



Business & Professions Subcommittee

**Wednesday, January 20, 2016
12:00 PM
12 HOB**

MEETING PACKET

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Business & Professions Subcommittee

Start Date and Time: Wednesday, January 20, 2016 12:00 pm
End Date and Time: Wednesday, January 20, 2016 02:00 pm
Location: 12 HOB
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 605 Applications for Building Permits by Smith
HB 709 City of Tallahassee, Leon County by Williams, A.
HB 743 Mobile Homes by Latvala, Burgess
HB 779 Alarm System Registration by Cortes, B.
HB 1131 Recovery Agencies by Renner

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., Tuesday, January 19, 2016.

By request of the Chair, all Business & Professions Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Tuesday, January 19, 2016.

NOTICE FINALIZED on 01/15/2016 4:16PM by Ellinor.Martha



The Florida House of Representatives

Regulatory Affairs Committee

Business & Professions Subcommittee

Steve Crisafulli
Speaker

Halsey Beshears
Chair

AGENDA

January 20, 2016

12 HOB

12:00 PM – 2:00 PM

- I. **Call to Order & Roll Call**
- II. HB 605 by *Rep. Smith*
Applications for Building Permits
- III. HB 709 by *Rep. A. Williams*
City of Tallahassee, Leon County
- IV. HB 743 by *Reps. Latvala and Burgess*
Mobile Homes
- V. HB 779 by *Rep. B. Cortes*
Alarm System Registration
- VI. HB 1131 by *Rep. Renner*
Recovery Agencies
- VII. **Adjournment**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 605 Applications for Building Permits
SPONSOR(S): Smith
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee		Anderson <i>CA</i>	Anstead <i>Ja</i>
2) Local Government Affairs Subcommittee			
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

Part IV of ch. 553, 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, amendment, interpretation, and enforcement of a single, unified state building code. The Florida Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction. It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdictions in protection of the public's health, safety, and welfare. Under current law, counties and local enforcement agencies have authority to enforce the Florida Building Code and issue building permits.

The bill requires counties and local enforcement agencies that issue building permits to post all types of building permit applications on their website. The bill requires applicants to electronically submit completed applications to the county building department, but authorizes applicants, at the discretion of the building official, to submit required attachments or drawings in person in a nonelectronic format.

The bill has an indeterminate fiscal impact on local governments.

This bill may be considered a county or municipal mandate requiring a two-thirds vote of the membership of the House, but the bill may qualify for an exemption. See Section III.A.1. of the analysis for discussion.

The bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Part IV of ch. 553, 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, amendment, interpretation, and enforcement of a single, unified state building code. The Florida Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction. It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdictions in protection of the public's health, safety, and welfare.

Sections 125.01(1)(bb) and 125.56(1), F.S., authorize the board of county commissioners of each county to enforce the Florida Building Code and the Florida Fire Prevention Code. The board of county commissioners of each county also issues building permits. Section 125.56(4), F.S. provides that 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 appropriate board of county commissioners, or from such persons as may by resolution be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the board.

Section 558.90(1), F.S., requires each local government and legally constituted enforcement district with statutory authority to regulate building construction and enforce the Florida Building Code unless an exception applies. A local enforcing agency is required to issue building permits after reviewing the plans and specifications required by the Florida Building Code and finding the plans to be in compliance with the Florida Building Code.¹

Section 553.79(1), F.S., provides that it is unlawful for any person, firm, corporation, or governmental entity to construct, erect, alter, modify, repair, or demolish any building without first obtaining a permit from the appropriate enforcing agency or from such persons delegated the authority to issue permits, upon the payment of reasonable fees adopted by the enforcing agency.

A "local enforcement agency" means the 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 the design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities.²

Effect of the Bill

The bill amends s. 125.56(4), F.S., to require counties that issue building permits to post all types of building permit applications on their website. The bill requires applicants to electronically submit completed applications to the county building department, but authorizes applicants, at the discretion of the building official, to submit required attachments or drawings in person in a nonelectronic format.

The bill amends s. 553.79(1), F.S., to require local enforcement agencies that issue building permits to post all types of building permit applications on their website. The bill requires applicants to electronically submit completed applications to the local enforcement agency building department, but authorizes applicants, at the discretion of the building official, to submit required attachments or drawings in person in a nonelectronic format.

¹ s. 553.79(2), F.S.

² s. 553.71(5), F.S.

B. SECTION DIRECTORY:

Section 1 amends s. 125.56(4), F.S., requiring counties to post all types of building permit applications on their website and specifying the submission format for completed applications and attachments and drawings.

Section 2 amends s. 553.79(1), F.S., requiring local enforcement agencies to post all types of building permit applications on their website and specifying the submission format for completed applications and attachments and drawings.

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

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:

Indeterminate. Some counties and local enforcement agencies may require an initial expenditure of funds to revise the county or local enforcement agency's existing website to include the ability to post applications online and accept applications electronically. This may specifically be an issue for a county or local enforcement agency without website capability or with minimal capability. However, some counties and local enforcement agencies may reduce expenditures by improving efficiency and cutting down on paper usage and storage costs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If able to submit applications electronically, applicants for building permits may save time and money through lowered paper usage and travel costs.

D. FISCAL COMMENTS:

Requiring counties and local enforcement agencies to post building permit applications online and requiring electronic submission of applications may improve efficiency and cut down on paper usage, travel time by an applicant, and storage costs incurred by counties and local enforcement agencies. However, even though all building permit departments or agencies have a website, requiring counties and local enforcement agencies to post building permit applications online may require an initial expenditure and may be a burden for counties with fewer resources or without an existing website.³

³E-mail from John O'Connor, Legislative Committee Chair, Building Officials Association of Florida, RE: HB 605 Building Permit Process (Nov. 25, 2015); Information provided by the Florida Association of Counties indicates that most counties currently have website or e-mail capability and some offer an online building permit process. E-mail from Eric Poole, Assistant Legislative Director, Florida Association of Counties, RE: HB 605 Building Permit Process (Dec. 4, 2015).

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 requires counties and local enforcement agencies to revise their websites and accept building permit applications electronically. Both actions may require the expenditure of funds by the county or local enforcement agency. However, all building permit departments or agencies have a website and receive e-mail. This bill may qualify for an exemption or exception to the potential mandate. It may qualify for an exemption if it is determined that there is an insignificant fiscal impact. The fiscal impact may be insignificant because departments and agencies already have website and e-mail capability. The bill may qualify for an exception if the Legislature formally determines an important state interest and similarly situated persons are all required to comply with the law. The bill requires all state and local departments and agencies to comply statewide. If the bill does qualify as a mandate, the law must fulfill an important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

There appears to be no rulemaking authority added or amended.

C. DRAFTING ISSUES OR OTHER COMMENTS:

If there is a county or local enforcement agency without an existing website, it may be difficult for the county or agency to create a website and comply with the new requirements by the July 1, 2016 effective date.

The language in the bill is unclear as to whether the term "completed application" includes payment of applicable fees. Section 713.135, F.S., which requires specific information to be included in a building permit, does not explicitly address whether the payment of fees is required for an application to be deemed complete, but leaves discretion to the issuing authority to require other information as part of a building permit application.⁴ If a county or local enforcement agency interpreted the language to mean that payment of fees is required for a "completed application," the county or local enforcement agency would have to provide for a system of electronic payment which could require the county or local enforcement agency to incur an additional cost of implementation.⁵

The bill sponsor has indicated that he intends to file an amendment to clarify various drafting issues.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

⁴ s. 713.135(5), F.S.

⁵ The Building Officials Association of Florida has indicated that implementing a software system that includes electronic payment could vastly increase implementation costs. E-mail from John O'Connor, Legislative Committee Chair, Building Officials Association of Florida, RE: HB 605 Building Permit Process (Nov. 25, 2015).

1 A bill to be entitled
 2 An act relating to applications for building permits;
 3 amending ss. 125.56 and 553.79, F.S.; requiring
 4 counties and local enforcement agencies, respectively,
 5 to post all types of building permit applications on
 6 their websites; specifying the format in which
 7 completed applications must be submitted and the
 8 format in which attachments and drawings may be
 9 submitted; providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Subsection (4) of section 125.56, Florida
 14 Statues, is amended to read:

15 125.56 Enforcement and amendment of the Florida Building
 16 Code and the Florida Fire Prevention Code; inspection fees;
 17 inspectors; etc.—

18 (4) (a) After adoption of the Florida Building Code by the
 19 Florida Building Commission or the Florida Fire Prevention Code
 20 by the State Fire Marshal, or amendment of the building code or
 21 the fire code as herein provided, it shall be unlawful for any
 22 person, firm, or corporation to construct, erect, alter, repair,
 23 secure, or demolish any building within the territory embraced
 24 by the terms of this act without first obtaining a permit
 25 therefor from the appropriate board of county commissioners, or
 26 from such persons as may by resolution be directed to issue such

27 | permits, upon the payment of such reasonable fees as shall be
28 | set forth in the schedule of fees adopted by the board; the
29 | board is hereby empowered to revoke any such permit upon a
30 | determination by the board that the construction, erection,
31 | alteration, repair, securing, or demolition of the building for
32 | which the permit was issued is in violation of or not in
33 | conformity with the building code or the fire code.

34 | (b) A county that issues building permits shall post each
35 | type of building permit application on its website. Completed
36 | applications must be submitted electronically to the county
37 | building department. Attachments or drawings required as part of
38 | the permit application may be submitted in person in a
39 | nonelectronic format, at the discretion of the building
40 | official.

