm system projects.

   There has been no Revenue Estimating Conference on this bill. See Fiscal Comments, D., below.

2. Expenditures:

   Local enforcement agencies that require permitting would be required to continue to make permit labels available for purchase, which would still require local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments, D., below.

D. FISCAL COMMENTS:

The bill requires those local enforcement agencies that require permitting for low-voltage alarm systems to issue a permit label to a contractor for a fee of not more than $40. It is anticipated the bill would lower fees currently imposed by certain local jurisdictions, resulting in an indeterminate negative fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill may reduce the authority that counties or municipalities have to raise revenues in the aggregate; however, the insignificant fiscal impact exemption may apply.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 10, 2015, the Business & Professions Subcommittee adopted amendments that clarified that a local enforcement agency may not require the payment of any additional fees, charges, or expenses associated with the installation or replacement of a new or existing alarm system, pursuant to s. 553.793, F.S., and removed "law" from the phrase "local law enforcement agency" to conform to the defined term "local enforcement agency" pursuant to current law. The bill was reported favorably as a committee substitute.

The staff analysis is drafted to reflect the committee substitute.

A bill to be entitled

An act relating to low-voltage alarm systems; amending s. 553.793, F.S.; revising and adding definitions related to alarm systems; providing that a permit is not required to install, inspect, repair, or replace a wireless alarm system and its ancillary components; revising the maximum price for permit labels for alarm systems; authorizing a local law enforcement agency to coordinate the inspection of certain alarm system projects; providing an effective date.

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

Section 1. Subsections (1), (2), (4), (8), and (9) of section 553.793, Florida Statutes, are amended to read:

553.793 Streamlined low-voltage alarm system installation permitting.—

(1) As used in this section, the term:

(a) "Contractor" means a person who is qualified to engage in the business of electrical or alarm system contracting pursuant to a certificate or registration issued by the department under part II of chapter 489.

(b) "Low-voltage alarm system project" means a project related to the installation, maintenance, inspection, replacement, or service of a new or existing alarm system, as defined in s. 489.505, <u>that is hardwired and</u> operating at low

voltage, as defined in the National Electrical Code Standard 70, Current Edition, and ancillary components or equipment attached to such a system, including, but not limited to, home-automation equipment, thermostats, and video cameras.

(c) "Wireless alarm system" means a burglar alarm system or smoke detector that is not hardwired.

(2) Notwithstanding any provision of law, this section applies to all low-voltage alarm system projects for which a permit is required by a local enforcement agency. However, a permit is not required to install, maintain, inspect, replace, or service a wireless alarm system, including any ancillary components or equipment attached to the system.

(4) A local enforcement agency shall make uniform basic permit labels available for purchase by a contractor to be used for the installation or replacement of a new or existing alarm system at a cost of not more than $40 ~~$55~~ per label per project per unit. The local enforcement agency may not require the payment of any additional fees, charges, or expenses associated with the installation or replacement of a new or existing alarm system, pursuant to this section. ~~However, a local enforcement agency charging more than $55, but less than $175, for such a permit as of January 1, 2013, may continue to charge the same amount for a uniform basic permit label until January 1, 2015. A local enforcement agency charging more than $175 for such a permit as of January 1, 2013, may charge a maximum of $175 for a uniform basic permit label until January 1, 2015.~~

(a) A local enforcement agency may not require a contractor, as a condition of purchasing a label, to submit any information other than identification information of the licensee and proof of registration or certification as a contractor.

(b) A label is valid for 1 year after the date of purchase and may only be used within the jurisdiction of the local enforcement agency that issued the label. A contractor may purchase labels in bulk for one or more unspecified current or future projects.

(8) The local enforcement agency may coordinate directly with the owner or customer to inspect a low-voltage alarm system project ~~may be inspected by the local enforcement agency~~ to ensure compliance with applicable codes and standards. If a low-voltage alarm system project fails an inspection, the contractor must take corrective action as necessary to pass inspection.

(9) A municipality, county, district, or other entity of local government may not adopt or maintain in effect any ~~an~~ ordinance or rule regarding a low-voltage alarm system project that is inconsistent with this section.

Section 2. This act shall take effect July 1, 2015.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB RAC 15-01 Financial Literacy Program for Individuals with Developmental Disabilities
SPONSOR(S): Regulatory Affairs Committee
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 206

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Regulatory Affairs Committee		Hamon K.W.H.	Hamon K.W.H.

