

Tab 1	SB 352 by Brodeur; (Identical to H 00369) Virtual Currency Sales Tax Holiday						
441992	A	S	RCS	CM, Brodeur	Delete L.24:	02/06 12:39 PM	

Tab 2	CS/SB 458 by HP, Brodeur; (Compare to H 00011) Invalid Restrictive Covenants in Health Care						
876150	A	S	RCS	CM, Brodeur	Delete L.57 - 69:	02/06 12:51 PM	

Tab 3	CS/SB 966 by BI, Burgess; (Similar to CS/CS/H 00623) Home Warranty Transfers						
488320	A	S	RCS	CM, Burgess	Delete L.90 - 93:	02/06 12:51 PM	

Tab 4	CS/SB 1074 by BI, Calatayud; (Identical to CS/H 01031) Debt Relief Services						
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Tab 5	SB 1206 by Martin; (Compare to H 00015) Live Performances						
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMERCE AND TOURISM
Senator Trumbull, Chair
Senator Wright, Vice Chair

MEETING DATE: Tuesday, February 6, 2024
TIME: 11:30 a.m.—2:00 p.m.
PLACE: *Toni Jennings Committee Room, 110 Senate Building*

MEMBERS: Senator Trumbull, Chair; Senator Wright, Vice Chair; Senators Gruters, Rodriguez, Stewart, and Torres

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 352 Brodeur (Identical H 369)	Virtual Currency Sales Tax Holiday; Defining the terms “convenience store” and “virtual currency”; providing a sales tax exemption during a specified period for the retail sale of tangible personal property and services which is paid in virtual currency and is made by specified establishments, etc. CM 02/06/2024 Fav/CS FT AP	Fav/CS Yeas 5 Nays 0
2	CS/SB 458 Health Policy / Brodeur (Compare H 11)	Invalid Restrictive Covenants in Health Care; Specifying that certain restrictive covenants in employment agreements relating to certain licensed physicians are not supported by a legitimate business interest; specifying that such restrictive covenants are void and unenforceable, etc. HP 01/30/2024 Fav/CS CM 02/06/2024 Fav/CS RC	Fav/CS Yeas 5 Nays 0
3	CS/SB 966 Banking and Insurance / Burgess (Similar CS/CS/H 623)	Home Warranty Transfers; Providing a limitation on the application of provisions relating to home warranty contract assignments; providing requirements for express written warranties and home warranties transferred to subsequent home purchasers; specifying conditions for the automatic transfer of home warranties that are conditions included in maintenance contracts; providing requirements of a subsequent purchaser who accepts the assignment of a maintenance contract, and of a builder or home warranty association in such instance, etc. BI 01/29/2024 Fav/CS CM 02/06/2024 Fav/CS RC	Fav/CS Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Commerce and Tourism

Tuesday, February 6, 2024, 11:30 a.m.—2:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 1074 Banking and Insurance / Calatayud (Identical CS/H 1031)	Debt Relief Services; Providing an exception from specified provisions for telemarketers and sellers who provide debt relief services under certain circumstances, etc. BI 01/22/2024 Fav/CS CM 02/06/2024 Favorable RC	Favorable Yeas 5 Nays 0
5	SB 1206 Martin (Compare H 15)	Live Performances; Citing this act as the "Right to Rock Act"; prohibiting public venue owners or operators from canceling certain live performances on specified bases; providing an exception; providing that venue owners or operators who violate the prohibition bear the costs enumerated in the related contract with the artist, performer, or musical group whose performance was canceled, etc. CM 02/06/2024 Favorable JU RC	Favorable Yeas 4 Nays 1

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 352

INTRODUCER: Commerce and Tourism Committee and Senator Brodeur

SUBJECT: Virtual Currency Sales Tax Holiday

DATE: February 6, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Renner	McKay	CM	Fav/CS
2.			FT	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 352 provides an exemption from sales tax for a two month period from June 1, 2025, through July 31, 2025, on the retail sale of tangible personal property and taxable services made by the following establishments *if* payment is made in virtual currency:

- Retail service stations that sells motor fuels or special fuels to the public;
- Food service establishments;
- Public food service establishments;
- Grocery stores;
- Convenience stores;
- Cosmetology salons or specialty salons;
- Spas;
- Barbershops; and
- Bars or nightclubs.

The Revenue Estimating Conference has not reviewed the bill.

The bill takes effect upon becoming a law.

II. Present Situation:

Florida Sales and Use Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,¹ admissions,² transient rentals,³ and a limited number of services, and a 5.5 percent sales and use tax on the rental of commercial real estate.⁴ Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida's sale and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.⁵

Counties are authorized to impose local discretionary sales surtaxes in addition to the state sales tax.⁶ A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202."⁷ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold or delivered. Discretionary sales surtax rates currently levied vary by county in a range of 0.0 to 1.5 percent.⁸

Virtual Currency

The term "currency" is defined in Florida law as the coin and paper money of the United States or of any other country which is designated as legal tender and which circulates and is customarily used and accepted as a medium of exchange in the country of issuance.⁹

The term "virtual currency" is defined as a medium of exchange in electronic or digital format that is not currency. The term does not include a medium of exchange in electronic or digital format that is:

- Issued by or on behalf of a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform; or
- Used exclusively as part of a consumer affinity or rewards program and can be applied solely as payment for purchases with the issuer or other designated merchants but cannot be converted into or redeemed for currency or another medium of exchange.¹⁰

Some virtual currencies may be used to purchase goods and services in the real economy and can be converted into government-issued currencies through virtual currency exchanges. Virtual currency transactions can occur online through a network that can be accessed using wallet

¹ Section 212.05(1)(a)1.a., F.S.

² Section 212.04(1)(b), F.S.

³ Section 212.03(1)(a), F.S.

⁴ Section 212.031, F.S.

⁵ Section 212.07(2), F.S.

⁶ Section 212.055, F.S.

⁷ Section 212.054(2)(a), F.S.

⁸ Florida Department of Revenue, *Discretionary Sales Surtax Information for Calendar Year 2024*, https://floridarevenue.com/Forms_library/current/dr15dss_24.pdf (last visited Feb. 5, 2024).

⁹ Section 560.103(12), F.S.

¹⁰ Section 560.103(36), F.S.

software. Other virtual currencies can only be used within virtual economies (e.g. within online role-playing games) and may not be readily exchanged for government-issued currencies.¹¹ According to the United States Government Accountability Office, the total market capitalization of all virtual currencies was about \$2.2 trillion in 2021.¹² Overall, 17 percent of United States adults say they have ever invested in, traded, or used a cryptocurrency (a type of virtual currency).¹³

III. Effect of Proposed Changes:

The bill provides an exemption from sales tax for a two month period from June 1, 2025, through July 31, 2025, on the retail sale of tangible personal property and taxable services made by the following establishments if payment is made in virtual currency:

- Retail service stations that sells motor fuels or special fuels under NAICS code 457120;¹⁴
- Food service establishments permitted or licensed under ch. 500, F.S.;
- Public food service establishments licensed under ch. 509, F.S.;
- Grocery stores;
- Convenience stores;
- Cosmetology salons or specialty salons licensed under ch. 477, F.S.;
- Spas;
- Barbershops;¹⁵ and
- Bars or nightclubs.

The bill defines a “convenience store” as a business that is engaged primarily in the retail sale of groceries or motor fuels or special fuels and may offer food services to the public. The term includes businesses providing motor fuels or special fuels to the public, which also offer groceries or food service.

The bill defines the term “virtual currency” as having the same meaning as in s. 560.103, F.S., and specifies that the definition does not include central bank digital currency.¹⁶

The Department of Revenue is authorized to adopt emergency rules.

¹¹ United States Government Accountability Office, *Virtual Currencies* (December 2021), p. 9 <https://www.gao.gov/assets/gao-22-105462.pdf> (last visited Feb. 5, 2024).

¹² *Id* at p. 1

¹³ Pew Research Center, *Majority of Americans Aren't Confident in the Safety and Reliability of Cryptocurrency* (April 10, 2023), <https://www.pewresearch.org/short-reads/2023/04/10/majority-of-americans-arent-confident-in-the-safety-and-reliability-of-cryptocurrency/> (last visited February 5, 2024).

¹⁴ NAICS code 457120 is comprised of establishments generally known as gasoline stations (except those with convenience stores) or truck stops primarily engaged in (1) retailing automotive fuels (e.g. gasoline, diesel fuel, gasohol, alternative fuels), or (2) retailing these fuels in combination with activities; such as providing repair services, selling automotive oils, replacement parts, and accessories; and/or providing food services. <https://usa.infocnae.com/codes/naics-457120/> (last visited Feb. 5, 2024).

¹⁵ A “barbershop” is defined as any place of business wherein the practice of barbering is carried on. Section 476.034(3), F.S.

¹⁶ The term “central bank digital currency” means a digital currency, a digital medium of exchange, or a digital monetary unit of account issued by the United States Federal Reserve System, a federal agency, a foreign government, a foreign central bank, or a foreign reserve system, that is made directly available to a consumer by such entities. The term includes a digital currency, a digital medium of exchange, or a digital monetary unit of account issued by the United States Federal Reserve System, a federal agency, a foreign government, a foreign central bank, or a foreign reserve system, that is processed or validated directly by such entities. Section 671.201, F.S.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

Subsection (b) of Art. VII, s. 18 of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact,^{17,18} which is \$2.3 million or less for Fiscal Year 2024-2025.¹⁹

The Revenue Estimating Conference has not reviewed the bill.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Section 19 of Article VII, Florida Constitution requires increased taxes or fees to be passed in a separate bill and by two-thirds vote of the membership of each house of the Legislature. This bill does not increase any taxes or fees; therefore, the increased tax or fee requirements do not apply.

E. Other Constitutional Issues:

None identified.

¹⁷ FLA. CONST. art. VII, s. 18(d).

¹⁸ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. *See* Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 5, 2024).

¹⁹ Based on the Demographic Estimating Conference's estimated population adopted on July 11, 2023, <http://edr.state.fl.us/Content/conferences/population/archives/230711demographic.pdf> (last visited Feb. 5, 2024).

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Revenue Estimating Conference has not reviewed this bill.

B. Private Sector Impact:

The establishments listed in the bill will experience reduced costs associated with the retail sale of tangible personal property and taxable services if payments are made in virtual currency.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the Department of Revenue, virtual currency could include any payment by digital means, including a payment made with a credit or debit card.²⁰

Additionally, the bill includes a spa as one of the establishments for which the sales tax exemption would apply. It is unclear what is meant by a spa as there is no specific licensing requirement or statutory definition for the term.

VIII. Statutes Affected:

None.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Commerce and Tourism on Feb. 6, 2024:**

The committee substitute specifies that the definition of “virtual currency” does not include central bank digital currency as defined in s. 671.201, F.S.

B. Amendments:

None.

²⁰ Department of Revenue analysis for SB 352 (2024). On file with Senate Commerce and Tourism Committee.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/06/2024	.	
	.	
	.	