41 | Section 2. Subsection (1) of section 553.79, Florida
42 | Statutes, is amended to read:

43 | 553.79 Permits; applications; issuance; inspections.—

44 | (1) (a) After the effective date of the Florida Building
45 | Code adopted as herein provided, it shall be unlawful for any
46 | person, firm, corporation, or governmental entity to construct,
47 | erect, alter, modify, repair, or demolish any building within
48 | this state without first obtaining a permit therefor from the
49 | appropriate enforcing agency or from such persons as may, by
50 | appropriate resolution or regulation of the authorized state or
51 | local enforcing agency, be delegated authority to issue such
52 | permits, upon the payment of such reasonable fees adopted by the

53 enforcing agency. The enforcing agency is empowered to revoke
 54 any such permit upon a determination by the agency that the
 55 construction, erection, alteration, modification, repair, or
 56 demolition of the building for which the permit was issued is in
 57 violation of, or not in conformity with, the provisions of the
 58 Florida Building Code. Whenever a permit required under this
 59 section is denied or revoked because the plan, or the
 60 construction, erection, alteration, modification, repair, or
 61 demolition of a building, is found by the local enforcing agency
 62 to be not in compliance with the Florida Building Code, the
 63 local enforcing agency shall identify the specific plan or
 64 project features that do not comply with the applicable codes,
 65 identify the specific code chapters and sections upon which the
 66 finding is based, and provide this information to the permit
 67 applicant. Installation, replacement, removal, or metering of
 68 any load management control device is exempt from and shall not
 69 be subject to the permit process and fees otherwise required by
 70 this section.

71 (b) A local enforcement agency shall post each type of
 72 building permit application on its website. Completed
 73 applications must be submitted electronically to the appropriate
 74 building department. Attachments or drawings required as part of
 75 the permit application may be submitted in person in a
 76 nonelectronic format, at the discretion of the building
 77 official.

78 Section 3. This act shall take effect July 1, 2016.

BUSINESS & PROFESSIONS SUBCOMMITTEE
HB 605, by Rep. Smith
Applications for Building Permits

AMENDMENT SUMMARY
January 20, 2016

Amendment 1, by Rep. Smith (line 36): The amendment makes the following changes to the bill:

- Provides examples of accepted methods of electronic submission.
- Allows payments required as part of the permit application to be submitted in person in a nonelectronic format, at the discretion of the building official.
- Changes effective date to October 1, 2017.



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	_____	

1 Committee/Subcommittee hearing bill: Business & Professions
2 Subcommittee

3 Representative Smith offered the following:

Amendment (with title amendment)

6 Remove lines 36-78 and insert:

7 applications must be submitted electronically to the county
8 building department. Accepted methods of electronic submission
9 include, but are not limited to, email submission of a portable
10 document format and submission through an electronic fill-in
11 form made available on the building department website or
12 through a third party submission management software. Payments,
13 attachments, or drawings required as part of the permit
14 application may be submitted in person in a nonelectronic
15 format, at the discretion of the building official.

16 Section 2. Subsection (1) of section 553.79, Florida
17 Statutes, is amended to read:



Amendment No. 1

18 553.79 Permits; applications; issuance; inspections.—
19 (1) (a) After the effective date of the Florida Building
20 Code adopted as herein provided, it shall be unlawful for any
21 person, firm, corporation, or governmental entity to construct,
22 erect, alter, modify, repair, or demolish any building within
23 this state without first obtaining a permit therefor from the
24 appropriate enforcing agency or from such persons as may, by
25 appropriate resolution or regulation of the authorized state or
26 local enforcing agency, be delegated authority to issue such
27 permits, upon the payment of such reasonable fees adopted by the
28 enforcing agency. The enforcing agency is empowered to revoke
29 any such permit upon a determination by the agency that the
30 construction, erection, alteration, modification, repair, or
31 demolition of the building for which the permit was issued is in
32 violation of, or not in conformity with, the provisions of the
33 Florida Building Code. Whenever a permit required under this
34 section is denied or revoked because the plan, or the
35 construction, erection, alteration, modification, repair, or
36 demolition of a building, is found by the local enforcing agency
37 to be not in compliance with the Florida Building Code, the
38 local enforcing agency shall identify the specific plan or
39 project features that do not comply with the applicable codes,
40 identify the specific code chapters and sections upon which the
41 finding is based, and provide this information to the permit
42 applicant. Installation, replacement, removal, or metering of
43 any load management control device is exempt from and shall not

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Published On: 1/19/2016 6:29:30 PM



Amendment No. 1

44 be subject to the permit process and fees otherwise required by
45 this section.

46 (b) A local enforcement agency shall post each type of
47 building permit application on its website. Completed
48 applications must be submitted electronically to the appropriate
49 building department. Accepted methods of electronic submission
50 include, but are not limited to, email submission of a portable
51 document format and submission through an electronic fill-in
52 form made available on the building department website or
53 through a third party submission management software. Payments,
54 attachments, or drawings required as part of the permit
55 application may be submitted in person in a nonelectronic
56 format, at the discretion of the building official.

57 Section 3. This act shall take effect October 1, 2017.

58

59

60

T I T L E A M E N D M E N T

61

Remove line 8 and insert:

62

format in which payments, attachments, and drawings may be

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 709 City of Tallahassee, Leon County
SPONSOR(S): Williams
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	9 Y, 0 N	Walker	Miller
2) Business & Professions Subcommittee		Butler <i>BB</i>	Anstead <i>La</i>
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

In 2008, the Legislature enacted a special act to authorize the issuance of temporary permits for the sale of alcoholic beverages at outdoor events in downtown Tallahassee. The act defined the boundaries of the downtown area of Tallahassee, including parts of Florida A&M University, where alcoholic beverages may be served and consumed during temporary events.

The bill revises the boundaries covered by the temporary permit to include Bragg Memorial Stadium on the Florida A&M University campus.

The Economic Impact Statement filed for the bill projects an indeterminate increase in sales tax revenues.

The bill takes effect upon becoming law.

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) may apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Division of Alcoholic Beverages and Tobacco (Division) of the Department of Business and Professional Regulation (DBPR) is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale within the state of alcoholic beverages. Chapters 561-565 and 567-568, F.S., comprise Florida's Beverage Law.

A nonprofit civic organization may apply for up to three temporary alcoholic beverage permits for events lasting 3 days or less, subject to any other state, municipal, or county ordinance time restrictions for selling alcoholic beverages.¹ Each permit requires that the alcoholic beverages may only be consumed on the premises.

In 2008, the Legislature enacted ch. 2008-294, Laws of Florida, ("the Act") to authorize the Division to issue a temporary permit authorizing the sale of alcoholic beverages for consumption on the premises at outdoor events on public rights-of-way in the downtown area of Tallahassee. The Act defined the boundaries of the downtown area of Tallahassee, where the temporary permits would allow the consumption of alcoholic beverages, and included portions of Florida A&M University.

The Act increased the number of temporary food service permits available to a nonprofit civic organization beyond the limits under general law, so long as the temporary event is located within the area specified by the Act. A nonprofit civic organization may be issued up to 15 temporary permits per calendar year, valid for up to three days, in addition to the three temporary permits authorized in general law.

Effect of Proposed Changes

The bill amends ch. 2008-294, Laws of Florida, revising the boundaries of the downtown area of Tallahassee to include Bragg Memorial Stadium on the Florida A&M University campus. This expands the area of the temporary alcoholic beverages permits created by the Act in 2008, and authorizes the Division to issue additional temporary permits to a nonprofit civic organization to sell alcoholic beverages in the newly expanded area.

The Economic Impact Statement projects the bill would slightly increase sales tax revenue due to increased sales on the campus of Florida A&M University during special events.² The Statement also anticipates the potential for local business growth due to the expansion of the college football and special events markets at Florida A&M University.

B. SECTION DIRECTORY:

Section 1. Amends ch. 2008-294, Laws of Florida, revising the boundaries of the downtown area of Tallahassee to expand the area subject to the exemption from s. 561.422, F.S., authorizing the Division to issue additional temporary permits for a nonprofit civic organization to sell alcoholic beverages on the premises at outdoor events on public right-of-way.

Section 2. Provides that the bill shall take effect upon becoming law.

¹ s. 561.422, F.S.

² Economic Impact Statement for HB 709 (2016).

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? October 16, 2015

WHERE? *Tallahassee Democrat*, a daily newspaper published in Leon County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) may apply to this bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

TALLAHASSEE DEMOCRAT
Tallahassee.com
A GANNETT COMPANY

Rep. Williams
HB 709 LB

FLORIDA A&M UNIVERSITY
PO BOX 7238
TALLAHASSEE, FL 32314

STATE OF FLORIDA COUNTY OF LEON:

Before the undersigned authority personally appeared Kristina Balytova, who on oath says that he or she is a Legal Advertising Representative of the Tallahassee Democrat, a daily newspaper published at Tallahassee in Leon County, Florida; that the attached copy of advertisement, being a Legal Ad in the matter of

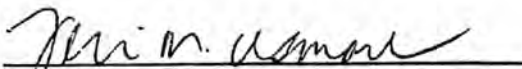
NOTICE

In the Second Judicial Circuit Court was published in said newspaper in the issues of:

10/16/15

Affiant further says that the said Tallahassee Democrat is a newspaper published at Tallahassee, in the said Leon County, Florida, and that the said newspaper has heretofore been continuously published in said Leon County, Florida each day and has been entered as periodicals matter at the post office in Tallahassee, in said Leon County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or coporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 19th of October 2015, by



Teri M. Ismail
Notary Public for the State of Florida



NOTICE OF LEGISLATION TO WHOM IT MAY CONCERN: Notice is hereby given of the intent to apply to the 2016 Legislature, or 2016 Legislative Sessions, or 20156 legislature and any Special or Extended Sessions, for passage of an act amending Chapter 2008-294, Laws of Florida to expand the boundaries of the downtown Tallahassee area designated for purposes of temporary permits for a nonprofit civic organization to sell alcoholic beverages for consumption on the premises and providing an effective date.
PUBLICATION: 10/16/2015
0000785396-01