SUMMARY ANALYSIS

The Proposed Committee Bill (bill) creates the Financial Literacy Program for Individuals with Developmental Disabilities within the Department of Financial Services (DFS). The program is designed to promote economic independence for individuals with developmental disabilities by providing education, outreach, and resources on specific financial strategies. The strategies include information regarding earning income; money management skills; buying goods and services; saving and financial investing; mortgage and homeownership; taxes; the use of credit and credit cards; personal budgeting and debt management, including secured and unsecured loans; effective use of banking and financial services; financial planning for the future, including retirement; credit reports and scores; and fraud and identity theft prevention.

The bill requires the DFS to establish a clearinghouse for information regarding the program and other resources available on its website and to develop a brochure that describes the program. Financial institutions, including banks, credit unions, savings associations, and savings banks, will be participants in the development and implementation of the program.

The bill appropriates $137,234 in nonrecurring funds to implement the program. Financial institutions may incur indeterminate costs associated with the program.

The bill is effective on January 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Definition of Developmental Disabilities in Florida

Section 393.063(9), F.S., defines developmental disabilities to mean "a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely."

The Agency for Persons with Disabilities (APD) currently serves approximately 55,000 clients[1] with developmental disabilities. The total population of individuals in Florida with developmental disabilities is indeterminate at this time. In January 2015, the APD extrapolated the estimated Florida population of individuals with developmental disabilities based on national prevalence rates of disorders and syndromes. This calculation suggests that the population of individuals with developmental disabilities could be between 300,000 to 600,000.[2]

Financial Literacy and Economic Independence

Financial education and literacy are critical components for gaining economic independence. Recently, the National Disability Institute (NDI) evaluated the financial capability among individuals with and without disabilities based on information derived from the FINRA[3] Investor Education Foundation's 2012 National Financial Capability Study.[4] The NDI report found that individuals with disabilities have greater difficulty in meeting monthly expenses, are less likely to have access to emergency funds, are more likely to carry credit card balances and use non-bank methods of borrowing, are less likely to have received financial education, and have lower financial literacy. The report concluded that individuals with disabilities "are generally marginalized from the economic mainstream, as indicated by the notably lower levels of overall financial capability and economic security compared to persons without disabilities." The report advocated, "innovative approaches that increase access for individuals with disabilities to financial tools and services that foster informed decision making, build financial confidence, and improve financial capability."

Various state agencies provide services, benefits, and resources for individuals with disabilities. These agencies include the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Children and Families, the Department of Economic Opportunity (DEO), and the Department of Education. Many state and regional advocacy groups also provide resources and services.

Department of Financial Services

The Chief Financial Officer (CFO) of the State of Florida is the head of the Department of Financial Services.[5] The CFO has instituted many outreach and education programs to increase the financial literacy of Florida residents and to protect them from financial fraud. These initiatives include a

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[1] Email from the Agency for Persons with Disabilities, Summary of Active Clients.
[2] Email from the Agency for Persons with Disabilities.
[3] FINRA is the Financial Industry Regulatory Authority, which is an independent, not-for-profit organization authorized by Congress charged with regulatory oversight of all securities broker-dealers conducting business with the public in the United States.
[4] Nicole E. Conroy, ET AL., Financial *Capabilities of Adults with Disabilities, Findings from the FINRA Investor Education Foundation 2012 National Financial Capability Study,* National Disability Institute, July 22, 2014.
[5] Section 20.121, F.S.

comprehensive online financial literacy and education initiative to provide Hispanic Floridians and their families with important personal financial information, a program to educate and protect seniors from financial schemes, and financial education for military service members.[6]

Federal Financial Literacy Programs for Individuals with Disabilities

The Federal Deposit Insurance Corporation developed a voluntary "Money Smart" educational program to help low- to moderate-income individuals understand basic financial services and develop money management skills. The Money Smart program may be used by financial institutions and other organizations interested in sponsoring financial education workshop, and its training materials include training tips and strategies to accommodate participants with disabilities.[7]

The Money Smart program can help banks fulfill part of their Community Reinvestment Act (CRA) obligations. The CRA encourages federally insured banks and thrifts to help meet the credit needs of their entire community, including areas of low-and moderate-income. When a bank's CRA performance is reviewed, the institution's efforts to provide financial education and other retail services are a positive consideration.[8]