The Committee on Commerce and Tourism (Brodeur) recommended the following:

- 1 **Senate Amendment**
- 2
- 3 Delete line 24
- 4 and insert:
- 5 560.103, Florida Statutes. The term does not include central
- 6 bank digital currency as defined in s. 671.201, Florida
- 7 Statutes.

By Senator Brodeur

10-00075B-24

2024352__

1 A bill to be entitled
 2 An act relating to a virtual currency sales tax
 3 holiday; defining the terms "convenience store" and
 4 "virtual currency"; providing a sales tax exemption
 5 during a specified period for the retail sale of
 6 tangible personal property and services which is paid
 7 in virtual currency and is made by specified
 8 establishments; authorizing the Department of Revenue
 9 to adopt emergency rules; providing that such rules
 10 are effective for a specified period of time;
 11 providing an effective date.

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

15 Section 1. Virtual currency transactions; sales tax
 16 holiday.—

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

18 (a) "Convenience store" means a business that is engaged
 19 primarily in the retail sale of groceries or motor fuels or
 20 special fuels and may offer food services to the public. The
 21 term includes businesses providing motor fuels or special fuels
 22 to the public which also offer groceries or food service.

23 (b) "Virtual currency" has the same meaning as in s.
 24 560.103, Florida Statutes.

25 (2) The tax levied under chapter 212, Florida Statutes, may
 26 not be collected during the period of June 1, 2025, through July
 27 31, 2025, on the retail sale of tangible personal property or
 28 services which is taxable under that chapter if the sale is paid
 29 in virtual currency and the sale is made by any of the following

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

10-00075B-24

2024352__

30 establishments in this state:

31 (a) A retail service station that sells motor fuels or
 32 special fuels to the public and is classified under the North
 33 American Industry Classification System code 457120.

34 (b) A food service establishment permitted or licensed
 35 under chapter 500, Florida Statutes, or a public food service
 36 establishment licensed under chapter 509, Florida Statutes.

37 (c) A grocery store.

38 (d) A convenience store.

39 (e) A cosmetology salon or specialty salon licensed under
 40 chapter 477, Florida Statutes; a spa; or a barbershop as defined
 41 in s. 476.034, Florida Statutes.

42 (f) A bar or nightclub.

43 (3) The Department of Revenue is authorized, and all
 44 conditions are deemed met, to adopt emergency rules pursuant to
 45 s. 120.54(4), Florida Statutes, for the purpose of implementing
 46 this section. Notwithstanding any other law, emergency rules
 47 adopted under this section are effective for the length of the
 48 exemption period and may be renewed during the pendency of
 49 procedures to adopt permanent rules addressing the subject of
 50 the emergency rules.

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

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JASON BRODEUR
10th District

November 14th, 2023

The Honorable Jay Trumbull
Chair, Committee on Commerce and Tourism
313 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Trumbull,

I respectfully request that **Senate Bill 352, Virtual Currency Sales Tax Holiday**, be placed on the agenda of the Commerce and Tourism Committee meeting to be considered at your earliest convenience.

If you have any questions or concerns, please do not hesitate to reach out to me or my office.

Sincerely,

Senator Jason Brodeur – District 10

CC: Todd McKay – Staff Director
Jennifer Renner – Deputy Staff Director
Renita Hayes – Committee Administrative Assistant

REPLY TO:
 110 Timberlachen Circle, Suite 1012, Lake Mary, Florida 32746 (407) 333-1802
 405 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5010

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

COMMITTEES:
Appropriations Committee on Agriculture,
Environment, and General Government, *Chair*
Health Policy, *Vice Chair*
Appropriations
Appropriations Committee on Health
and Human Services
Children, Families, and Elder Affairs
Community Affairs
Regulated Industries
Rules

JOINT COMMITTEE:
Joint Legislative Auditing Committee



**2024 AGENCY LEGISLATIVE BILL ANALYSIS
DEPARTMENT OF REVENUE**

BILL INFORMATION	
BILL NUMBER:	SB 352
BILL TITLE:	Virtual Currency Sales Tax Holiday
BILL SPONSOR:	Senator Brodeur
EFFECTIVE DATE:	Upon becoming a law

COMMITTEES OF REFERENCE	
1)	N/A
2)	
3)	
4)	
5)	

CURRENT COMMITTEE	
N/A	

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

IDENTICAL BILLS	
BILL NUMBER:	HB 369
SPONSOR:	Representative Barnaby

PREVIOUS LEGISLATION	
YEAR/BILL NUMBER/SPONSOR/LAST ACTION:	

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	November 14, 2023
AGENCY CONTACT:	Alec Yarger (850) 717-6153

POLICY ANALYSIS

1. ANALYSIS OF EACH SECTION THAT AFFECTS THE DEPARTMENT OF REVENUE.

Section 1. Virtual currency transactions: sales tax holiday. (pp. 1-2):

PRESENT SITUATION

Tangible personal property is subject to sales and use tax, unless specifically exempt. A sales tax exemption for purchases of taxable goods and services made with virtual currency does not currently exist.

EFFECT OF THE BILL

The bill provides an exemption from sales tax beginning June 1, 2025, through July 31, 2025, on the retail sale of tangible personal property and taxable services made by the following establishments if payment is made in virtual currency:

- A retail service station classified under NAICS code 457120;
- A food service establishment permitted or licensed under Ch. 500, F.S.;
- A public food service establishment licensed under Ch. 509, F.S.;
- A grocery store;
- A convenience store;
- A cosmetology salon or specialty salon licensed under Ch. 477, F.S.;
- A spa;
- A barbershop as defined in s. 476.034, F.S.; and
- A bar or nightclub.

Section 2. (p. 2): Provides that the bill shall be effective upon becoming law.

2. DOES THE DEPARTMENT EXPECT TO DEVELOP, ADOPT, MODIFY OR ELIMINATE ANY RULES, REGULATIONS, POLICIES, OR PROCEDURES? YES NO

If yes, explain:	An emergency rule may be created to administer the exemption period.
Rule(s) impacted (provide references to F.A.C., etc.):	

3. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS? N/A

4. DOES THE BILL REQUIRE THE DEPARTMENT TO SUBMIT, MODIFY OR DELETE ANY REPORTS, STUDIES OR PLANS? YES NO

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

5. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? YES NO

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

6. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to local governments.

7. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Revenues:	The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to state government.
Expenditures: <i>(Department of Revenue expenditures and operational impacts)</i>	<input type="checkbox"/> NO IMPACT <input type="checkbox"/> LESS THAN \$25,000 <input type="checkbox"/> MORE THAN \$25,000 <input type="checkbox"/> UNABLE TO DETERMINE <input checked="" type="checkbox"/> OPERATIONAL IMPACT ONLY
Does the legislation contain an appropriation to the Department?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

8. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? The Department of Revenue does not conduct this analysis.

9. DOES THE BILL INCREASE OR DECREASE TAXES, FEES OR FINES? The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact on state and local government, if any.

TECHNOLOGY IMPACT

If any, see attached Fiscal Impact Analysis.

FEDERAL IMPACT

If any, see Additional Comments section below.

ADDITIONAL COMMENTS

10. STATUTE(S) AFFECTED: N/A

11. HAS SIMILAR LANGUAGE, A COMPANION BILL OR A PREVIOUS VERSION OF THE BILL BEEN ANALYZED THIS SESSION? YES NO **If no, go to #12. If yes:**

A. **Identify language or bill number.** Proposed Bill – Bitcoin Sales Tax Holiday 08282023

B. **Were issues/problems identified?** YES NO

a. **If yes, have they been resolved?** YES NO **If no, briefly explain.**

C. **Are new issues/problems created?** YES NO **If yes, briefly identify.**

Please see 12.

12. DOES THE BILL PRESENT DIFFICULTY IN IMPLEMENTATION, ADMINISTRATION OR ENFORCEMENT? YES NO

If yes, describe administrative problems, technical errors, or other difficulties:

- It is unclear what is intended by limiting the exemption to a payment made in "virtual currency." Section 560.103(36), F.S., defines "virtual currency" to mean "a medium of exchange in electronic or digital format that is not currency. . . ." The term "currency" is defined in s. 560.103(12), F.S., to mean "the coin and paper money of the United States . . . which is designated as legal tender and which circulates and is customarily used and accepted as a medium of exchange" Based on these definitions, virtual currency could include any payment by digital means including a payment made with a credit or debit card.

13. RECOMMENDED CORRECTIONS: YES NO **If yes, provide corrections.**

Lines 39-41:

(e) A cosmetology salon or specialty salon licensed under chapter 477, Florida Statutes; ~~a spa~~; or a barbershop as defined in s. 476.034, Florida Statutes.

14. OTHER:

The bill includes a cosmetology salon or specialty salon licensed under Ch. 477, F.S., barbershops as defined in s. 476.034, F.S., and spas. It is unclear what is meant by the term "spa," as there is no specific licensing requirement or statutory definition for the term. The term spa appears to be a generic term for an establishment such as a cosmetology salon or specialty salon. It may be helpful to strike the term from line 40. (see 13)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/CS/SB 458

INTRODUCER: Commerce and Tourism Committee; Health Policy Committee; and Senator Brodeur

SUBJECT: Invalid Restrictive Covenants in Health Care

DATE: February 7, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Brown</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>McMillan</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 458 amends s. 542.336, F.S., to prohibit any restrictive covenant entered into with an allopathic or osteopathic physician which restricts the physician from practicing medicine in any geographic area for any period of time after the termination of his or her contract or other employment relationship. The bill provides exceptions from the prohibition for restrictive covenants related to research, related to physicians whose individual compensation is \$250,000 per year or more, or related to physicians who have an ownership interest in a medical business, practice, management services organization, or entity of any kind who sells a specified type of related asset. The bill specifies that its provisions apply to restrictive covenants entered into on or after July 1, 2024.