NOTICE OF LEGISLATION TO WHOM IT MAY CONCERN: Notice is hereby given of the intent to apply to the 2016 Legislature, or 2016 Legislative Sessions, or 20156 legislature and any Special or Extended Sessions, for passage of an act amending Chapter 2008-294, Laws of Florida to expand the boundaries of the downtown Tallahassee area designated for purposes of temporary permits for a nonprofit civic organization to sell alcoholic beverages for consumption on the premises and providing an effective date.
PUBLICATION: 10/16/2015
0000785396-01

HOUSE OF REPRESENTATIVES
2016 LOCAL BILL CERTIFICATION FORM

BILL #: HB 709
SPONSOR(S): Alan Williams
RELATING TO: City of Tallahassee, FL
[Indicate Area Affected (City, County, or Special District) and Subject]
NAME OF DELEGATION: Leon County
CONTACT PERSON: Alan Williams
PHONE NO.: (850) 717-5008 **E-Mail:** alan.williams@myfloridahouse.gov

I. House local bill policy requires the following steps must occur before a committee or subcommittee of the House considers a local bill:

- (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level;*
- (2) The legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and*
- (3) The bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting.*
- (4) An Economic Impact Statement for local bills must be prepared at the local level and submitted to the Local Government Affairs Subcommittee. Under House policy, no local bill will be considered by a committee or subcommittee without an Economic Impact Statement.*

(1) Does the delegation certify the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES NO

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES NO

Date hearing held: 09/21/2015

Location: Leon County Commission Chambers, Tallahassee, FL

(3) Was this bill formally approved by a majority of the delegation members?

YES NO

(4) Was an Economic Impact Statement prepared at the local level and submitted to the Local Government Affairs Subcommittee?

YES NO

II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES NO **DATE** October 12, 2015

Where? Tallahassee Democrat **County** Leon

Referendum in lieu of publication: YES NO

Date of Referendum _____

III. Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES NO

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES NO

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES NO

Please submit this completed, original form to the Local Government Affairs Subcommittee.



Delegation Chair (Original Signature)

November 20, 2015

Date

William Montford

Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES
2016 ECONOMIC IMPACT STATEMENT FORM**

Read all instructions carefully.

House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local Government Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.

BILL #: HB 709
SPONSOR(S): Alan Williams
RELATING TO: City of Tallahassee
[Indicate Area Affected (City, County or Special District) and Subject]

I. REVENUES:

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 16-17</u>	<u>FY 17-18</u>
Revenue decrease due to bill:	\$ <u>-0-</u>	\$ <u>-0-</u>
Revenue increase due to bill:	\$ <u>-0-</u>	\$ <u>-0-</u>

II. COST:

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

	<u>FY 16-17</u>	<u>FY 17-18</u>
	\$ <u>-0-</u>	\$ <u>-0-</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

There could perhaps be a small increase in sales tax revenue from slightly increased sales.
However, the amount would be very slight given the small number of events that would be included in the expanded area. There would be no cost increase to the sale due to the passage of this legislation.

III. FUNDING SOURCE(S):

State the specific sources from which funding will be received, for example, license plate fees, state funds, borrowed funds, or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 16-17</u>	<u>FY 17-18</u>
Local:	\$ <u>-0-</u>	\$ <u>-0-</u>
State:	\$ <u>-0-</u>	\$ <u>-0-</u>
Federal:	\$ <u>-0-</u>	\$ <u>-0-</u>

IV. ECONOMIC IMPACT:

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals: Individuals benefit from expanded selections at local college football games and special events.
2. Advantages to Businesses: Local businesses benefit from expanding the economy surrounding local college football and other special events.
3. Advantages to Government: N/A

Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1. Disadvantages to Individuals: N/A

2. Disadvantages to Businesses: N/A

3. Disadvantages to Government: N/A

V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:

N/A

VI. SPECIFIC DATA USED IN REACHING ESTIMATES:

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

N/A

VII. CERTIFICATION BY PREPARER

I hereby certify I am qualified to establish fiscal data and impacts and have personal knowledge of the information given. I have reviewed all available financial information applicable to the substance of the above-stated local bill and confirm the foregoing Economic Impact Statement is a true and accurate estimate of the economic impact of the bill.

PREPARED BY: 
[Must be signed by Preparer]

Print preparer's name: David C. Self, II
November 20, 2015
Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

Associate General Counsel

REPRESENTING: Florida A&M University

PHONE: (850)599-3591

E-MAIL ADDRESS: david.self@famu.edu

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A bill to be entitled

An act relating to the City of Tallahassee, Leon County; amending chapter 2008-294, Laws of Florida; revising the boundaries of the downtown area for purposes of temporary permits for a nonprofit civic organization to sell alcoholic beverages for consumption on the premises at outdoor events on public right-of-way in the downtown area of Tallahassee; providing an effective date.

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

Section 1. Subsection (1) of section 1 of chapter 2008-294, Laws of Florida, is amended to read:

Section 1. (1) Notwithstanding any other provision of law, the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation may issue to a bona fide nonprofit civic organization, upon application and presentation of a valid street-closure permit issued by the City of Tallahassee, a temporary permit authorizing the sale of alcoholic beverages for consumption on the premises at outdoor events on public right-of-way in the downtown area of Tallahassee. Any such nonprofit civic organization may be issued up to 15 temporary permits per calendar year, and each temporary permit is valid for up to 3 days. For purposes of this act, the downtown area of Tallahassee is that area beginning at the

27 intersection of Wahnish Way and West Orange Avenue, running
 28 north along Wahnish Way to Okaloosa Street; then west on
 29 Okaloosa Street to Perry Street; then north on Perry Street to
 30 Gamble Street; then east on Gamble Street to Wahnish Way,
 31 Railroad Avenue, and Macomb Street; then north along Wahnish
 32 Way, Railroad Avenue, and Macomb Street to West Park Avenue;
 33 then east to North Meridian Street;
 34 then south to Apalachee
 35 Parkway;
 36 then east to Suwannee Street;
 37 then south to Myers
 38 Park Drive;
 39 then east to Golf Terrace Drive;
 40 then south to
 41 East Magnolia Drive;
 then west to South Meridian Street;
 then south to East Orange Avenue;
 then west to the point of
 beginning at the intersection of Wahnish Way and West Orange
 Avenue, the total area encompassing approximately 1.5 square
 miles.

41 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 743 Mobile Homes
SPONSOR(S): Latvala and others
TIED BILLS: IDEN./SIM. BILLS: SB 826

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee		Brown-Blake KBD	Anstead <i>LA</i>
2) Civil Justice Subcommittee			
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

The bill amends ch. 723, F.S., which provides for the regulation of mobile homes by the Division of Florida Condominiums, Timeshares, and Mobile Homes (Division) within the Department of Business and Professional Regulation (Department). The act was created to address the unique relationship between a mobile home owner and a mobile home park owner.

The bill amends the Division's notice requirements when a written complaint is filed with the Division alleging a violation of ch. 723, F.S.

The bill provides that non-ad valorem assessments that are currently assessed to mobile home owners would be considered a pass-on charge, resulting in the mobile home park owner itemizing the charges when requiring the pass-on charges to be paid by the mobile home owner. The bill also provides that a mobile home park owner shall be deemed to have disclosed the passing on of the property taxes and assessments if they were disclosed as a factor of increasing the lot rental amount in the prospectus or rental agreement.

The bill provides that, if the park owner does not provide a notice of a lot rental increase 90 days before the renewal date of the rental agreement, the rental agreement remains under the same terms until a 90-day notice of a lot rental increase is given.

The bill provides that the purchaser of a mobile home may cancel or rescind a contract for the purchase of the mobile home if the park owner has not approved the purchaser's tenancy at least 5 days before the closing of the purchase.

The bill provides that, upon incorporation, all consenting mobile homeowners may become members or shareholders of a homeowners' association. The bill defines the terms "member" and "shareholder" to mean "a mobile home owner who consents to be bound by the articles of incorporation, bylaws, and policies of the incorporated homeowners' association." Upon incorporation and notification to the park owner, the association becomes the representative to all mobile homeowners in all matters related to ch. 723, F.S.

The bill provides general provisions for the operation of the homeowners' association, including providing that owners of a jointly owned mobile home or subdivision lot are only permitted one vote; only one vote per lot or mobile home is permitted; and that members may vote in person or by secret ballot, including an absentee ballot.

The bill is expected to have minimal to no financial impact on a state or local agency.

The bill has an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Chapter 723, F.S., is known as the "Florida Mobile Home Act" and provides for the regulation of mobile homes by the Division of Florida Condominiums, Timeshares, and Mobile Homes (Division) within the Department of Business and Professional Regulation (Department). The act was created to address the unique relationship between a mobile home owner and a mobile home park owner. The act provides in part that:

[O]nce occupancy has commenced, unique factors can affect the bargaining position of the parties and can affect the operation of market forces. Because of those unique factors, there exist inherently real and substantial differences in the relationship which distinguish it from other landlord-tenant relationships. The Legislature recognizes that mobile home owners have basic property and other rights which must be protected. The Legislature further recognizes that the mobile home park owner has a legitimate business interest in the operation of the mobile home park as part of the housing market and has basic property and other rights which must be protected.

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. The Florida Supreme Court, in addressing mobile home park issues, has stated that "a hybrid type of property relationship exists between the mobile home owner and the park owner and that the relationship is not simply one of landowner and tenant. Each has basic property rights which must reciprocally accommodate and harmonize. Separate and distinct mobile home laws are necessary to define the relationships and protect the interests of the persons involved."