On July 21, 2010, the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub.L. 111-203, H.R. 4173, commonly referred to as "Dodd-Frank") was signed into law. Title X of Dodd-Frank created the Consumer Financial Protection Bureau (CFPB) as an independent bureau housed within the Federal Reserve System. Dodd-Frank mandates that the CFPB work to improve the financial literacy of American consumers by directing the establishment of offices and divisions focused on financial education. The CFPB's 2014 financial literacy annual report discussed several initiatives for vulnerable populations, including individuals with disabilities. The report discussed a national forum on improving financial capabilities for individuals with disabilities, as well as an ongoing initiative to increase access to financial education services and workforce readiness.[9]

Financial Institutions

The Financial Institutions Codes define "financial institution" as a state or federal savings or thrift association, bank, savings bank, trust company, international bank agency, international banking corporation, international branch, international representative office, international administrative office, international trust company representative office, credit union, or an agreement corporation operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq.[10]

Under the U.S. dual regulatory system of financial institutions, financial institutions may be chartered under either state or federal law and have a primary federal regulator (Federal Reserve, Federal Deposit Insurance Corporation, etc.). In addition, federal law allows a financial institution to operate in states other than its home charter state.

Effect of the Bill

The bill creates the Financial Literacy Program for Individuals with Developmental Disabilities in DFS. The program is designed to promote economic independence for individuals with developmental

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[6] See Money Matter$, a one-stop website to access the CFO's financial literacy resources at http://www.myfloridacfo.com/sitePages/services/flow.aspx?ut=Financial+Literacy (last accessed on March 9, 2015).
[7] Federal Deposit Insurance Corporation, Money Smart – Train-the-Trainer, at https://www.fdic.gov/consumers/consumer/moneysmart/trainthetrainer.htm (last accessed Mar. 9, 2015).
[8] Federal Deposit Insurance Corporation, Money Smart – A Financial Education Program, at https://www.fdic.gov/consumers/consumer/moneysmart/index.html (last accessed Mar. 9, 2015).
[9] CONSUMER FINANCIAL PROTECTION BUREAU, *2014 Financial Literacy Annual Report*, pp. 62-64, http://www.consumerfinance.gov/reports/financial-literacy-annual-report-2014/ (last visited Mar. 9, 2015).
[10] s. 655.005(1)(i), F.S.

disabilities by providing education, outreach, and resources on specific financial strategies. The strategies include information regarding earning income; money management skills; buying goods and services; saving and financial investing; mortgage and homeownership; taxes; the use of credit and credit cards; personal budgeting and debt management, including secured and unsecured loans; effective use of banking and financial services; financial planning for the future, including retirement; credit reports and scores; and fraud and identity theft prevention.

The bill provides that the DFS, in consultation with stakeholders, will develop and implement the program. Financial institutions, including banks, credit unions, savings associations, and savings banks, will be participants in the development and implementation of the program. The DFS will establish a clearinghouse for information regarding the program and other available resources on its website for individuals with developmental disabilities and their employers. The DFS will publish a brochure on its website that describes the program. Upon request, the DFS shall provide print copies of the brochure to financial institutions.

The bill provides that each financial institution may make the DFS brochures available in its principal place of business and each branch office located in Florida, or may provide a hyperlink to the DFS program website. A financial institution or other program participant shall not be subjected to a civil cause of action arising from the distribution or nondistribution of program information.

The bill appropriates $137,234 in nonrecurring funds from the Insurance Regulatory Trust Fund within the DFS to develop and manage the program which includes printing and postage costs for the brochures.

The bill is effective on January 1, 2016.

B. SECTION DIRECTORY:

Section 1 creates the Financial Literacy Program for Individuals with Developmental Disabilities within DFS.

Section 2 provides a nonrecurring appropriation for the program in the 2015-16 fiscal year.

Section 3 provides an effective date of January 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill appropriates $137,234 in nonrecurring funds from the Insurance Regulatory Trust Fund within the DFS to implement this program. This includes funding for a temporary employee and expense costs relating to printing and mailing brochures to financial institutions upon request.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Implementation of the program will provide individuals with developmental disabilities an opportunity to obtain a better understanding of financial products and services, money management skills, and other financial resources that may be available. The program will facilitate greater financial literacy and economic independence. Employers will also benefit from resources that will assist their employees with developmental disabilities.