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

II. Present Situation:

Federal Antitrust Laws

In 1890, Congress passed the first antitrust law, the Sherman Act, as a comprehensive charter of economic liberty aimed at preserving free and unfettered competition as the rule of trade. Congress subsequently passed two additional antitrust laws in 1914: the Federal Trade

Commission Act, which created the Federal Trade Commission (FTC), and the Clayton Act. Currently, these are the three core federal antitrust laws.¹

The Sherman Act

The Sherman Act outlaws every contract, combination, or conspiracy in restraint of trade, and any monopolization, attempted monopolization, or conspiracy or combination to monopolize. The Sherman Act does not prohibit every restraint of trade – only those that are unreasonable. For example, an agreement between two individuals to form a partnership may restrain trade, but may not do so unreasonably, and thus may be lawful under the antitrust laws. In contrast, certain acts are considered “per se” violations of the Sherman Act because they are harmful to competition. These include plain arrangements among competing individuals or businesses to fix prices, divide markets, or rig bids.²

The penalties for violating the Sherman Act can be severe. Although most enforcement actions are civil, the Sherman Act is also a criminal law, and individuals and businesses that violate it may be prosecuted by the U.S. Department of Justice. Criminal prosecutions are typically limited to intentional and clear violations. The Sherman Act imposes criminal penalties of up to \$10 million for a corporation and \$1 million for an individual, along with up to 10 years in prison.³ Under some circumstances, the maximum fines can reach twice the gain or loss involved.⁴

The Federal Trade Commission Act

The Federal Trade Commission Act prohibits unfair methods of competition and unfair or deceptive acts or practices. The U.S. Supreme Court has ruled that all violations of the Sherman Act also violate the FTC Act. Therefore, the FTC can bring cases under the FTC Act against the same kinds of activities that violate the Sherman Act. The FTC Act also reaches other practices that harm competition but may not fit neatly into categories of conduct formally prohibited by the Sherman Act. Only the FTC may bring cases under the FTC Act.⁵

The Clayton Act

The Clayton Act addresses specific practices that the Sherman Act does not clearly prohibit, such as mergers and interlocking directorates.⁶ It also bans mergers and acquisitions where the effect may substantially lessen competition or create a monopoly. As amended by the Robinson-Patman Act of 1936, the Clayton Act also prohibits certain discriminatory prices, services, and allowances in dealings between merchants. The Clayton Act was amended again in 1976 by the Hart-Scott-Rodino Antitrust Improvements Act to require companies planning large mergers or acquisitions to notify the government of their plans in advance. Additionally, private parties are

¹ See *The Antitrust Laws*, Federal Trade Commission, available at <https://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/antitrust-laws> (last visited Feb. 7, 2024).

² *Id.*

³ *Antitrust Enforcement and the Consumer*, U.S. Department of Justice, available at <https://www.govinfo.gov/content/pkg/GOVPUB-J-PURL-LPS16084/pdf/GOVPUB-J-PURL-LPS16084.pdf> (last visited Feb. 7, 2024). See also 15 U.S.C.A. § 2

⁴ *Id.*

⁵ *The Antitrust Laws*, Federal Trade Commission, available at <https://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/antitrust-laws> (last visited Feb. 7, 2024).

⁶ “Interlocking directorates” means the same person making business decisions for competing companies. See also *Id.*

authorized to sue for triple damages when they have been harmed by conduct that violates either the Sherman or Clayton Act and to obtain a court order prohibiting the anticompetitive practice prospectively.⁷

Florida Antitrust Laws

Florida law also provides protections against anticompetitive practices. Chapter 542, F.S., the Florida Antitrust Act of 1980, has a stated purpose to complement the body of federal law prohibiting restraints of trade or commerce in order to foster effective competition.⁸ It outlaws every contract, combination, or conspiracy in restraint of trade or commerce in Florida⁹ and any person from monopolizing or attempting or conspiring to monopolize any part of trade.¹⁰

Contracts in Restraint of Trade or Commerce

Generally, a contract in restraint of trade or commerce in Florida is unlawful.¹¹ However, non-competition restrictive covenants¹² contained in employment agreements that are reasonable in time, area, and line of business, are not prohibited.¹³ In any action concerning enforcement of a restrictive covenant, a court may not enforce a restrictive covenant unless it is set forth in a writing signed by the person against whom enforcement is sought, and the person seeking enforcement of a restrictive covenant must prove the existence of one or more legitimate business interests justifying the restrictive covenant.¹⁴ The term “legitimate business interest” includes, but is not limited to:

- Trade secrets;¹⁵
- Valuable confidential business or professional information that does not otherwise qualify as trade secrets;
- Substantial relationships with specific prospective or existing customers, patients, or clients;
- Customer, patient, or client goodwill associated with:
 - An ongoing business or professional practice, by way of trade name, trademark, service mark, or “trade dress;”
 - A specific geographic location; or
 - A specific marketing or trade area; or
- Extraordinary or specialized training.¹⁶

⁷ *Id.*

⁸ Section 542.16, F.S.

⁹ Section 542.18, F.S.

¹⁰ Section 542.19, F.S.

¹¹ Section 542.18, F.S.

¹² Section 542.335, F.S. employs the term “restrictive covenants” and includes all contractual restrictions such as noncompetition/nonsolicitation agreements, confidentiality agreements, exclusive dealing agreements, and all other contractual restraints of trade. *See Henao v. Prof'l Shoe Repair, Inc.*, 929 So.2d 723, 726 (Fla. 5th DCA 2006).

¹³ Section 542.335(1), F.S.

¹⁴ *Id.*

¹⁵ Section 688.002(4), F.S., defines a trade secret as information, including a formula, pattern, compilation, program, device, method, technique, or process that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

¹⁶ Section 542.335(1)(b), F.S.

Any restrictive covenant not supported by a legitimate business interest is unlawful and is void and unenforceable.¹⁷ A person seeking enforcement of a restrictive covenant must prove that the contractually specified restraint is reasonably necessary to protect the legitimate business interest or interests justifying the restriction.¹⁸

Restrictive Covenants in Florida Health Care

Under s. 542.336, F.S., a restrictive covenant entered into with a physician who practices a medical specialty in a county where one entity employs or contracts with all physicians who practice that specialty in that county, is not supported by a legitimate business interest and is void and unenforceable.¹⁹ The restrictive covenant remains void and unenforceable until three years after the date on which a second entity that employs or contracts with one or more physicians who practice that specialty begins serving patients in that county.²⁰

In *21st Century Oncology, Inc.*, the plaintiff sought a preliminary injunction to enjoin the application and enforcement of s. 542.336, F.S. In August of 2019, the U.S. District Court for the Northern District of Florida denied the injunction. While s. 542.336, F.S., was found to impair the plaintiff's employment contracts within the meaning of the Contracts Clause, the court held that the degree of impairment did not outweigh the statute's significant, legitimate public purpose.²¹

III. Effect of Proposed Changes:

CS/CS/SB 458 amends s. 542.336, F.S., to declare that any restrictive covenant entered into with an allopathic or osteopathic physician²² which restricts the physician from practicing medicine in any geographic area for any period of time after the termination of his or her contract, partnership, employment, independent contractor arrangement, or professional relationship or other employment relationship is not supported by a legitimate business interest and is void and unenforceable.

The bill provides exceptions from the provisions of the bill described above for restrictive covenants that are:

- Related to any research conducted by the physician under the terms of a contract or in furtherance of a partnership, employment, or professional relationship, if the covenant does

¹⁷ *Id.*

¹⁸ Section 542.335(1)(c), F.S.

¹⁹ Section 542.336, F.S.

²⁰ *Id.*

²¹ “The ostensible public purpose of section 542.336 is to reduce healthcare costs and improve patients' access to physicians. See § 542.336, Fla. Stat. (2019); ECF No. 64 at 8 (Attorney General's post-hearing brief, stating “section 542.336 explicitly sets forth its own rational basis in declaring that the restrictive covenants addressed by it are not supported by a legitimate business interest, restrict patient access to physicians, and increase costs”). It is well settled that access to affordable healthcare is a legitimate state interest.” *21st Century Oncology, Inc. v. Moody*, 402 F. Supp. 3d 1351, 1359 (N.D. Fla. 2019).

²² “Allopathy” is a system of medical practice that emphasizes diagnosing and treating disease and the use of conventional, evidence-based therapeutic measures (such as drugs or surgery). See Merriam-Webster Dictionary, “allopathy,” available at <https://www.merriam-webster.com/dictionary/allopathy> (last visited Feb. 7, 2024). “Osteopathy” is a system of medical practice that emphasizes a holistic and comprehensive approach to patient care and utilizes the manipulation of musculoskeletal tissues along with therapeutic measures to prevent or treat disease. See Merriam-Webster Dictionary, “osteopathy,” available at <https://www.merriam-webster.com/dictionary/osteopathy> (last visited Feb. 7, 2024).

not impair the continuing care and treatment of a specific patient or patients whose care and treatment were part of the research;

- Related to physicians whose individual compensation is \$250,000 per year or more. The bill defines individual compensation to mean:
 - For an employed physician, the amount of wages, bonuses, benefits, and salary paid to the physician for the previous tax year or expected to be paid for the current tax year; or
 - For a physician with a partnership or similar ownership interest in the profits of a practice, the amount of business income attributed to the physician for the previous tax year or expected to be attributed to the physician for the current tax year; or
- Related to physicians who have an ownership interest in a medical business, practice, management services organization, or entity of any kind and who sells:
 - The goodwill of such business, practice, or entity;
 - Any or all of his or her ownership interest in such business, practice, management services organization, or entity; or
 - Any or all portions of the assets of such business, practice, management services organization, or entity together with its goodwill and who contractually agrees with a buyer of such business, practice, management services organization, or entity, or portion thereof, to refrain from carrying on a competing business, practice, management services organization, or entity within a specified geographic area reasonably necessary to protect the legitimate business interest of the acquiring party or the acquired business, practice, management services organization, or entity.

The bill specifies that its provisions apply to restrictive covenants entered into on or after July 1, 2024.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None Identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Prohibiting restrictive covenants as provided in the bill may provide patients with more access to physicians and decrease health care costs.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 542.336 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism on February 6, 2024:

The committee substitute provides that the prohibition against restrictive covenants does not apply to a physician who has ownership interest in a medical business, practice, *management services organization*, or entity of any kind when such entity meets certain criteria.

CS by Health Policy on January 30, 2024:

The committee substitute amends two exceptions allowing restrictive covenants that would have been prohibited by the underlying bill to:

- Increase the minimum salary, from \$160,000 per year to \$250,000 per year, that a physician must make in order for an otherwise prohibited restrictive covenant to be valid; and
- Rework the exception for a physician who sells a business interest in a medical practice to apply the exception to all medical entities and to add additional detail as to the types of sales of such an entity that would validate a restrictive covenant.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/06/2024	.	
	.	
	.	

The Committee on Commerce and Tourism (Brodeur) recommended the following:

Senate Amendment

Delete lines 57 - 69

and insert:

3. For a physician who has any ownership interest in a medical business, practice, management services organization, or entity of any kind and who sells:

a. The goodwill of such business, practice, management services organization, or entity;

b. Any or all of his or her ownership interest in such



11 business, practice, management services organization, or entity;
 12 or
 13 c. Any or all portions of the assets of such business,
 14 practice, management services organization, or entity together
 15 with its goodwill and who contractually agrees with a buyer of
 16 such business, practice, management services organization, or
 17 entity, or portion thereof, to refrain from carrying on a
 18 competing business, practice, management services organization,
 19 or entity within a specified geographic area reasonably
 20 necessary to protect the legitimate business interest of the
 21 acquiring party or the acquired business, practice, management
 22 services organization, or entity.

By the Committee on Health Policy; and Senator Brodeur

588-02640-24

2024458c1

1 A bill to be entitled
 2 An act relating to invalid restrictive covenants in
 3 health care; amending s. 542.336, F.S.; specifying
 4 that certain restrictive covenants in employment
 5 agreements relating to certain licensed physicians are
 6 not supported by a legitimate business interest;
 7 specifying that such restrictive covenants are void
 8 and unenforceable; providing applicability; defining
 9 the term "compensation"; providing an effective date.