Notice of Complaint Process

The Division has the power to institute various enforcement proceedings in its own name against a developer, mobile home park owner, or homeowners' association, or its assignee or agent if the Division has cause to believe a violation of any provision of ch. 723, F.S., has occurred, notwithstanding any remedies available to mobile home owners, park owners, and homeowners' associations. The permitted enforcement proceedings include:

- Permitting a person whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent agreement;
- Issuing a cease and desist order a mobile home park owner, or its assignee or agent, and take affirmative action to carry out the purposes of ch. 723, F.S., including the following:
 - Refunds of rent increases, improper fees, charges and assessments, including pass-throughs and pass-ons collected in violation of the terms of ch. 723;
 - Filing and utilization of documents which correct a statutory or rule violation.
 - Reasonable action necessary to correct a statutory or rule violation.
- Bringing an action in circuit court on behalf of a class of mobile home owners, mobile home park owners, lessees, or purchasers for declaratory relief, injunctive relief, or restitution;
- Imposing a civil penalty against a mobile home park owner or homeowners' association, or its assignee or agent, for any violation of this chapter, a properly adopted park rule or regulation, or a rule adopted pursuant hereto.

The Division often initiates these enforcement proceedings based on complaints placed by mobile home owners, mobile home park owners, and homeowners' associations. When the division receives

a written complaint alleging a violation of ch. 723, F.S., or the rules, the Division is required to periodically notify, in writing, the person who filed the complaint of the status of the investigation, whether probable cause has been found to believe a violation has occurred, and the status of any administrative action, civil action, or appellate action. If the Division has found probable cause to believe that a violation has occurred, it is required to notify, in writing, the party complained against of the results of the investigation and the disposition of the complaint.¹

Pass-on Charges and Lot Rental Increases

In mobile home parks containing 26 or more lots, prior to entering into an enforceable rental agreement for a mobile home lot with a mobile homeowner, the park owner must deliver a prospectus or offering circular to the homeowner.² The prospectus in a mobile home park is the document that governs the landlord-tenant relationship between the park owner and the mobile home owner. The prospectus or offering circular, together with its attached exhibits, is a disclosure document intended to afford protection to the homeowners and prospective homeowners in the mobile home park.³ The purpose of the document is to disclose the representations of the mobile home park owner concerning the operations of the mobile home park.⁴

The prospectus or offering circular must include “[a]n explanation of the manner in which the lot rental amount will be raised, including disclosure of the manner in which pass-through charges will be assessed.”⁵ The term “pass-through charge” is defined to mean “the mobile home owner’s proportionate share of the necessary and actual direct costs and impact or hookup fees for a governmentally mandated capital improvement, which may include the necessary and actual direct costs and impact or hookup fees incurred for capital improvements required for public or private regulated utilities.”⁶

The rental agreement shall contain the lot rental amount and services included. A lot rental amount may not be increased during the term of the lot rental agreement except:

- When the manner of the increase is disclosed in a lot rental agreement with a term exceeding 12 months and which provides for such increases not more frequently than annually;
- For pass-through charges; and
- That a charge may not be collected that results in payment of money for sums previously collected as part of the lot rental amount.⁷

However, the park owner may pass-on, at any time during the term of the lot rental agreement, ad valorem property taxes, and utility charges, or increases of either, provided that the property taxes and utility charges are not otherwise being collected with the rent and provided that the passing on of the property taxes or utility charges, or increases of either, was:

- Disclosed prior to tenancy;
- A matter of custom between the park owner and the mobile homeowner; or
- Authorized by law.⁸

The property taxes and utility charges are required to be part of the lot rental amount. Pass-on charges⁹, may be passed on only within one year of the date a mobile home park owner remits

¹ s. 723.006(6), F.S.

² s. 723.011(1)(a), F.S.

³ s. 723.011(3), F.S.

⁴ *Id.*

⁵ s. 723.012(9)(c), F.S.

⁶ s. 723.003(17), F.S.

⁷ s. 723.031(5), F.S.

⁸ s. 723.031(5)(c), F.S.

payment of the charge. A park owner is prohibited from passing on any fine, interest, fee, or increase in a charge resulting from a park owner's payment of the charge after the date such charges becomes delinquent. However, a park owner and a mobile homeowner may agree to an alternative manner of payment for the charges.¹⁰

Rights of a Mobile Home Purchaser

The purchaser of a mobile home within a mobile home park may become a tenant of the park if the purchaser would qualify with the requirements of entry into the park under the park's rules and regulations, subject to the park owner's approval.¹¹ The park owner may not unreasonably withhold approval.

Homeowners' Association Formation

Section 723.075, F.S., requires mobile homeowners to form a homeowners' association to exercise certain rights. In order to create a homeowners' association, no less than two-thirds of all the mobile homeowners must have consented, in writing, to become members and shareholders of the corporation. Upon consent by two-thirds of the homeowners, all consenting homeowners and their successors become members of the association and are bound by the provisions of the articles of incorporation, the bylaws of the association, and other properly promulgated restrictions. All members must be bona fide owners of a mobile home located in the park. Upon incorporation and notification to the park owner, the association becomes the representative to mobile homeowners in all matters related to ch. 723, F.S.

Homeowners' Association Voting Requirements

Section 723.078, F.S. provides that, unless the bylaws state otherwise, a quorum consists of 30% of the total membership of the association. In order to reach a decision, the association must have a majority of members present at a meeting where a quorum is present.

Members may vote at homeowner association meetings in person at the member meetings or by limited proxy, but may not vote by general proxy. Both limited proxies and general proxies may be used to establish a quorum.¹²

Currently, the statute is silent as to how to count a member vote in cases where a mobile home or subdivision lot is jointly owned by two or more persons. Additionally, the statute is not explicit in how many votes each mobile home or subdivision lot may have.

Effect of the Bill

Notice of Complaint Process

When there are disputes between a mobile home owner and a mobile home park owner, either can request enforcement of s. 723, F.S., by the Division by filing a complaint. The bill amends the notice requirements in s. 723, 006(6), F.S., that set out how the Division notifies the complainant and the person the complaint is filed against following the filing of a written complaint alleging a violation of ch. 723. The bill requires the Division to notify the complainant in writing within 30 days of receipt of the written complaint. Thereafter, the Division is required to notify the complainant of the investigation status within 90 days of receipt of the written complaint. When the investigation is complete, the

⁹ Note: Pass-on charges are different than pass-through charges.

¹⁰ *Id.* at note 8.

¹¹ s. 723.059(1), F.S.

¹² s. 723.078(2)(b)2., F.S.

Division is required to notify, in writing, both the complainant and the party complained against of the investigation's results.

Pass-through Charges and Lot Rental Increases

The bill amends s. 723.031(5)(c), F.S., to provide that non-ad valorem assessments, which are currently assessed to mobile home owners, are considered a pass-on charge. The homeowners already pay these assessments. But by listing the assessments in the pass-on charges, the assessments would be itemized in the bill submitted to the homeowners by the park owners. This provides clearer notice to homeowners of what taxes and assessments they are paying.

The bill further provides that, if the park owner does not provide a notice of lot rental increase 90 days before the renewal date of the rental agreement, the rental agreement remains under the same terms until a 90-day notice of lot rental increase is given. The notice may provide for a rental term shorter than 1 year in order to maintain the same renewal date.

Rights of a Mobile Home Purchaser

The bill provides that the purchaser of a mobile home may cancel or rescind a contract for the purchase of the mobile home if the park owner has not approved the purchaser's tenancy at least 5 days before the closing of the purchase.

Homeowners' Association Formation

The bill maintains the requirement that two-thirds of the homeowners must consent to create the homeowners' association. However, the bill provides that, upon incorporation, all consenting mobile homeowners may become members or shareholders. The bill defines the terms "member" and "shareholder" to mean "a mobile home owner who consents to be bound by the articles of incorporation, bylaws, and policies of the incorporated homeowners' association," thus providing that consent is provided prior to being bound by the association's governing documents. The bill removes the provision providing that the homeowners' successors are members of the association.

Homeowners' Association Voting Requirements

The bill provides that owners of a jointly owned mobile home or subdivision lot are only permitted one vote. Only one vote per lot or mobile home is permitted. Additionally, the bill provides that any number greater than 50% of the total number of votes cast at a meeting shall constitute as a majority for the purposes of determining whether an action passes at a homeowners' association member meeting. Finally, the bill provides that members may vote in person or by secret ballot, including an absentee ballot.

B. SECTION DIRECTORY:

Section 1 amends s. 723.006, F.S., revising certain notice requirements for written complaints.

Section 2 amends s. 723.031, F.S., authorizing a mobile home park owner to pass on non-ad valorem assessments to a tenant under certain circumstances, and providing other requirements regarding non-ad valorem assessments.

Section 3 amends s. 723.059, F.S., authorizing a mobile home purchaser to cancel or rescind the contract to purchase under certain circumstances.

Section 4 amends s. 723.075, F.S., revising the rights that mobile home owners exercise if they form an association and the manner in which it is formed.

Section 5 amends s. 723.078, F.S., specifying voting requirements for homeowners' associations.

Section 6 provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Minimal. The Division would have to provide additional notice regarding complaints to complainants and the individuals complained against, but the costs would be minimal.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None. The language clarifies that the park owners may pass on non-ad valorem assessments, which are currently already passed on. The language is meant to clarify that the non-ad valorem assessments need to be itemized so the mobile home owner is aware of the cost of ad valorem taxes and assessments.

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:

The term "non-ad valorem taxes" found on lines 72, 74, 77, 82, and 86, is not defined and may need to be clarified.

The term "secret ballot" found on line 165 is not defined and may need to be clarified.

The bill sponsor has indicated he will provide amendments addressing these drafting issues.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

27 effective date.