Financial institutions may incur indeterminate costs associated with providing brochures about the program at their places of business and revising their websites to provide a link to access the Financial Literacy Program's website.

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

A bill to be entitled

An act relating to the Financial Literacy Program for Individuals with Developmental Disabilities; creating s. 20.122, F.S.; providing legislative findings; establishing the Financial Literacy Program for Individuals with Developmental Disabilities within the Department of Financial Services; requiring the department to develop and implement the program in consultation with stakeholders; providing for the participation of financial institutions; requiring the program to provide information and other offerings on specified issues to individuals with developmental disabilities and employers in this state; requiring the department to establish on its website a clearinghouse for information regarding the program and to publish a brochure describing the program; authorizing financial institutions to make copies of the department's brochure available and provide a hyperlink on their websites to the department's website for the program; providing a limitation on civil causes of action; providing an appropriation; providing an effective date.

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

Section 1. Section 20.122, Florida Statutes, is created to

read:

20.122 Financial Literacy Program for Individuals with Developmental Disabilities.—

(1) The Legislature finds that the state has a compelling interest in promoting the economic independence of individuals with developmental disabilities as defined in s. 393.063. In comparison with the general population, individuals with developmental disabilities experience lower rates of educational achievement, employment, and annual earnings and are more likely to live in poverty. Additionally, such individuals must navigate a complex network of federal and state programs in order to be eligible for financial benefits. Thus, it is essential that these individuals have sufficient financial management knowledge and skills to be able to make informed decisions regarding financial services and products provided by financial institutions. Enhancing the financial literacy of such individuals will provide a pathway for economic independence and a lifetime of financial well-being.

(2) The Financial Literacy Program for Individuals with Developmental Disabilities is established within the Department of Financial Services. The department, in consultation with public and private stakeholders, shall develop and implement the program, which shall be designed to promote the economic independence of individuals with developmental disabilities. Financial institutions, including banks, credit unions, savings associations, and savings banks, will be participants in the

development and implementation of the program. The program shall provide information, resources, outreach, and education on the following issues:

(a) For individuals with developmental disabilities:

1. Financial literacy strategies to promote income preservation and asset development. Financial literacy includes the knowledge, understanding, skills, behaviors, attitudes, and values that will enable an individual with developmental disabilities to make responsible and effective financial decisions on a daily basis. Financial literacy strategies shall include information regarding earning income; money management skills; buying goods and services; saving and financial investing; mortgage and homeownership; taxes; the use of credit and credit cards; personal budgeting and debt management, including secured and unsecured loans; effective use of banking and financial services; financial planning for the future, including retirement; credit reports and scores; and fraud and identity theft prevention.

2. Identification of available financial programs and services.

3. Referral information on existing state and local workforce development programs and resources.

4. The impact of earnings and assets on federal and state benefit programs and options to manage such impact.

(b) For financial institutions, businesses, government agencies, and local organizations: strategies to make program

information and educational materials available to their employees with developmental disabilities.

(3) The department shall:

(a) Establish on its website a clearinghouse for information regarding the program and other financial literacy resources available for individuals with developmental disabilities and their employers. If the department changes its website address for the program, the department shall notify financial institutions of such change.

(b) Publish a brochure on its website that describes the program. Upon request, the department shall provide print copies of the brochure to financial institutions.

(4) After the department establishes its website and publishes its brochure, each financial institution may:

(a) Make copies of the department's brochures available, upon the request of the consumer, at its principal place of business and each branch office located in this state which has in-person teller services by having copies of the brochure available or having the capability to print a copy of the brochure from the department's website.

(b) Provide on its website a hyperlink to the department's website for the program.

(5) A financial institution or other program participant shall not be subjected to a civil cause of action arising from the distribution or nondistribution of the program brochure or program website information. The contents of the brochure or the

program website information may not attributed to the financial institution or program participant by virtue of its distribution; nothing contained in the brochure or the program website information shall be deemed financial advice or guidance to the recipient or anyone acting on his or her behalf that would support a civil action against the financial institution or program participant.

Section 2. For the 2015-2016 fiscal year, the sum of $137,234 in nonrecurring funds from the Insurance Regulatory Trust Fund is appropriated to the Division of Consumer Assistance in the Department of Financial Services for the purpose of implementing this act.

Section 3. This act shall take effect January 1, 2016.