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

11 Section 1. Section 542.336, Florida Statutes, is amended to
 12 read:
 13 542.336 Invalid restrictive covenants.—
 14 (1) A restrictive covenant entered into with a physician
 15 who is licensed under chapter 458 or chapter 459 and who
 16 practices a medical specialty in a county wherein one entity
 17 employs or contracts with, either directly or through related or
 18 affiliated entities, all physicians who practice such specialty
 19 in that county is not supported by a legitimate business
 20 interest. The Legislature finds that such covenants restrict
 21 patient access to physicians, increase costs, and are void and
 22 unenforceable under current law. Such restrictive covenants
 23 ~~shall~~ remain void and unenforceable for 3 years after the date
 24 on which a second entity that employs or contracts with, either
 25 directly or through related or affiliated entities, one or more
 26 physicians who practice such specialty begins offering such
 27 specialty services in that county.

Page 1 of 3

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

588-02640-24

2024458c1

30 (2) A restrictive covenant entered into with a physician
 31 who is licensed under chapter 458 or chapter 459 which restricts
 32 the physician from practicing medicine in any geographic area
 33 for any period of time after the termination of a contract,
 34 partnership, employment, independent contractor arrangement, or
 35 professional relationship is not supported by a legitimate
 36 business interest. Such restrictive covenants are void and
 37 unenforceable.

38 (a) This subsection does not apply to a restrictive
 39 covenant that is:

40 1. Related to any research conducted by the physician under
 41 the terms of a contract or in furtherance of a partnership,
 42 employment, or professional relationship; provided, however,
 43 that the covenant does not impair the continuing care and
 44 treatment of a specific patient or patients whose care and
 45 treatment were part of the research.

46 2. Related to physicians whose individual compensation
 47 totals at least \$250,000 per year. As used in this subparagraph,
 48 the term "compensation" means:

49 a. For an employed physician, the amount of wages, bonuses,
 50 benefits, and salary paid to the physician for the previous tax
 51 year or expected to be paid for the current tax year; or
 52 b. For a physician with a partnership or similar ownership
 53 interest in the profits of a practice, the amount of business
 54 income attributed to the physician for the previous tax year or
 55 expected to be attributed to the physician for the current tax
 56 year.

57 3. For a physician who has any ownership interest in a
 58 medical business, practice, or entity of any kind and who sells:

Page 2 of 3

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

588-02640-24

2024458c1

59 a. The goodwill of such business, practice, or entity;
60 b. Any or all of his or her ownership interest in such
61 business, practice, or entity; or
62 c. Any or all portions of the assets of such business,
63 practice, or entity together with its goodwill and who
64 contractually agrees with a buyer of such business, practice, or
65 entity, or portion thereof, to refrain from carrying on a
66 competing business, practice, or entity within a specified
67 geographic area reasonably necessary to protect the legitimate
68 business interest of the acquiring party or the acquired
69 business, practice, or entity.
70 (b) This subsection applies to restrictive covenants
71 entered into on or after July 1, 2024.
72 Section 2. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

SB 458

2/16/24

Meeting Date

Bill Number or Topic

Commerce
Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Darren Patz Phone 786-473-4431

Address 200 S. Biscayne Blvd Email darren.patz@us.dlapiper.com

Miami FL 33133
City State Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Orthopedic Care Partners

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 458

2/16/24

Meeting Date

Bill Number or Topic

Commerce and Tourism
Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Aimee Diaz Lyon Phone 850-205-9000

Address 119 South Monroe Street #200 Email adl@mhdfirm.com

Tallahassee FL 32301
City State Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Academy of Family Physicians

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Committee on Agriculture,
Environment, and General Government, *Chair*
Health Policy, *Vice Chair*
Appropriations
Appropriations Committee on Health
and Human Services
Children, Families, and Elder Affairs
Community Affairs
Regulated Industries
Rules

JOINT COMMITTEE:
Joint Legislative Auditing Committee

SENATOR JASON BRODEUR
10th District

January 30th, 2024

The Honorable Jay Trumbull
Chair, Committee on Commerce and Tourism
313 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Trumbull,

I respectfully request that **Senate Bill 458, Invalid Restrictive Covenants in Health Care**, be placed on the agenda of the Commerce and Tourism Committee meeting to be considered at your earliest convenience.

If you have any questions or concerns, please do not hesitate to reach out to me or my office.

Sincerely,

Senator Jason Brodeur – District 10

CC: Todd McKay – Staff Director
Jennifer Renner – Deputy Staff Director
Renita Hayes – Committee Administrative Assistant

REPLY TO:

- 110 Timberlachen Circle, Suite 1012, Lake Mary, Florida 32746 (407) 333-1802
- 405 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5010

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/CS/SB 966

INTRODUCER: Commerce and Tourism Committee; Banking and Insurance Committee; and Senator Burgess

SUBJECT: Home Warranty Transfers

DATE: February 6, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Renner</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 966 requires certain warranties provided by builders to home purchasers to be automatically transferred in certain circumstances. If a builder provides an express written warranty or purchases a home warranty from a home warranty association on or after January 1, 2025, such warranties, if active, automatically transfer to a subsequent purchaser.

The bill provides that a home warranty that is conditioned on the continuation of a maintenance contract automatically transfers to a subsequent purchaser unless the subsequent purchaser declines the assignment of the maintenance contract. A subsequent purchaser is bound by the terms of a maintenance contract if it is assigned to him or her. A builder or home warranty association must notify the subsequent purchaser of any amounts due under the maintenance contract at the home address unless the purchaser informs the builder or home warranty association of a preferred method of notification. A maintenance contract that is not a condition of a home warranty does not automatically transfer to a subsequent purchaser unless the builder association or home warranty association and the subsequent purchaser agree to its assignment.

A subsequent purchaser who receives the benefit of a warranty being automatically transferred must notify the builder or home warranty association that he or she is the warrantee under the home warranty. Such notice may be given at any time while the warranty remains in effect, and a builder or home warranty association may not require a shorter notice period. A builder is prohibited from charging a fee for the automatic transfer of a warranty. The bill provides for

construction of the bill's provisions and specifies that the provisions do not have specified consequences.

The bill provides that the provisions relating to the assignment of home warranties apply except for any provisions related to the automatic transfer of warranties established under the bill.

The bill provides that the requirements relating to the automatic transfer of home warranties under s. 634.601, F.S., apply to a home warranty that is transferred to the home purchaser. The bill clarifies that a premium charged for a home warranty when the home is listed is due at the end of the listing period, and removes the option for it to be due the earlier of the end of the listing period or the date the sale of the residential property is closed.

Finally, the bill renames ch. 634, F.S., to "Warranties and Warranty Associations."

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

II. Present Situation:

Background

A warranty agreement is a contract that may be given by a builder or purchased by a builder from a home warranty association. In Florida, home warranty associations are regulated by the Office of Insurance Regulation (OIR)¹ and must maintain certain minimum financial standards to do business.²

Home Warranties

A home warranty is a contract or agreement between the homeowner and the issuing company, safeguarding the homeowner from expenses related to the repair or replacement of structural components or appliances in the home.³ This protection extends to issues caused by normal wear and tear or defects in these components or appliances.⁴ A home warranty agreement is tied to the owner selling the home and does not transfer to the person buying the home unless the home seller transfers it to the new owner.⁵ A warranty means that a manufacturer or seller will replace or repair the product under certain instances.⁶

Home warranty contracts or agreements can be drafted by a home warranty association⁷ licensed under s. 634.303, F.S., or by an authorized insurance company permitted to offer coverage in this category.⁸

¹ Section 634.302, F.S.

² Section 634.305, F.S.

³ Section 634.301(2), F.S.

⁴ *Id.*

⁵ Section 634.312(1), F.S.

⁶ 45 Fla. Jur 2d Sales and Exchanges of Goods § 156.

⁷ Section 634.301(3), F.S., defines "home warranty association" as any corporation or any other organization, other than an authorized insurer, issuing home warranties.

⁸ Section 634.303, F.S.

Builder Warranties

A builder warranty, like a home warranty, is a contractual agreement between the builder and the homeowner, shielding the homeowner from expenses related to the repair or replacement of structural components in the home.⁹

Despite these similarities, there are distinctions in their coverage.¹⁰ While a home warranty typically covers household appliances and systems, such as refrigerators and heating/cooling systems, and is commonly associated with residential real estate transactions, a builder warranty—also referred to as a structural warranty—is specifically provided by a builder to a homebuyer.¹¹ The purpose of the builder warranty is to safeguard the homebuyer against significant structural defects in workmanship and materials used during the construction of the new home by the builder.¹²

Magnuson-Moss Warranty Act

The Magnuson-Moss Warranty Act (MMWA)¹³ is a federal law that governs consumer product warranties. Passed in 1975, the MMWA requires manufacturers and sellers of consumer products to provide consumers with detailed information about warranty coverage before and after the sale of the warranted product.¹⁴

The MMWA defines three kinds of consumers:

- A buyer of any consumer product;
- Any person to whom such product is transferred during the duration of an implied or express warranty applicable to the product; and
- Any other person who is entitled by the terms of such warranty or under applicable state law to enforce the obligations of the warranty.¹⁵

Home and Builder Warranties

The elective market in Florida allows a builder, seller, buyer, or owner of a home to choose whether they would like to purchase a home warranty to cover against the cost of repair or replacement, or furnishes repair or replacement, of any structural component or appliance of a home, caused by wear and tear or a defect of a structural component or appliance.¹⁶

⁹ Section 634.301(2), F.S.

¹⁰ Quality Builders Warranty, *What is a Structural Warranty?*, available at: <https://qbw.com/blog-news/what-is-a-structural-warranty/> (last visited Feb. 5, 2024).

¹¹ *Id.*

¹² *Id.*

¹³ 15 U.S.C. §§ 2301-2312 (1975).

¹⁴ MMWA does not apply if a seller or manufacturer does not provide a warranty on their product. Jason Gordon, *Magnuson Moss Warranty Act – Explained*, The Business Professor, Sept. 26, 2021, available at: https://thebusinessprofessor.com/en_US/consumer-law/magnuson-moss-warranty-act (last visited Feb. 5, 2024).

¹⁵ 15 U.S.C. § 2301(3) of MMWA; *O'Connor v. BMW of N. Am., LLC*, 905 So. 2d 235, 236–37 (Fla. 2d DCA 2005); *see also*, § 2310(d) of MMWA provides that, “a consumer who is damaged by the failure of a supplier, warrantor, or service contractor to comply with any obligation under this title, or under a written warranty, implied warranty, or service contract, may bring suit for damages...”

¹⁶ Section 634.301(2), F.S.