28

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

30

31 Section 1. Subsection (6) of section 723.006, Florida
 32 Statutes, is amended to read:

33 723.006 Powers and duties of division.—In performing its
 34 duties, the division has the following powers and duties:

35 (6) With regard to any written complaint alleging a
 36 violation of any provision of this chapter or any rule adopted
 37 ~~promulgated~~ pursuant thereto, the division shall, within 30 days
 38 after receipt of a written complaint, ~~periodically~~ notify, in
 39 writing, the person who filed the complaint of the status of the
 40 complaint. Thereafter, the division shall notify the complainant
 41 of the status of the investigation within 90 days after receipt
 42 of the written complaint. Upon completion of the investigation,
 43 ~~the division investigation, whether probable cause has been~~
 44 ~~found, and the status of any administrative action, civil~~
 45 ~~action, or appellate action, and if the division has found that~~
 46 ~~probable cause exists,~~ it shall notify, in writing, the
 47 complainant and the party complained against of the results of
 48 the investigation and disposition of the complaint.

49 Section 2. Subsection (5) of section 723.031, Florida
 50 Statutes, is amended to read:

51 723.031 Mobile home lot rental agreements.—

52 (5) The rental agreement shall contain the lot rental

53 amount and services included. An increase in lot rental amount
54 upon expiration of the term of the lot rental agreement shall be
55 in accordance with ss. 723.033 and 723.037 or s. 723.059(4),
56 whichever is applicable, provided that, pursuant to s.
57 723.059(4), the amount of the lot rental increase is disclosed
58 and agreed to by the purchaser, in writing. An increase in lot
59 rental amount shall not be arbitrary or discriminatory between
60 similarly situated tenants in the park. A ~~Ne~~ lot rental amount
61 may not be increased during the term of the lot rental
62 agreement, except:

63 (a) When the manner of the increase is disclosed in a lot
64 rental agreement with a term exceeding 12 months and which
65 provides for such increases not more frequently than annually.

66 (b) For pass-through charges as defined in s. 723.003.

67 (c) That a ~~ne~~ charge may not be collected which ~~that~~
68 results in payment of money for sums previously collected as
69 part of the lot rental amount. The provisions hereof
70 notwithstanding, the mobile home park owner may pass on, at any
71 time during the term of the lot rental agreement, ad valorem
72 property taxes, non-ad valorem assessments, and utility charges,
73 or increases of either, provided that the ad valorem property
74 taxes, non-ad valorem assessments, and ~~the~~ utility charges are
75 not otherwise being collected in the remainder of the lot rental
76 amount and provided further that the passing on of such ad
77 valorem taxes, non-ad valorem assessments, or utility charges,
78 or increases of either, was disclosed prior to tenancy, was

79 being passed on as a matter of custom between the mobile home
 80 park owner and the mobile home owner, or such passing on was
 81 authorized by law. A park owner shall be deemed to have
 82 disclosed the passing on of ad valorem property taxes and non-ad
 83 valorem assessments if ad valorem property taxes or non-ad
 84 valorem assessments were disclosed as a factor for increasing
 85 the lot rental amount in the prospectus or rental agreement.

86 Such ad valorem taxes, non-ad valorem assessments, and utility
 87 charges shall be a part of the lot rental amount as defined by
 88 this chapter. Other provisions of this chapter notwithstanding,
 89 pass-on charges may be passed on only within 1 year of the date
 90 a mobile home park owner remits payment of the charge. A mobile
 91 home park owner is prohibited from passing on any fine,
 92 interest, fee, or increase in a charge resulting from a park
 93 owner's payment of the charge after the date such charges become
 94 delinquent. Nothing herein shall prohibit a park owner and a
 95 homeowner from mutually agreeing to an alternative manner of
 96 payment to the park owner of the charges.

97 (d) If a notice of increase in lot rental amount is not
 98 given 90 days before the renewal date of the rental agreement,
 99 the rental agreement shall remain under the same terms until a
 100 90-day notice of increase in lot rental amount is given. The
 101 notice may provide for a rental term shorter than 1 year in
 102 order to maintain the same renewal date.

103 Section 3. Subsection (1) of section 723.059, Florida
 104 Statutes, is amended to read:

105 723.059 Rights of purchaser.—

106 (1) The purchaser of a mobile home within a mobile home
 107 park may become a tenant of the park if such purchaser would
 108 otherwise qualify with the requirements of entry into the park
 109 under the park rules and regulations, subject to the approval of
 110 the park owner, but such approval may not be unreasonably
 111 withheld. The purchaser of the mobile home may cancel or rescind
 112 the contract for purchase of the mobile home if the purchaser's
 113 tenancy has not been approved by the park owner 5 days before
 114 the closing of the purchase.

115 Section 4. Subsection (1) of section 723.075, Florida
 116 Statutes, is amended to read:

117 723.075 Homeowners' associations.—

118 (1) In order to exercise the rights provided in this
 119 chapter s. 723.071, the mobile home owners shall form an
 120 association in compliance with this section and ss. 723.077,
 121 723.078, and 723.079, which shall be a corporation for profit or
 122 not for profit and of which not less than two-thirds of all of
 123 the mobile home owners within the park shall have consented, in
 124 writing, to become members or shareholders. Upon incorporation
 125 of the association ~~such consent by two-thirds of the mobile home~~
 126 ~~owners~~, all consenting mobile home owners in the park may become
 127 members or shareholders. The term "member" or "shareholder"
 128 means a mobile home owner who consents to be bound by the
 129 articles of incorporation, bylaws, and policies of the
 130 incorporated homeowners' association ~~and their successors shall~~

131 ~~become members of the association and shall be bound by the~~
 132 ~~provisions of the articles of incorporation, the bylaws of the~~
 133 ~~association, and such restrictions as may be properly~~
 134 ~~promulgated pursuant thereto.~~ The association may not ~~shall~~ have
 135 a ~~ne~~ member or shareholder who is not a bona fide owner of a
 136 mobile home located in the park. Upon incorporation and service
 137 of the notice described in s. 723.076, the association shall
 138 become the representative of all the mobile home owners in all
 139 matters relating to this chapter.

140 Section 5. Paragraph (b) of subsection (2) of section
 141 723.078, Florida Statutes, is amended to read:

142 723.078 Bylaws of homeowners' associations.—

143 (2) The bylaws shall provide and, if they do not, shall be
 144 deemed to include, the following provisions:

145 (b) *Quorum; voting requirements; proxies.*—

146 1. Unless otherwise provided in the bylaws, 30 percent of
 147 the total membership is required to constitute a quorum.
 148 Decisions shall be made by a majority of members represented at
 149 a meeting at which a quorum is present.

150 2. A member may not vote by general proxy but may vote by
 151 limited proxies substantially conforming to a limited proxy form
 152 adopted by the division. Limited proxies and general proxies may
 153 be used to establish a quorum. Limited proxies may be used for
 154 votes taken to amend the articles of incorporation or bylaws
 155 pursuant to this section, and any other matters for which this
 156 chapter requires or permits a vote of members, except that no

157 proxy, limited or general, may be used in the election of board
 158 members. If a mobile home or subdivision lot is owned jointly,
 159 the owners of the mobile home, or subdivision lot, shall be
 160 counted as one for the purpose of determining the number of
 161 votes required for a majority. Only one vote per mobile home or
 162 subdivision lot shall be counted. Any number greater than 50
 163 percent of the total number of votes constitutes a majority.
 164 Notwithstanding ~~the provisions of~~ this section, members may vote
 165 in person at member meetings or by secret ballot, including
 166 absentee ballots.

167 3. A proxy is effective only for the specific meeting for
 168 which originally given and any lawfully adjourned meetings
 169 thereof. In no event shall any proxy be valid for a period
 170 longer than 90 days after the date of the first meeting for
 171 which it was given. Every proxy shall be revocable at any time
 172 at the pleasure of the member executing it.

173 4. A member of the board of directors or a committee may
 174 submit in writing his or her agreement or disagreement with any
 175 action taken at a meeting that the member did not attend. This
 176 agreement or disagreement may not be used as a vote for or
 177 against the action taken and may not be used for the purposes of
 178 creating a quorum.

179 Section 6. This act shall take effect July 1, 2016.

BUSINESS AND PROFESSIONS SUBCOMMITTEE

HB 743 by Rep. Latvala Relating to Mobile Homes

AMENDMENT SUMMARY January 20, 2016

Amendment by Rep. Latvala (Strike-all): The strike-all makes the following changes:

- Requires the Division to adopt rules regarding board member training requirements and sets deadlines for implementation and enforcement.
- Provides that the term non-ad valorem assessments has the same meaning as in s. 197.3632(1)(d), F.S.
- Clarifies that the HOA applies to all homeowners, rather than just members.
- Prohibits the tape recording or video taping of meetings between the board or a committee and the park owner.



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	_____	

1 Committee/Subcommittee hearing bill: Business & Professions
 2 Subcommittee

3 Representative Latvala offered the following:

4
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (6) of section 723.006, Florida
 8 Statutes, is amended and subsection (15) of section 723.006,
 9 Florida Statutes is created to read:

10 723.006 Powers and duties of division.—In performing its
 11 duties, the division has the following powers and duties:

12 (6) With regard to any written complaint alleging a
 13 violation of any provision of this chapter or any rule adopted
 14 ~~promulgated~~ pursuant thereto, the division shall, within 30 days
 15 after receipt of a written complaint, periodically notify, in
 16 writing, the person who filed the complaint of the status of the
 17 complaint. Thereafter, the division shall notify the complainant



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18 of the status of the investigation within 90 days after receipt
19 of the written complaint. Upon completion of the investigation,
20 the division investigation, whether probable cause has been
21 found, and the status of any administrative action, civil
22 action, or appellate action, and if the division has found that
23 probable cause exists, it shall notify, in writing, the
24 complainant and the party complained against of the results of
25 the investigation and disposition of the complaint.

26 (15) The division shall adopt rules to implement the board
27 member training requirements for educational programs as
28 provided in this chapter. The agency shall publish a notice of
29 proposed rule pursuant to s. 120.54(3)(a), by October 1, 2016.
30 Such rules shall include the requirements for content and notice
31 of the board member training program to assure that providers
32 meet minimum training requirements.