Warranty associations and companies in Florida, including those associations selling home and service warranties, and those companies selling motor vehicle service agreements, are regulated by the OIR.¹⁷ OIR regulates the insurance industry in Florida. OIR is responsible for the regulation of all activities in the state concerning insurers and other risk bearing entities, including licensing, rates, policy forms, market conduct, claims, issuance of certificates of authority, solvency, viatical settlements, premium financing, and administrative supervision.¹⁸

While warranties are not considered traditional insurance products, OIR regulates warranty associations and companies similarly to the way in which it regulates insurers.¹⁹ Home and service warranty associations must be licensed by OIR²⁰ and must maintain certain minimum financial standards in order to do warranty business in Florida.²¹

The following chart reflects the number of licensed warranty associations in Florida as of January 23, 2024:²²

Type of Association/Company	Number of Licensees
Home Warranty Association	46
Service Warranty Association	102
Motor Vehicle Warranty Company	119
Total	267

Home warranty providers must ensure that every home warranty is sent or delivered to the warranty holder within 45 days after the commencement of coverage, subject to the insurer's or home warranty association's premium payment requirements.²³ Furthermore, all home warranty contracts are transferable.²⁴ The contract should explicitly inform the purchaser of their right to assign it within 15 days of selling or transferring the home. The home warranty company may

¹⁷ See ch. 634, F.S.

¹⁸ Florida Office of Insurance Regulation, *Organization and Operation*, available at: <https://floir.com/about-us/organization-and-operation#:~:text=The%20Florida%20Office%20of%20Insurance,settlements%2C%20premium%20financing%2C%20and%20administrative> (last visited Feb. 5, 2024). See also s. 624.308, F.S., and R. 69O, et seq., F.A.C.

¹⁹ See ch. 634, F.S.

²⁰ Sections 634.303 and 634.403, F.S. Neither the Florida Insurance Code nor this section grants permission for any home warranty association to conduct insurance business beyond what is specifically defined as home warranty or to participate in any other form of insurance. Any engagement in alternative insurance types requires explicit authorization through a certificate of authority issued by the office under the provisions of the Florida Insurance Code. Section 634.325, F.S.

²¹ Sections 634.3077 and 634.406, F.S.

²² Data retrieved from OIR Active Company Search application, available at: <https://floir.com/CompanySearch/index.aspx> (last visited Jan. 23, 2024).

²³ Section 634.312(2), F.S.

²⁴ Section 634.312(1), F.S.

charge an assignment fee not exceeding \$40.²⁵ The home warranty may be assigned, as well from a home builder, who initially purchased the warranty, to subsequent home purchasers.²⁶

Currently, several companies offer warranties covering structural components of a home in Florida; however, Florida law does not regulate these warranties. Below are companies that provide builder warranties:²⁷

Manufacturer	Coverage Offered
America’s Preferred Structural Warranty	<ul style="list-style-type: none"> • 1-year coverage on workmanship • 1 or 2-year coverage on home systems • 10-year coverage on structural defects
2-10 HBW	<ul style="list-style-type: none"> • 1-year coverage for workmanship • 2-year coverage for distribution systems • 10-year coverage for qualifying structural defects on newly built homes
Residential Warranty Company	<ul style="list-style-type: none"> • 1-year coverage for workmanship • 7-year coverage for qualifying structural defects • 10-year coverage for qualifying structural defects

III. Effect of Proposed Changes:

Section 1 amends s. 634.312(1), F.S., to provide that the current law provisions relating to the assignment of home warranties apply except for any provisions related to the automatic transfer of warranties established under the bill.

Section 2 amends s. 634.331, F.S., to provide that the requirements relating to the automatic transfer of home warranties under s. 634.601, F.S., including the new provisions summarized below, apply to a home warranty that is transferred to the home purchaser. The bill clarifies that a premium charged for a home warranty when the home is listed is due at the end of the listing

²⁵ *Id.*

²⁶ *Id.* Certain exemptions in the home warranty association statute cover cases where builders or appliance sellers offer standard guarantees without extra charges, exclude service contracts with non-profits handling repairs, and accept contracts aligning with Florida’s Insurance Code for systems and appliances, excluding structural components. Individuals affiliated with a domestic insurer are exempt if they avoid offering home warranties to Florida residents, but compliance requires the insurer to directly issue warranties or provide a specific policy. Non-compliance, as determined by the Office of Insurance Regulation, subjects the person to home warranty association regulations. Additionally, the regulations do not apply to programs offering warranties on new homes if supported by an insurance policy from a licensed Florida insurer, contingent on approval by the Office. Sections 634.301(2) and 634.327, F.S.

²⁷ America’s Preferred Structural Warranty, *Coverage*, available at: <https://www.apsw.com/> (last visited Feb. 5, 2024). 2-10 HBW, *Structural Warranties*, available at: <https://www.2-10.com/builders-warranty/structural-warranties/> (last visited Feb. 5, 2024). Residential Warranty Company, *Structural Warranties vs Extended Warranties – What’s the Difference?*, available at: <https://www.rwcwarranty.com/homeowners-2/structural-warranties-vs-extended-warranties/> (last visited Feb. 5, 2024).

period and removes the option for it to be due the earlier of the end of the listing period or the date the sale of the residential property is closed.

Section 3 creates sections 634.601 and 634.602, F.S., which together form a new Part IV of ch. 634, F.S., entitled “Miscellaneous Provisions.”

Section 634.601, F.S., defines the following terms:

- “Builder” means “the primary contactor of a home who possesses the requisite skill, knowledge, and experience, and has the responsibility, to supervise, direct, manage, and control the contracting activities of the business organization with which he or she is connected and who has the responsibility to supervise, direct, manage, and control the construction work on a job for which he or she has obtained a building permit. Construction work includes, but is not limited to, construction of structural components.”
- “Home warranty” or “warranty” has the same meaning as in s. 634.301, F.S., which defines the terms to mean, “any contract or agreement whereby a person undertakes to indemnify the warranty holder against the cost of repair or replacement, or actually furnishes repair or replacement, of any structural component or appliance of a home, necessitated by wear and tear or an inherent defect of any such structural component or appliance or necessitated by the failure of an inspection to detect the likelihood of any such loss.”²⁸
- “Home warranty association” has the same meaning as in s. 634.301, F.S., which defines the term to mean, “any corporation or any other organization, other than an authorized insurer, issuing home warranties.”²⁹
- “Indemnify” means “to undertake repair or replacement of a home’s structural component, or pay compensation for such repair or replacement by cash, check, or other similar means, including by not limited to, electronic means.”
- “Structural component” means “one or more essential elements of a home, including the roof, foundation, basement, exterior or interior walls, electrical and plumbing systems, ceilings, floors, or spray foam. The term includes any item covered in the terms of a home warranty.

Section 634.602, F.S., provides that if a builder provides an express written warranty or purchases a home warranty from a home warranty association on or after January 1, 2025, such warranties and all indemnification rights, terms, and conditions of such warranties automatically transfer to a subsequent purchaser unless the warranty has become null and void or lawfully terminated.

A home warranty that is conditioned on the continuation of a maintenance contract automatically transfers to a subsequent purchaser unless the subsequent purchaser declines the assignment of the maintenance contract. If a subsequent purchaser accepts the assignment of a maintenance contract, the subsequent purchaser is bound by its terms, including the requirement to make payments under the terms of the agreement. A builder must notify the subsequent purchaser of any amounts due under the maintenance contract at the home address covered by such contract unless the purchaser notifies the builder of home warranty association of a preferred method of notification. A maintenance contract that is not a condition of a home warranty does not

²⁸ Section 634.301(2), F.S.

²⁹ Section 634.301(3), F.S.

automatically transfer to a subsequent purchaser unless the builder or home warranty association and the subsequent purchaser agree to its assignment.

A subsequent purchaser who receives the benefit of a warranty being automatically transferred must notify the builder or home warranty association that he or she has purchased the home and therefore is the warrantee under the home warranty. Such notice may be given at any time while the warranty remains in effect. A builder or home warranty association may not require in the terms of the warranty a shorter notice period. A builder is prohibited from charging a fee for the automatic transfer of a warranty.

The section does not:

- Modify or extend the commencement date, duration, or scope of coverage of the express written warranty or home warranty beyond their terms.
- Require a builder or home warranty association to be obligated under a warranty that has become null and void.
- Require a builder that is obligated under and provides a home purchaser an express written warranty to obtain a license under the Florida Insurance Code, and such practice does not constitute the transaction of insurance subject to the requirements of the code unless otherwise required by law.
- Permit the provision of indemnification against consequential damages arising from the failure of any structural component, which practice constitutes the transaction of insurance subject to the requirements of the Florida Insurance Code.
- Require any subsequent purchaser to be bound by the terms of a home maintenance contract being assigned to him or her.

Section 4 of the bill renames ch. 634, F.S., entitled “Warranty Associations” as “Warranties and Warranty Associations.”

Section 5 of the bill provides an effective date as of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There may be a positive economic impact for property owners and subsequent owners as they can benefit from the remaining home warranty coverage for their residential real property without needing additional paperwork due to the currently required separate assignment agreement. The home purchaser could bear lower out of pocket costs if there is covered damage or wear and tear.

Home warranty associations and insurers may experience nominal increased costs due to the bill's prohibition on assignment fees.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The bill provides that unless a maintenance contract is a condition of a home warranty, the home warranty does not automatically transfer to a subsequent purchaser. However, a home warranty must automatically transfer to a subsequent purchaser if the conditions stated in the bill are met. As a result, reference to "home warranty" at line 128 should state "maintenance contract" to suggest that a maintenance contract that is not a condition of a home warranty does not automatically transfer to a subsequent purchaser.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 634.312, 634.331.

This bill creates the following sections of the Florida Statutes: 634.601, 634.602.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Commerce and Tourism on February 6, 2024:

The committee substitute modifies the definition of a “structural component” to:

- Include electrical and plumbing systems;
- Specify that the term includes any item covered in the terms of a home warranty; and
- Remove a provision that “exterior walls” includes, but is not limited to, any siding, stucco, or paint on the exterior walls.

CS by Banking and Insurance on January 29, 2024:

- Removes the amendments to s. 634.312(1), F.S., relating to home warranties;
- Removes the provision that adds failing to continue to perform obligations under the terms of an assigned home warranty contract as a ground for unfair and deceptive acts or practices;
- Provides that the provisions on the assignment of home warranties apply except as provided in s. 634.602, F.S., created in the bill relating to the automatic transfer of certain warranties;
- Amends the provisions on coverage of property for sale to modify the time within payment must be made for the purchase of warranty when a property is listed for sale, and provides that the requirements in s. 634.602, F.S., created in the bill relating to the automatic transfer of certain warranties, apply to a home warranty that is transferred to the home purchaser;
- Provides that a builder’s express written warranty or a warranty that a builder purchases from a home warranty association automatically transfers to a subsequent purchaser in certain circumstances;
- Provides when maintenance contracts automatically transfer to a subsequent purchaser;
- Requires a subsequent homeowner who accepts assignment of a maintenance contract to be bound by the terms of the contract;
- Requires a builder or home warranty association to provide notice of any amounts due under the maintenance contract by specified method;
- Requires a subsequent purchaser who receives the benefit of an automatic transfer of a warranty to notify the builder or home warranty association of the new warrantee;
- Prohibits a builder from charging a fee for a transfer of a warranty which occurs automatically;
- Provides for construction of the provisions, including that the section does not:
 - Modify or extend the commencement date or the duration or scope of the warranty’s terms;
 - Require a builder or home warranty association to be obligated under a warranty that has become null and void;
 - Require a builder to obtain a license under the Florida Insurance Code;
 - Permit the provision of indemnification against consequential damages arising from the failure of any structural component; and

- Require any subsequent purchaser to be bound by the terms of a home maintenance contract unless he or she agrees to the maintenance contract being assigned to him or her;
- Renames ch. 634 to “Warranties and Warranty Associations”; and
- Defines terms.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.



LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/06/2024	.	
	.	
	.	

The Committee on Commerce and Tourism (Burgess) recommended the following:

Senate Amendment

Delete lines 90 - 93
and insert:

exterior or interior walls, electrical and plumbing systems,
ceilings, floors, or spray foam. The term includes any item
covered in the terms of a home warranty.

By the Committee on Banking and Insurance; and Senator Burgess

597-02605-24

2024966c1

1 A bill to be entitled
 2 An act relating to home warranty transfers; amending
 3 s. 634.312, F.S.; providing a limitation on the
 4 application of provisions relating to home warranty
 5 contract assignments; amending s. 634.331, F.S.;
 6 making technical changes; conforming provisions to
 7 changes made by the act; creating part IV of ch. 634,
 8 F.S., entitled "Miscellaneous Provisions"; creating s.
 9 634.601, F.S., defining terms; creating s. 634.602,
 10 F.S.; providing requirements for express written
 11 warranties and home warranties transferred to
 12 subsequent home purchasers; providing for the
 13 assignment of maintenance contracts in certain
 14 circumstances; specifying conditions for the automatic
 15 transfer of home warranties that are conditions
 16 included in maintenance contracts; providing
 17 requirements of a subsequent purchaser who accepts the
 18 assignment of a maintenance contract, and of a builder
 19 or home warranty association in such instance;
 20 requiring a builder or home warranty association to
 21 provide certain notice to a subsequent purchaser;
 22 providing that such notification be at a certain
 23 address unless the builder or home warranty
 24 association are notified by the purchaser of a
 25 preferred method; restricting a builder or home
 26 warranty association from limiting the timeframe for
 27 notice by a subsequent purchaser; prohibiting a
 28 builder or home warranty association from charging a
 29 fee for transferring the warranty; providing

Page 1 of 6

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

597-02605-24

2024966c1

30 construction; renaming ch. 634, F.S.; providing an
 31 effective date.
 32
 33 Be It Enacted by the Legislature of the State of Florida:
 34
 35 Section 1. Subsection (1) of section 634.312, Florida
 36 Statutes, is amended to read:
 37 634.312 Forms; required provisions and procedures.—
 38 (1) Except as provided in s. 634.602: All
 39 (a) Home warranty contracts are assignable in a consumer
 40 transaction and must contain a statement informing the purchaser
 41 of the home warranty of her or his right to assign it, at least
 42 within 15 days from the date the home is sold or transferred, to
 43 a subsequent retail purchaser of the home covered by the home
 44 warranty and all conditions on such right of transfer.
 45 (b) The home warranty company may charge an assignment fee
 46 not to exceed \$40.
 47 (c) Home warranty assignments include, but are not limited
 48 to, the assignment from a home builder who purchased the home
 49 warranty to a subsequent home purchaser.
 50 Section 2. Section 634.331, Florida Statutes, is amended to
 51 read:
 52 634.331 Coverage of property for sale.—A home warranty may
 53 provide coverage of residential property during the listing
 54 period of such property for a period not to exceed 12 months,
 55 provided that the home warranty company charges the warranty
 56 purchaser a separately identifiable charge for the listing
 57 period coverage in an amount equal to at least 15 percent of the
 58 annual premium charged for the home warranty and the charge for

Page 2 of 6

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

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59 such coverage is due at the ~~earlier of the end of the listing~~
 60 ~~period or the date the sale of the residential property is~~
 61 ~~closed. The requirements in s. 634.602 apply to a home warranty~~
 62 ~~that is transferred to the home purchaser.~~

63 Section 3. Part IV of chapter 634, Florida Statutes,
 64 consisting of sections 634.601 and 634.602, Florida Statutes, is
 65 created to read:

66
 67 PART IV
 68 MISCELLANEOUS PROVISIONS
 69

70 634.601 Definitions.-As used in this part, the term:

71 (1) "Builder" means the primary contractor of a home who
 72 possesses the requisite skill, knowledge, and experience, and
 73 has the responsibility, to supervise, direct, manage, and
 74 control the contracting activities of the business organization
 75 with which he or she is connected and who has the responsibility
 76 to supervise, direct, manage, and control the construction work
 77 on a job for which he or she has obtained a building permit.
 78 Construction work includes, but is not limited to, construction
 79 of structural components.

80 (2) "Home warranty" or "warranty" has the same meaning as
 81 in s. 634.301.

82 (3) "Home warranty association" has the same meaning as in
 83 s. 634.301.

84 (4) "Indemnify" means to undertake repair or replacement of
 85 a home's structural component, or pay compensation for such
 86 repair or replacement by cash, check, or other similar means,
 87 including, but not limited to, electronic means.

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88 (5) "Structural component" means one or more essential
 89 elements of a home, including the roof, foundation, basement,
 90 exterior or interior walls, ceilings, floors, or spray foam. As
 91 used in this subsection, the term "exterior walls" includes, but
 92 is not limited to, any siding, stucco, or paint on the exterior
 93 walls.

94 634.602 Structural component indemnification or coverage.-

95 (1) Except as provided in this section, if a builder is
 96 obligated under and provides a home purchaser an express written
 97 warranty on or after January 1, 2025, that indemnifies a home
 98 purchaser against the cost of repairing the structural
 99 components of a home and such warranty has not become null and
 100 void or lawfully terminated under the terms of the warranty, the
 101 express written warranty and all indemnification rights, terms,
 102 and conditions thereunder shall automatically transfer to any
 103 subsequent purchaser of the home for the duration of the express
 104 written warranty.

105 (2) Except as provided in this section, if a builder
 106 purchases a home warranty from a licensed home warranty
 107 association on or after January 1, 2025, covering the structural
 108 components of a home and such warranty has not become null and
 109 void or lawfully terminated under the terms of the warranty, the
 110 home warranty and all indemnification rights, terms, and
 111 conditions thereunder shall automatically transfer to any
 112 subsequent purchaser for the duration of the home warranty.

113 (3) With respect to home maintenance contracts:

114 (a) A home warranty that is conditioned on the continuation
 115 of a maintenance contract shall automatically transfer to a
 116 subsequent purchaser pursuant to subsections (1) and (2) unless

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117 the subsequent purchaser declines the assignment of the
 118 underlying maintenance contract. If a subsequent purchaser
 119 accepts the assignment of the maintenance contract, the
 120 subsequent purchaser is obligated to comply with the terms and
 121 conditions of the maintenance contract, including, but not
 122 limited to, the payment of consideration. A builder or home
 123 warranty association must provide notice of any amounts due
 124 under the maintenance contract to a subsequent purchaser at the
 125 home address covered by such contract unless the subsequent
 126 purchaser notifies the builder or home warranty association of a
 127 preferred method of notification.

128 (b) Unless a maintenance contract is a condition of a home
 129 warranty, the home warranty does not automatically transfer to a
 130 subsequent purchaser. Such maintenance contract shall transfer
 131 to a subsequent purchaser only to the extent that the builder or
 132 home warranty association and subsequent purchaser agree to the
 133 assignment of the contract.

134 (4) A subsequent purchaser who receives the benefit of a
 135 warranty being automatically transferred to him or her for the
 136 duration of the home warranty pursuant to this section must
 137 notify the builder or home warranty association that he or she
 138 has purchased the home and therefore is the warrantee under the
 139 home warranty. Such notice may be given at any time while the
 140 warranty remains in effect. A builder or home warranty
 141 association may not require in the terms of a warranty a shorter
 142 notice period than provided for in this subsection.

143 (5) A builder may not charge a fee for a transfer of a
 144 warranty which occurs automatically pursuant to this section.

145 (6) This section does not:

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146 (a) Modify or extend the commencement date or the duration,
 147 or expand the scope of coverage, of the express written warranty
 148 or home warranty, as applicable, beyond the express written
 149 warranty's or home warranty's terms.

150 (b) Require a builder or home warranty association to be
 151 obligated under a warranty that has become null and void
 152 pursuant to the terms of the warranty.

153 (c) Require a builder that is obligated under and provides
 154 a home purchaser an express written warranty to obtain a license
 155 under the Florida Insurance Code, and such practice does not
 156 constitute the transaction of insurance subject to the
 157 requirements of the code, unless otherwise required by law.

158 (d) Permit the provision of indemnification against
 159 consequential damages arising from the failure of any structural
 160 component, which practice constitutes the transaction of
 161 insurance subject to the requirements of the Florida Insurance
 162 Code.

163 (e) Require any subsequent purchaser to be bound by the
 164 terms of a home maintenance contract unless he or she agrees to
 165 the maintenance contract being assigned to him or her.

166 Section 4. Chapter 634, Florida Statutes, entitled
 167 "Warranty Associations," is renamed "Warranties and Warranty
 168 Associations."

169 Section 5. This act shall take effect July 1, 2024.

The Florida Senate
APPEARANCE RECORD

966

2/6/2021

Meeting Date

Bill Number or Topic

Commerce

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Rusty Payton

Phone 850-567-1073

Address 1319 Thomaswood Drive

Email rpayton@fbba.com

Street

Tallahassee FL 32308

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-Joint-Rules.pdf)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

966

2/6/24

Meeting Date

Bill Number or Topic

Commerce & Tourism

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Edward Briggs

Phone 850 933 5994

Address

Email

Street

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

FL Redbridgation + AC Contractors Assoc

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-Joint-Rules.pdf)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

APPEARANCE RECORD

2/6/2021

Meeting Date

966

Bill Number or Topic

Commerce

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

488328

Amendment Barcode (if applicable)

Name Rush Payton

Phone 850-567-1073

Address 1319 Thomaswood Drive

Email rpayton@fhbo.com

Street

Tallahassee FL 32308

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

APPEARANCE RECORD

2/6/24

Meeting Date

966 - Home Warranty Transfers

Bill Number or Topic

Commerce & Tourism

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name AARP - Karen Murillo

Phone 850-567-0414

Address 215 S. Monroe St.

Email kmurillo@aarp.org

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

AARP

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)



The Florida Senate

Committee Agenda Request

To: Senator Jay Trumbull, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: January 31, 2024

I respectfully request that **Senate Bill #966**, relating to Home Warranty Transfers, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script that reads "Danny".

Senator Danny Burgess
Florida Senate, District 23

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 1074

INTRODUCER: Banking and Insurance Committee and Senator Calatayud

SUBJECT: Debt Relief Services

DATE: February 5, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Baird</u>	<u>McKay</u>	<u>CM</u>	<u>Favorable</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1074 establishes an exception to the credit counseling services provisions in Part IV of ch. 817, F.S., for any telemarketer or seller who:

- Provides any debt relief service within the scope of specified federal telemarketing laws;
- Is required to comply with such federal regulation; and
- Such telemarketer or seller does not receive from the debtor and disburse to a creditor any money or other thing of value.

The bill defines the terms “telemarketer,” “seller,” and “debt relief service” to have the same meaning as in the Telemarketing Sales Rule, 16 C.F.R. s. 310.2.

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

II. Present Situation:

Credit counseling agencies operating in Florida may provide services that meet the definition of “debt relief services” under Federal law and also fall within the definition of “debt management services” under Florida law.

Telemarketers who sell debt relief services are regulated under federal law, which defines “debt relief services” as:

[A]ny program or service represented, directly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt between a person and one or more unsecured creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, or fees owed by a person to an unsecured creditor or debt collector.¹

Under Florida law, “debt management services” are defined as “services provided to a debtor by a credit counseling organization for a fee to:

- Effect the adjustment, compromise, or discharge of any unsecured account, note, or other indebtedness of the debtor; *or*
- Receive from the debtor and disburse to a creditor any money or other thing of value.”²

Providers of services captured by both of the foregoing definitions are therefore subject to Federal law regulating debt relief services and the credit counseling services provisions in ch. 817, F.S. Some providers that sell debt relief services, who comply with compensation requirements under federal law but fail to comply with the compensation requirements under Florida law for credit counseling agencies that provide debt management services, are at risk of being subjected to private causes of action under the Florida Deceptive and Unfair Trade Practices Act (FDUTPA)³ for violating provisions of ch. 817, F.S.⁴

Debt Relief Services in Florida

Consumer Debt Relief Initiative and American Association of Debt Relief report that approximately 180 debt settlement/debt resolution companies currently provide debt relief services to Floridians. Based on data points and general information provided by payment processors and industry leading organizations, there are approximately 325,000 Floridians who are actively enrolled in debt relief services, which is expected to increase in the next couple of years to more than 400,000 Floridians. With respect to debt settlement plans:⁵

- The average debt is approximately \$30,000 spread over 6.7 accounts;
- The average income for enrolled consumers is approximately 10-15% above average household income;
- The average credit score for an enrolled consumer is 590;
- The average length of a plan is approximately 38 months; and
- The average monthly payment deposited into the client’s personal dedicated account is approximately \$465.

Currently, more than \$5.6 billion of Floridians’ unsecured debt is enrolled in debt settlement plans.⁶

¹ 16 C.F.R. s. 310.2(o)

² Section 817.801(4), F.S.

³ Part II of ch. 501, F.S.

⁴ Section 817.806(1), F.S.

⁵ Email from Kelly C. Mallette, Ronald L. Book, P.A., to Jacqueline Moody, Senior Attorney, Florida Senate Committee on Banking and Insurance, *Additional Information [Relating to SB 1074]*, (Jan. 18, 2024) (on file with Senate Committee on Banking and Insurance) (attaching “Debt Relief Services”).

⁶ *Id.*

Federal law

There are no federal laws that require credit counseling agencies to be licensed. As required under federal bankruptcy laws, however, the U.S. Department of Justice publishes a list of credit counseling agencies that are approved pursuant to this law.⁷ According to the Consumer Financial Protection Bureau, credit counseling organizations are nonprofit organizations and provide services relating to:⁸

- Providing guidance on managing money and debts;
- Providing the consumer with a credit report or free educational materials and workshops;
- Assisting with developing a budget; and
- Creating and organizing a debt management plan to reduce the consumer's debt.

A consumer under a debt management plan makes payments to the credit counseling agency each month or pay period and the agency makes monthly payments to each of the consumer's creditors.⁹ Under a debt management plan, a consumer may reduce their debt payment and save more money in interest than the fees required for the credit counseling service.¹⁰

Federal Debt Relief Services Regulation

The Telemarketing and Consumer Fraud and Abuse Prevention Act (the Telemarketing Act), 15 U.S.C. ss. 6101-6108, requires the Federal Trade Commission (FTC) to adopt rules prohibiting deceptive or other abusive telemarketing¹¹ acts or practices. The Telemarketing Act sets out specific provisions that must be contained in the rules, including, but not limited to, a provision that requires any person engaged in telemarketing for the sale of goods or services to promptly and clearly disclose that the purpose of the call is to sell the services, the nature and price of the services, and any other disclosures required by the FTC.¹² The FTC has adopted the required rules in the Telemarketing Sales Rule (TSR). The Telemarketing Act authorizes any state to bring a civil action against any person who has violated the TSR to obtain damages, restitution, or other compensation, to enjoin the telemarketing, to enforce compliance, or to obtain such further relief as the court may deem appropriate.¹³

⁷ The U.S. Department of Justice, *List of Credit Counseling Agencies Approved Pursuant to 11 U.S.C. §111*, available at: [U.S. Trustee Program | List of Credit Counseling Agencies Approved Pursuant to 11 U.S.C. § 111 | United States Department of Justice](#) (last visited February 5, 2024).

⁸ The CFPB, *What is Credit Counseling*, Aug. 2, 2023, available at: [What is credit counseling? | Consumer Financial Protection Bureau \(consumerfinance.gov\)](#) (last visited February 5, 2024).

⁹ *Id.*

¹⁰ Experian, *How Much Can a Debt Management Plan Save You?*, Apr. 3, 2023, available at: [Can a Debt Management Plan \(DMP\) Save You Money? - Experian](#) (last visited February 5, 2024).

¹¹ 15 U.S.C. s. 6106 defines "telemarketing" as "a plan, program, or campaign which is conducted to induce purchases of goods or services, or a charitable contribution, donation, or gift of money or any other thing of value, by use of one or more telephones and which involves more than one interstate telephone call. The term does not include the solicitation of sales through the mailing of a catalog."

¹² 15 U.S.C. s. 6102(a)(3).

¹³ 15 U.S.C. s. 6103(a).

The TSR, amongst other things, prohibits any person, such as a seller¹⁴ or telemarketer,¹⁵ from engaging in deceptive telemarketing acts or practices which include, but are not limited to:¹⁶

- Before a customer consents to the purchase of services, failing to truthfully, clearly, and consciously disclose specified material information, including specific information relating to the sale of any debt relief service;¹⁷
- Misrepresenting in the sale of services any of the specified material information; and
- Causing billing information to be submitted for payment, or collecting or attempting to collect payment for services without express verifiable authorization, except in specified circumstances.

The specified disclosures for debt relief services include, to the extent applicable, information relating to:¹⁸

- The amount of time necessary to achieve the represented results or to make a bona fide settlement offer;
- The amount of money or the percentage of each outstanding debt that the customer must accumulate before the debt relief service provider will make a bona fide settlement offer to each of them;
- The use of the debt relief services that will likely adversely affect the customer's creditworthiness, may result in the customer being subject to collections or sued by creditors or debt collectors, and may increase the amount of money the customer owes; and
- The customer's funds held in an account being owned by the customer.

The TSR also prohibits abusive telemarketing acts or practices that restrict when a telemarketer or seller may request or receive payment of any fee or consideration for any debt relief service until or unless:¹⁹

- The telemarketer or seller has renegotiated, settled, reduced, or otherwise altered the terms of at least one debt;
- The customer has made at least one payment pursuant to a specified agreement or plan; and
- The fee:
 - Bears the same proportional relationship to the total fee for renegotiating, settling, reducing, or altering the terms of the entire debt balance as the individual debt amount bears to the entire debt amount; or
 - Is a percentage of the amount saved as a result of the renegotiation, settlement, reduction, or alteration.

¹⁴ 16 C.F.R. s. 310.2(dd) defines "seller" as "any person who, in connection with a telemarketing transaction, provides, offers to provide, or arranges for others to provide goods or services to the customer in exchange for consideration."

¹⁵ 16 C.F.R. s. 310.2(ff) defines "telemarketer" as "any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor."

¹⁶ 16 C.F.R. s. 310.3.

¹⁷ 16 C.F.R. s. 310.2(o) defines "debt relief service" as "any program or service represented, directly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt between a person and one or more unsecured creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, or fees owed by a person to an unsecured creditor or debt collector."

¹⁸ 16 C.F.R. s. 310.3(a)(1)(viii).

¹⁹ 16 C.F.R. s. 310.4(a)(5).

Florida law

Credit counseling services are regulated under part IV of ch. 817 of the Florida Statutes. A credit counseling agency may provide credit counseling services or debt management services.²⁰ Credit counseling services may include “confidential money management, debt reduction, and financial education services.”²¹

There are several exceptions for which part IV does not apply, including:²²

- Any debt management or credit counseling services provided in the practice of law;
- Any person²³ who engages in debt adjustment to adjust the indebtedness owed to such person;
- Specified entities or their subsidiaries, including:
 - The Federal National Mortgage Association,
 - The Federal Home Loan Mortgage Corporation,
 - The Florida Housing Finance Corporation,
 - A bank, bank holding company, trust company, savings and loan association, credit union, credit card bank, or savings bank that is regulated and supervised by a specified federal regulator or any state banking regulator,
 - A consumer reporting agency,²⁴ or
 - Any subsidiary or affiliate of a bank holding company, its employees and its exclusive agents acting under written agreement.

It is unlawful for any person to charge or accept more than the regulated fee or contribution²⁵ from a debtor residing in Florida while engaging in debt management services or credit counseling services. Specifically, a fee or contribution:²⁶

- May not be greater than \$50 for the initial setup or consultation;
- May not be greater than \$120 per year for additional consultations; or
- If debt management services are provided, the lesser of 15% of the amount paid monthly by the debtor to the person or \$75 per month.

Any person engaging in debt management services or credit counseling services must disburse to the appropriate creditors all funds received from a debtor, less any permitted fees and credit contributions, within 30 days after receipt of the funds. Such person is required to maintain a separate trust account for the receipt and disbursement of any funds.²⁷

²⁰ Section 817.801(1), F.S.

²¹ Section 817.801(2), F.S.

²² Section 817.803, F.S.

²³ Section 817.801(5), F.S., defines “person” as “any individual, corporation, partnership, trust, association, or other legal entity.”

²⁴ “Consumer reporting agency” means “any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.” 15 U.S.C. s. 1681a(f).

²⁵ Section 817.801(3), F.S., defines creditor contribution as “any sum that a creditor agrees to contribute to a credit counseling agency, whether directly or by setoff against amounts otherwise payable to the creditor on behalf of debtors.”

²⁶ Section 817.802(1), F.S. Florida law does not prohibit any person who is providing debt management or credit counseling services from imposing upon and receiving from a debtor a reasonable and separate charge or fee for insufficient funds transactions. Section 817.802(2), F.S.