33 Section 2. Subsection (5) of section 723.031, Florida
34 Statutes, is amended to read:

35 723.031 Mobile home lot rental agreements.—

36 (5) The rental agreement shall contain the lot rental
37 amount and services included. An increase in lot rental amount
38 upon expiration of the term of the lot rental agreement shall be
39 in accordance with ss. 723.033 and 723.037 or s. 723.059(4),
40 whichever is applicable, provided that, pursuant to s.
41 723.059(4), the amount of the lot rental increase is disclosed
42 and agreed to by the purchaser, in writing. An increase in lot
43 rental amount shall not be arbitrary or discriminatory between



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44 similarly situated tenants in the park. ~~A~~ ~~no~~ lot rental amount
45 may not be increased during the term of the lot rental
46 agreement, except:

47 (a) When the manner of the increase is disclosed in a lot
48 rental agreement with a term exceeding 12 months and which
49 provides for such increases not more frequently than annually.

50 (b) For pass-through charges as defined in s. 723.003.

51 (c) That ~~a~~ ~~no~~ charge may not be collected which that
52 results in payment of money for sums previously collected as
53 part of the lot rental amount. The provisions hereof
54 notwithstanding, the mobile home park owner may pass on, at any
55 time during the term of the lot rental agreement, ad valorem
56 property taxes, non-ad valorem assessments, and utility charges,
57 or increases of either, provided that the ad valorem property
58 taxes, non-ad valorem assessments, and ~~the~~ utility charges are
59 not otherwise being collected in the remainder of the lot rental
60 amount and provided further that the passing on of such ad
61 valorem taxes, non-ad valorem assessments, or utility charges,
62 or increases of either, was disclosed prior to tenancy, was
63 being passed on as a matter of custom between the mobile home
64 park owner and the mobile home owner, or such passing on was
65 authorized by law. A park owner shall be deemed to have
66 disclosed the passing on of ad valorem property taxes and non-ad
67 valorem assessments if ad valorem property taxes or non-ad
68 valorem assessments were disclosed as a factor for increasing
69 the lot rental amount in the prospectus or rental agreement.



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70 Such ad valorem taxes, non-ad valorem assessments, and utility
71 charges shall be a part of the lot rental amount as defined by
72 this chapter. The term "non-ad valorem assessments" has the same
73 meaning as provided in s. 197.3632(1)(d). Other provisions of
74 this chapter notwithstanding, pass-on charges may be passed on
75 only within 1 year of the date a mobile home park owner remits
76 payment of the charge. A mobile home park owner is prohibited
77 from passing on any fine, interest, fee, or increase in a charge
78 resulting from a park owner's payment of the charge after the
79 date such charges become delinquent. Nothing herein shall
80 prohibit a park owner and a homeowner from mutually agreeing to
81 an alternative manner of payment to the park owner of the
82 charges.

83 (d) If a notice of increase in lot rental amount is not
84 given 90 days before the renewal date of the rental agreement,
85 the rental agreement shall remain under the same terms until a
86 90-day notice of increase in lot rental amount is given. The
87 notice may provide for a rental term shorter than 1 year in
88 order to maintain the same renewal date.

89 Section 3. Subsection (1) of section 723.059, Florida
90 Statutes, is amended to read:

91 723.059 Rights of purchaser.—

92 (1) The purchaser of a mobile home within a mobile home
93 park may become a tenant of the park if such purchaser would
94 otherwise qualify with the requirements of entry into the park
95 under the park rules and regulations, subject to the approval of



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96 the park owner, but such approval may not be unreasonably
97 withheld. The purchaser of the mobile home may cancel or rescind
98 the contract for purchase of the mobile home if the purchaser's
99 tenancy has not been approved by the park owner 5 days before
100 the closing of the purchase.

101 Section 4. Subsection (1) of section 723.075, Florida
102 Statutes, is amended to read:

103 723.075 Homeowners' associations.—

104 (1) In order to exercise the rights provided in this
105 chapter s. 723.071, the mobile home owners shall form an
106 association in compliance with this section and ss. 723.077,
107 723.078, and 723.079, which shall be a corporation for profit or
108 not for profit and of which not less than two-thirds of all of
109 the mobile home owners within the park shall have consented, in
110 writing, to become members or shareholders. Upon incorporation
111 of the association such consent by two thirds of the mobile home
112 owners, all consenting mobile home owners in the park may become
113 members or shareholders. The term "member" or "shareholder"
114 means a mobile home owner who consents to be bound by the
115 articles of incorporation, bylaws, and policies of the
116 incorporated homeowners' association and their successors shall
117 become members of the association and shall be bound by the
118 provisions of the articles of incorporation, the bylaws of the
119 association, and such restrictions as may be properly
120 promulgated pursuant thereto. The association may not shall have
121 a no member or shareholder who is not a bona fide owner of a

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122 mobile home located in the park. Upon incorporation and service
123 of the notice described in s. 723.076, the association shall
124 become the representative of all the mobile home owners in all
125 matters relating to this chapter, regardless of whether or not
126 the homeowner is a member of the association.

127 Section 5. Paragraphs (b) and (c) of subsection (2) of
128 section 723.078, Florida Statutes, is amended to read:

129 723.078 Bylaws of homeowners' associations.—

130 (2) The bylaws shall provide and, if they do not, shall be
131 deemed to include, the following provisions:

132 (b) Quorum; voting requirements; proxies.—

133 1. Unless otherwise provided in the bylaws, 30 percent of
134 the total membership is required to constitute a quorum.

135 Decisions shall be made by a majority of members represented at
136 a meeting at which a quorum is present.

137 2. A member may not vote by general proxy but may vote by
138 limited proxies substantially conforming to a limited proxy form
139 adopted by the division. Limited proxies and general proxies may
140 be used to establish a quorum. Limited proxies may be used for
141 votes taken to amend the articles of incorporation or bylaws
142 pursuant to this section, and any other matters for which this
143 chapter requires or permits a vote of members, except that no
144 proxy, limited or general, may be used in the election of board
145 members. If a mobile home or subdivision lot is owned jointly,
146 the owners of the mobile home, or subdivision lot, shall be
147 counted as one for the purpose of determining the number of



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148 votes required for a majority. Only one vote per mobile home or
149 subdivision lot shall be counted. Any number greater than 50
150 percent of the total number of votes constitutes a majority.
151 Notwithstanding ~~the provisions of~~ this section, members may vote
152 in person at member meetings or by secret ballot, including
153 absentee ballots, as defined by the Division.

154 3. A proxy is effective only for the specific meeting for
155 which originally given and any lawfully adjourned meetings
156 thereof. In no event shall any proxy be valid for a period
157 longer than 90 days after the date of the first meeting for
158 which it was given. Every proxy shall be revocable at any time
159 at the pleasure of the member executing it.

160 4. A member of the board of directors or a committee may
161 submit in writing his or her agreement or disagreement with any
162 action taken at a meeting that the member did not attend. This
163 agreement or disagreement may not be used as a vote for or
164 against the action taken and may not be used for the purposes of
165 creating a quorum.

166 (c) Board of directors' and committee meetings.-

167 1. Meetings of the board of directors and meetings of its
168 committees at which a quorum is present shall be open to all
169 members. Notwithstanding any other provision of law, the
170 requirement that board meetings and committee meetings be open
171 to the members does not apply to board or committee meetings
172 held for the purpose of discussing personnel matters or meetings
173 between the board or a committee and the association's attorney,



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174 with respect to potential or pending litigation, where the
175 meeting is held for the purpose of seeking or rendering legal
176 advice, and where the contents of the discussion would otherwise
177 be governed by the attorney-client privilege. Notice of meetings
178 shall be posted in a conspicuous place upon the park property at
179 least 48 hours in advance, except in an emergency. Notice of any
180 meeting in which assessments against members are to be
181 considered for any reason shall specifically contain a statement
182 that assessments will be considered and the nature of such
183 assessments.

184 2. A board or committee member's participation in a meeting
185 via telephone, real-time videoconferencing, or similar real-time
186 telephonic, electronic, or video communication counts toward a
187 quorum, and such member may vote as if physically present. A
188 speaker shall be used so that the conversation of those board or
189 committee members attending by telephone may be heard by the
190 board or committee members attending in person, as well as by
191 members present at a meeting.

192 3. Members of the board of directors may use e-mail as a
193 means of communication but may not cast a vote on an association
194 matter via e-mail.

195 4. The right to attend meetings of the board of directors
196 and its committees includes the right to speak at such meetings
197 with reference to all designated agenda items. The association
198 may adopt reasonable written rules governing the frequency,
199 duration, and manner of members' statements. Any item not



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200 included on the notice may be taken up on an emergency basis by
201 at least a majority plus one of the members of the board. Such
202 emergency action shall be noticed and ratified at the next
203 regular meeting of the board. Any member may tape record or
204 videotape meetings of the board of directors and its committees,
205 except meetings between the board of directors or its appointed
206 homeowners' committee and the park owner. The division shall
207 adopt reasonable rules governing the tape recording and
208 videotaping of the meeting.

209 5. Except as provided in paragraph (i), a vacancy occurring
210 on the board of directors may be filled by the affirmative vote
211 of the majority of the remaining directors, even though the
212 remaining directors constitute less than a quorum; by the sole
213 remaining director; if the vacancy is not so filled or if no
214 director remains, by the members; or, on the application of any
215 person, by the circuit court of the county in which the
216 registered office of the corporation is located.

217 6. The term of a director elected or appointed to fill a
218 vacancy expires at the next annual meeting at which directors
219 are elected. A directorship to be filled by reason of an
220 increase in the number of directors may be filled by the board
221 of directors, but only for the term of office continuing until
222 the next election of directors by the members.

223 7. A vacancy that will occur at a specific later date, by
224 reason of a resignation effective at a later date, may be filled



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225 before the vacancy occurs. However, the new director may not
226 take office until the vacancy occurs.

227 8.a. The officers and directors of the association have a
228 fiduciary relationship to the members.

229 b. A director and committee member shall discharge his or
230 her duties in good faith, with the care an ordinarily prudent
231 person in a like position would exercise under similar
232 circumstances, and in a manner he or she reasonably believes to
233 be in the best interests of the corporation.

234 9. In discharging his or her duties, a director may rely on
235 information, opinions, reports, or statements, including
236 financial statements and other financial data, if prepared or
237 presented by:

238 a. One or more officers or employees of the corporation who
239 the director reasonably believes to be reliable and competent in
240 the matters presented;

241 b. Legal counsel, public accountants, or other persons as
242 to matters the director reasonably believes are within the
243 persons' professional or expert competence; or

244 c. A committee of the board of directors of which he or she
245 is not a member if the director reasonably believes the
246 committee merits confidence.

247 10. A director is not acting in good faith if he or she has
248 knowledge concerning the matter in question that makes reliance
249 otherwise permitted by subparagraph 9. unwarranted.



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250 11. A director is not liable for any action taken as a
251 director, or any failure to take any action, if he or she
252 performed the duties of his or her office in compliance with
253 this section.

254 Section 6. Section 723.0781, Florida Statutes, is amended
255 to read:

256 723.0781 Board member training programs.—

257 (1) Within 90 days after being elected or appointed to the
258 board, a newly elected or appointed director shall certify by an
259 affidavit in writing to the secretary of the association that he
260 or she has read the association's current articles of
261 incorporation, bylaws, and the mobile home park's prospectus,
262 rental agreement, rules, regulations, and written policies; that
263 he or she will work to uphold such documents and policies to the
264 best of his or her ability; and that he or she will faithfully
265 discharge his or her fiduciary responsibility to the
266 association's members.

267 (2) In lieu of this written certification, within 90 days
268 after being elected or appointed to the board, the newly elected
269 or appointed director may submit a certificate of having
270 satisfactorily completed the educational curriculum approved by
271 the division within 1 year before or 90 days after the date of
272 election or appointment. The educational certificate is valid
273 and does not have to be resubmitted as long as the director
274 serves on the board without interruption.



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275 (3) A director who fails to timely file the written
 276 certification or educational certificate is suspended from
 277 service on the board until he or she complies with this section.
 278 The board may temporarily fill the vacancy during the period of
 279 suspension.

280 (4) The secretary of the association shall retain a
 281 director's written certification or educational certificate for
 282 inspection by the members for 5 years after the director's
 283 election or the duration of the director's uninterrupted tenure,
 284 whichever is longer. Failure to have such written certification
 285 or educational certificate on file does not affect the validity
 286 of any board action.

287 (5) This section becomes effective on October 1, 2016. Any
 288 member of the board of directors of a homeowners' association
 289 not in compliance with the requirements of this section shall
 290 not be considered in violation of this section until after
 291 October 1, 2017.

292 Section 7. This act shall take effect July 1, 2016.

294 -----

295 **T I T L E A M E N D M E N T**

296 Remove line 26 and insert:

297 secret ballot and absentee ballot; prohibiting the tape
 298 recording or videotaping of meetings between the board or
 299 committee and the park owner; amending s. 723.0781, F.S.;

300 providing for an effective date of the section; providing a date



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 743 (2016)

Amendment No. 1

301 | by which board members may be in violation of the section;
302 | providing an

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 779 Alarm System Registration
SPONSOR(S): Cortes
TIED BILLS: IDEN./SIM. BILLS: SB 768

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee		Anderson <i>CA</i>	Anstead <i>JA</i>
2) Local Government Affairs Subcommittee			
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

The Florida Building Code, ch. 553, Part IV, F.S., applies statewide to all construction, including the installation of alarm systems. The intent of the Florida Building Code is to create a single source of uniform standards for all aspects of construction. Florida currently has a uniform system for alarm system permitting, but does not address alarm system registration.

The bill creates a new section in the Florida Building Code that provides a uniform process for the registration of home and business alarm systems when registration is required by an applicable local ordinance, regulation, or rule.

The bill requires the property owner, lessee, or occupant to file a uniform alarm registration application with the applicable local governmental entity that requires registration within 20 days after installation or activation of an alarm system or occupancy of a property with an activated alarm system. The bill provides the form for the uniform application.

The bill authorizes the applicable local governmental entity to charge the property owner, lessee, or occupant an alarm registration fee of up to \$25. The fee is valid for the registrant's entire occupancy of the property.

The bill requires a contractor to advise a consumer at the time of the alarm system installation that there may be an obligation to register the system.

The bill prohibits an applicable local governmental entity from imposing a civil penalty or fine against an alarm contractor or alarm monitoring company for excessive false alarms and specifies that the owner, lessee, or occupant is responsible for any civil penalties or fines that are assessed or imposed.

The bill is anticipated to lower fees currently imposed by some local jurisdictions, which may result in an indeterminate negative fiscal impact on certain jurisdictions.

The bill provides for an effective date of October 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

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.¹

Florida defines an alarm system as any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency.² Uniform state law controls the installation and permitting of low-voltage alarm system projects, for which a permit is required by a local enforcement agency, including home-automation equipment, thermostats, and video cameras. A local government agency may not adopt an ordinance or rule regarding a low-voltage alarm system that conflicts with state law.³

Florida state law places restrictions on alarm system installation and permitting. 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. 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 \$40 for the permit label.⁴

Florida state law does not currently address alarm system registration requirements. Local enforcement agencies in Florida have varied registration requirements that typically include contact information for the homeowner or occupant registering the alarm system, the alarm contractor, and an emergency contact.⁵ Local enforcement agencies differ as to whether the property owner or alarm system contractor is required to register an alarm system.

Failure to register an alarm system may result in a fine on the property owner, alarm system contractor, or both. Not all local enforcement agencies require registration fees, but the fees for those that do vary across the state. Typically, most required fees are in the range of \$20-30, but some are \$100 or more.⁶ Additionally, some fees are required annually, while others are assessed only at the initial registration. Fines for excessive alarms also vary by local enforcement agency.⁷ There have been reports that some

¹ s. 553.71(5), F.S.

² s. 489.505(1), F.S.

³ s. 553.79(9), F.S.

⁴ s. 553.793(4), F.S.

⁵ E-mail from Jorge Chamizo, Floridian Partners, FW: HB 779 Alarm System Registration, regarding attachment from Xfinity Home (on file with Business & Professions Subcommittee) (Jan. 15, 2016); List of municipalities serviced by Florida Safeguard, http://floridasafeguard.com/?page_id=123 (last visited Jan. 15, 2016).

⁶ *Id.*

⁷ *Id.*

local enforcement agencies will not dispatch a response team in response to an alarm if the alarm system has not been registered.⁸

Effect of bill:

The bill creates a new section in the Florida Building Code that provides a uniform process for the registration of home and business alarm systems when registration is required by an applicable local ordinance, regulation, or rule. The bill defines the term "applicable local governmental entity" to mean the local enforcement agency or local law enforcement agency responsible for the administration of alarm system registration in a jurisdiction.

The bill requires the owner, lessee, occupant, or an authorized representative of an owner, lessee, or occupant of property to file a uniform alarm registration application with the applicable local governmental entity that requires registration within 20 days after installation or activation of an alarm system or occupancy of a property with an activated alarm system and notify the applicable local governmental entity within 30 days of any change to information submitted in the application.

The bill provides the form for a Uniform Alarm Registration Application and provides that the application may be submitted electronically or by facsimile.

The bill authorizes the applicable local governmental entity to charge the owner, lessee, or occupant an alarm registration fee of up to \$25. The fee is valid for the registrant's entire occupancy of the property.

The bill requires a contractor to advise a consumer at the time of the alarm system installation that there may be an obligation to register the system.

The bill prohibits an applicable local governmental entity from imposing a civil penalty or fine against an alarm contractor or alarm monitoring company for excessive false alarms and specifies that the owner, lessee, or occupant is responsible for any civil penalties or fines that are assessed or imposed.

B. SECTION DIRECTORY:

Section 1 creates s. 553.7931, F.S., to provide a uniform process for the registration of a home or business alarm system when registration is required by an applicable local ordinance, regulation, or rule, and prohibit an applicable local governmental entity from imposing a civil penalty or fine against an alarm contractor or alarm monitoring company for excessive false alarms and specify that the owner, lessee, or occupant is responsible for such penalties or fines.

Section 2 provides an effective date of October 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

⁸ *Id.*

1. Revenues:

Indeterminate. The bill will reduce the ability of certain local jurisdictions to raise revenue, specifically reducing the ability of certain jurisdictions to charge more than \$25 for an alarm registration fee. Most local jurisdictions do not charge significantly more than \$25 for the alarm registration fee, so the impact on revenues could be minimal for most local jurisdictions.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires homeowners and business owners, when registration is required by the applicable local government entity, to submit a registration application and pay a registration fee upon the installation or activation of an alarm system or upon occupancy of a property with an activated alarm system. The bill also requires that any civil penalties or fines assessed or imposed by the local governmental entity for failure to register an alarm system or for excessive false alarms be assessed on the owner, lessee, or occupant and not the alarm contractor. This may increase or decrease costs associated with alarm systems for homeowners and business owners and may decrease such costs for alarm contractors.

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, 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. It appears that a few jurisdictions may have reduced revenue, but the significance is not ascertainable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill provides that a contractor may advise a "consumer" that an obligation to register the alarm system may exist. The term "consumer" is not used elsewhere in the bill language. For clarification, the term "consumer" could be replaced with language that refers to "the owner, lessee, or occupant, or an authorized representative thereof" to conform to bill language.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to alarm system registration; creating
 3 s. 553.7931, F.S.; defining the term "applicable local
 4 governmental entity"; providing a uniform process for
 5 the registration of home and business alarm systems
 6 under certain circumstances; requiring the owner,
 7 lessee, or occupant, or an authorized representative
 8 thereof, of a property to register an alarm system
 9 within 20 days after occupancy or after installation
 10 of the alarm system; authorizing the applicable local
 11 governmental entity to charge a registration fee;
 12 specifying the requirements of the application form;
 13 requiring the owner, lessee, or occupant, or an
 14 authorized representative thereof, to notify the
 15 applicable local governmental agency of a change in
 16 the information provided in the application form
 17 within 30 days; authorizing the applicable local
 18 governmental entity to assess or impose fines or
 19 penalties for a failure to register an alarm system or
 20 for excessive false alarms; providing that fines and
 21 penalties are the responsibility of the owner, lessee,
 22 or occupant of the property; providing an effective
 23 date.

24
 25 Be It Enacted by the Legislature of the State of Florida:
 26

27 Section 1. Section 553.7931, Florida Statutes, is created
28 to read:

29 553.7931 Uniform alarm registration process.-

30 (1) As used in this section, the term "applicable local
31 governmental entity" means the local enforcement agency or local
32 law enforcement agency responsible for the administration of
33 alarm system registration in a jurisdiction.

34 (2) This section creates a uniform process for the
35 registration of a home or business alarm system and applies only
36 if such registration is required by a local ordinance,
37 regulation, or rule.

38 (a) The owner, lessee, or occupant, or an authorized
39 representative thereof, of a property must file a uniform alarm
40 registration application with the applicable local governmental
41 entity that requires registration within 20 days after the
42 installation or activation of an alarm system or occupancy of a
43 property with an activated alarm system. During the intervening
44 period, local first responders shall respond to a dispatch
45 request. The application may be submitted electronically, or by
46 facsimile, if signed by the owner, lessee, or occupant, or an
47 authorized representative thereof.

48 (b) The applicable local governmental entity may charge
49 the owner, lessee, or occupant an alarm registration fee of up
50 to \$25. The registration is valid for as long as the registrant
51 occupies the property. If possession of the property is
52 transferred, the new occupant must file an application pursuant

53 to paragraph (a).

54 (c) The uniform alarm registration application must
55 contain substantially the following information:

57 UNIFORM ALARM REGISTRATION APPLICATION

59 Owner, Lessee, or Occupant Name.....

60 Owner, Lessee, or Occupant Address.....

61 City.....

62 State.... Zip....

63 Phone Number.....

64 E-mail Address.....

65 Date of Occupancy.....

66 Name of Alarm Contractor.....

67 Phone Number of Alarm Contractor.....

68 Name of Alarm Monitoring Company.....

69 Phone Number of Alarm Monitoring Company.....

71 Emergency Contact Information:

72 Name.....

73 Address.....

74 City.....

75 State.... Zip....

76 Phone Number.....

78 I certify that the foregoing information is true and accurate.

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2016

79 ...(Date)...
80 ...(Signature of Owner, Lessee, or Occupant, or Authorized
81 Representative)...

82
83 (d) The owner, lessee, or occupant, or an authorized
84 representative thereof, shall notify the applicable local
85 governmental entity within 30 days of any change to the
86 information previously submitted. A contractor, as defined in s.
87 553.793, must advise a consumer at the time of an alarm system
88 installation that an obligation to register the system may
89 exist.

90 (3) Civil penalties and fines assessed or imposed by the
91 applicable local governmental entity for a failure to register
92 an alarm system as required under subsection (1) or for
93 excessive false alarms shall be the responsibility of the owner,
94 lessee, or occupant of the property. A local ordinance,
95 regulation, or rule may not impose a civil penalty or fine
96 against an alarm contractor or alarm monitoring company for
97 excessive false alarms.

98 Section 2. This act shall take effect October 1, 2016.

BUSINESS & PROFESSIONS SUBCOMMITTEE
HB 779, by Rep. B. Cortes
Alarm System Registration

AMENDMENT SUMMARY
January 20, 2016

Amendment 1, by Rep. Avila (line 68): The amendment requires the Florida license numbers for an alarm contractor and alarm monitoring company to be included in the uniform alarm registration application.

Amendment 2, by Rep. Avila (line 87): This is a technical amendment to the bill to conform language.



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	_____	

1 Committee/Subcommittee hearing bill: Business & Professions
2 Subcommittee
3 Representative Avila offered the following:

Amendment

Remove lines 68-69 and insert:

7 Florida License Number of Alarm Contractor.....

8 Name of Alarm Monitoring Company.....

9 Phone Number of Alarm Monitoring Company.....

10 Florida License Number of Alarm Monitoring Company.....



Amendment No. 2

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: Business & Professions
 2 Subcommittee

3 Representative Avila offered the following:

4
 5 **Amendment**

6 Remove line 87 and insert:
 7 553.793, must advise an owner, lessee, or occupant, or an
 8 authorized representative thereof, at the time of an alarm
 9 system

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1131 Recovery Agencies
SPONSOR(S): Renner
TIED BILLS: IDEN./SIM. BILLS: SB 1266

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee		Butler BB	Anstead La
2) Regulatory Affairs Committee			

SUMMARY ANALYSIS

Several businesses advertise a practice known as “forwarding” or “forwarder” services, to lien holders, lessors, and legal owners of secured goods. Forwarders assist in repossessions by locating the secured asset, but do not actually perform the repossessions themselves. Instead, the forwarder contracts with licensed recovery agents to perform the actual repossessions, should repossession be necessary.

Currently, the Department of Agriculture and Consumer Services (Department), who licenses and regulates recovery agencies, does not require a person or business offering forwarder services to register as a recovery agent or recovery agency, so long as the person or business states in their advertisements that the forwarder does not perform repossessions.

The bill similarly provides that a “recovery agency” does not include a person not directly performing repossessions, so long as all advertisements contain a disclaimer that states the person does not directly perform any repossession.

The bill shall be effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Division of Licensing within the Department is responsible for protecting the public from unethical business practices of the private security, private investigative and repossession industries through licensure and regulation of those industries pursuant to ch. 493, F.S. The Department ensures that the legal authority, rights, and obligations of licensed recovery agents are directed to serving the needs of the people of Florida.

A “recovery agent” is defined by s. 493.6101, F.S., to mean “any person who, for consideration, advertises as providing or is engaged in the business of performing repossessions.” A “recovery agency” is defined by s. 493.6101, F.S., to mean “any person who, for consideration, advertises as providing or is engaged in the business of performing repossessions.”

“Repossession” is defined by s. 493.6101, F.S., and includes the recovery of a motor vehicle, mobile home, motorboat, aircraft, personal watercraft, or several other items, performed by an individual who is authorized by the legal owner, lien holder, or lessor to recover, or collect payment in lieu of recovery, an item that was sold or leased under a security agreement that contains a repossession clause.

In order to perform repossession in Florida, a recovery agent and the recovery agency must be licensed through the Department.¹ A repossession is complete when a licensed recovery agent is in control, custody, and possession of such repossessed property.

Property that is being repossessed is considered in the control, custody, and possession of a recovery agent when the property being repossessed is secured in preparation for transport from the site of the recovery by means of being attached to or placed on the towing or other transport vehicle or if the property being repossessed is being operated or about to be operated by an employee of the recovery agency.

Forwarder Services

Currently, several businesses advertise a practice known as “forwarding” and offer “forwarder” services, to lien holders, lessors, and legal owners of secured goods. Forwarders assist in repossessions by locating the secured asset, but do not actually perform the repossessions themselves. Instead, the forwarder contracts with licensed recovery agents to perform the actual repossessions, should repossession be necessary.

The Department does not currently take administrative action against forwarders or businesses offering forwarder services, and does not require them to register as a recovery agent or recovery agency, so long as the person or business makes clear in their advertisements that the forwarder does not actually perform the repossessions.²

Effect of the Bill

The bill amends the definition of “recovery agency” to provide that “a person who does not directly perform repossessions and who, pursuant to a contract with a licensed bank, bank holding company, credit union, or small loan company, contracts with a licensed recovery agency or a licensed recovery agent for the performance of repossessions by such agency or agent, if the person includes a

¹ s. 493.6401, F.S.

² Florida Department of Agriculture and Consumer Services, Agency Analysis of 2016 House Bill 1131, p. 2 (Jan. 13, 2016).

disclaimer in all advertisements appearing in this state which discloses that the person does not directly perform any repossessions but contracts with licensed recovery agencies or licensed recovery agents.”

The bill excludes forwarders and forwarder services who advertise as a forwarder or for forwarder services from the licensure requirements of recovery agencies.

B. SECTION DIRECTORY:

Section 1 amends s. 493.6101, F.S., amending the definition of “recovery agency.”

Section 2 provides that the bill shall take effect upon becoming law.

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:

Indeterminate.

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

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A bill to be entitled
An act relating to recovery agencies; amending s.
493.6101, F.S.; revising the definition of the term
"recovery agency"; providing an effective date.

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

Section 1. Subsection (20) of section 493.6101, Florida
Statutes, is amended to read:

493.6101 Definitions.—

(20) "Recovery agency" means a ~~any~~ person who, for
consideration, advertises as providing or is engaged in the
business of performing repossessions. The term does not include
a person who does not directly perform repossessions and who,
pursuant to a contract with a licensed bank, bank holding
company, credit union, or small loan company, contracts with a
licensed recovery agency or a licensed recovery agent for the
performance of repossessions by such agency or agent, if the
person includes a disclaimer in all advertisements appearing in
this state which discloses that the person does not directly
perform any repossessions but contracts with licensed recovery
agencies or licensed recovery agents.

Section 2. This act shall take effect upon becoming a law.