²⁷ Section 817.805, F.S.

Any person engaged in debt management services or credit counseling services must comply with the following requirements:²⁸

- Obtain from a licensed certified public accountant an annual audit that must include specified accounts; and
- Obtain and maintain insurance coverage of minimum specified amounts for employee dishonesty, depositor's forgery, and computer fraud.

Any person who violates any provision of the credit counseling services provision under Part IV commits an unfair and deceptive trade practice.²⁹

Florida Deceptive and Unfair Trade Practices

The FDUTPA provides that unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are unlawful.³⁰ This makes sellers and telemarketers subject to the enforcement actions identified in part II of ch. 501, F.S., which include civil actions brought by the Attorney General and criminal prosecution by a State Attorney in the appropriate judicial circuit. Civil actions may also include an injunction, an action seeking damages, or a civil penalty up to \$10,000 per violation.³¹

Florida Telemarketing Act

Although the Florida Telemarketing Act³² (the Act) does not contain explicit provisions on telemarketing debt relief services, telemarketers who sell debt relief services in Florida are nonetheless required to comply with the general provisions of the Act. Unless an exemption applies,³³ a commercial telephone seller or an entity providing substance abuse marketing services must obtain a license from the Department of Agriculture and Consumer Services (DACS) to conduct business in Florida.³⁴ The Act requires the entities that apply for a license to disclose specified information to the DACS.³⁵ The DACS may issue a notice of noncompliance, impose an administrative fine, or issue other orders if any regulated entity, applicant, or certain specified related persons meet certain criteria, such as being convicted of certain crimes or filed for bankruptcy within the previous 7 years.³⁶ The Act provides other protections such as subjecting any person who engages in certain unlawful acts or practices to civil penalties or criminal prosecution.³⁷

²⁸ Section 817.804, F.S.

²⁹ Section 817.806(1), F.S.

³⁰ Section 501.204(1), F.S.

³¹ Section 501.2075, F.S.

³² Part IV of chapter 501, F.S.

³³ Section 501.604, F.S., provides for exemptions relating to, for instance, an isolated transaction, solicitation for religious or charitable purposes, or a licensed securities broker.

³⁴ Section 501.605(1), F.S.

³⁵ Section 501.606, F.S.

³⁶ Section 501.612, F.S.

³⁷ Sections 501.616, 501.619, and 501.623 F.S.

III. Effect of Proposed Changes:

CS/SB 1074 provides that the credit counseling services provisions do not apply to debt relief services, which are regulated under the TSR. **Section 1** of the bill adds an exception to the provisions of credit counseling services for telemarketers and sellers who:

- Provide debt relief services within the scope of the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. ss. 6101-6108, and the Telemarketing Sales Rule, 16 C.F.R. part 310;
- Are required to comply with such federal regulation; and
- Do not receive from the debtor or disburse to a creditor any money or other thing of value, in accordance with the second prong of the definition of “debt management services” under s. 817.801(4)(b), F.S.

The terms “telemarketer,”³⁸ “seller,”³⁹ and “debt relief service”⁴⁰ have the same meaning as the definitions in the TSR.

The bill’s amendments to current law will limit the legal actions brought against telemarketers of debt relief services for failing to comply with ch. 817, F.S. However, such sellers would remain subject to causes of action pursuant to 15 U.S.C. s. 6103 for violating the provisions of the TSR. Telemarketers of debt relief services are also subject to causes of action for any violations of the requirements under FDUTPA or any violations of the Florida Telemarketing Act.

Section 2 of the bill provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

³⁸ *Supra*, note 21.

³⁹ *Supra*, note 20.

⁴⁰ *Supra*, note 23.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The Florida Office of Attorney General reports that the bill may subject consumers to higher fees but it is unknown to what extent or with what frequency this may occur.⁴¹

C. Government Sector Impact:

The Florida Office of Attorney General reports that the fiscal impact would be “minimal or indeterminate, and would be absorbed within current resources.”⁴²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 817.803.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on January 22, 2024:

- Expands the list of exceptions that are within the scope of the credit counseling services provisions under ch. 817, F.S., relating to debt relief services;
- Provides certain terms have the same meaning as the TSR.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

⁴¹ Email from Elizabeth Guzzo, Director of Legislative Affairs, the OAG, to Jacqueline Moody, Senior Attorney, Florida Senate Committee on Banking and Insurance, *SB 1074 – Debt Relief Services*, (Jan. 17, 2024) (on file with Senate Committee on Banking and Insurance).

⁴² Email from Elizabeth Guzzo, Director of Legislative Affairs, the OAG, to Jacqueline Moody, Senior Attorney, Florida Senate Committee on Banking and Insurance, *SB 1074 – Debt Relief Services*, (Jan. 19, 2024) (on file with Senate Committee on Banking and Insurance).

By the Committee on Banking and Insurance; and Senator Calatayud

597-02366-24

20241074c1

1 A bill to be entitled
 2 An act relating to debt relief services; amending s.
 3 817.803, F.S.; providing an exception from specified
 4 provisions for telemarketers and sellers who provide
 5 debt relief services under certain circumstances;
 6 defining terms; providing an effective date.
 7
 8 Be It Enacted by the Legislature of the State of Florida:
 9
 10 Section 1. Section 817.803, Florida Statutes, is amended to
 11 read:
 12 817.803 Exceptions. ~~Nothing in This part does not apply~~
 13 ~~applies~~ to:
 14 (1) Any debt management or credit counseling services
 15 provided in the practice of law in this state.~~†~~
 16 (2) Any person who engages in debt adjustment to adjust the
 17 indebtedness owed to such person.~~†~~~~†~~
 18 (3) Any of the following entities or their subsidiaries:
 19 (a) The Federal National Mortgage Association.~~†~~
 20 (b) The Federal Home Loan Mortgage Corporation.~~†~~
 21 (c) The Florida Housing Finance Corporation, a public
 22 corporation created in s. 420.504.~~†~~
 23 (d) A bank, bank holding company, trust company, savings
 24 and loan association, credit union, credit card bank, or savings
 25 bank that is regulated and supervised by the Office of the
 26 Comptroller of the Currency, the Office of Thrift Supervision,
 27 the Federal Reserve, the Federal Deposit Insurance Corporation,
 28 the National Credit Union Administration, the Office of
 29 Financial Regulation of the Department of Financial Services, or

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

597-02366-24

20241074c1

30 any state banking regulator.~~†~~
 31 (e) A consumer reporting agency as defined in the Federal
 32 Fair Credit Reporting Act, 15 U.S.C. ss. 1681-1681y, as it
 33 existed on April 5, 2004.~~†~~~~†~~
 34 (f) Any subsidiary or affiliate of a bank holding company,
 35 its employees and its exclusive agents acting under written
 36 agreement.
 37 (4) (a) Any telemarketer or seller who provides any debt
 38 relief service within the scope of the Telemarketing and
 39 Consumer Fraud and Abuse Prevention Act, 15 U.S.C. ss. 6101-
 40 6108, and the Telemarketing Sales Rule, 16 C.F.R. part 310, and
 41 who therefore is required to comply with such federal
 42 regulation, if such telemarketer or seller does not receive from
 43 the debtor and disburse to a creditor any money or other thing
 44 of value, in accordance with the definition of debt management
 45 services under s. 817.801(4) (b).
 46 (b) As used in this subsection, the terms "telemarketer,"
 47 "seller," and "debt relief service" have the same meaning as in
 48 16 C.F.R. s. 310.2.
 49 Section 2. This act shall take effect July 1, 2024.

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

APPEARANCE RECORD

1074

02/06/24

Meeting Date

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Commerce & Tourism

Committee

Amendment Barcode (if applicable)

Name Kelly Mallette

Phone (850) 224-3427

Address 104 W Jefferson Street

Email kelly@rli300kpa.com

Street

Tallahassee FL

32301

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Consumer Debt Relief Initiative (CDRI)

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 1206

INTRODUCER: Senator Martin

SUBJECT: Live Performances

DATE: February 5, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McMillan	McKay	CM	Favorable
2.			JU	
3.			RC	

I. Summary:

SB 1206 creates the “Right to Rock Act,” which prohibits the owner or operator of a public venue from canceling a live performance of an artist, a performer, or a musical group because of their lawful exercise of freedom of speech or their personal beliefs.

The bill defines “public venue” as a place, building, or structure, regardless of whether owned by or rented to a governmental entity, school, college, or university, which is funded by or constructed with public or government funds.

The bill does not apply to an owner or operator who cancels a live performance based on a reasonable belief that the performance would violate any applicable state law or rule.

The bill requires a venue owner or operator who cancels a live performance of an artist, a performer, or a musical group in violation of the provisions in the bill to bear all costs, fees, and penalties enumerated in the related contract with the artist, performer, or musical group.

The bill takes effect July 1, 2024.

II. Present Situation:

Local Option Taxes

Local governments in Florida are authorized to impose certain types of local option taxes.¹ The Department of Revenue (DOR) or the local government is responsible for administering the tax.² When the DOR administers the tax, its responsibilities include collecting the tax and distributing the funds to local governments to spend on locally authorized projects.³

Convention Development Taxes

Duval, Miami-Dade, and Volusia Counties are authorized to levy convention development taxes on transient rental transactions.⁴ The revenues of convention development taxes may generally be used for capital construction of convention centers and other facilities related to tourism and tourist promotion.⁵ However, the authorized uses vary according to each particular levy.⁶ The five available levies that may apply are:

- Consolidated government levy for convention development;⁷
- Charter county levy for convention development;⁸
- Special district levy for convention development;⁹
- Special levy for convention development;¹⁰ and

¹ Department of Revenue, *Local Option Taxes*, available at [https://floridarevenue.com/taxes/taxesfees/Pages/local_option.aspx#:~:text=Florida%20Statutes%20\(F.S.\)-.Consolidated%20County%20Convention%20Development%20Tax,charged%20for%20transient%20rental%20transactions](https://floridarevenue.com/taxes/taxesfees/Pages/local_option.aspx#:~:text=Florida%20Statutes%20(F.S.)-.Consolidated%20County%20Convention%20Development%20Tax,charged%20for%20transient%20rental%20transactions) (last visited Feb. 5, 2024).

² *Id.*

³ *Id.*

⁴ Department of Revenue, *Local Option Taxes: Convention Development Taxes*, available at [https://floridarevenue.com/taxes/taxesfees/Pages/local_option.aspx#:~:text=Florida%20Statutes%20\(F.S.\)-.Consolidated%20County%20Convention%20Development%20Tax,charged%20for%20transient%20rental%20transactions](https://floridarevenue.com/taxes/taxesfees/Pages/local_option.aspx#:~:text=Florida%20Statutes%20(F.S.)-.Consolidated%20County%20Convention%20Development%20Tax,charged%20for%20transient%20rental%20transactions) (last visited Feb. 5, 2024). *See also* s. 212.0305, F.S.

⁵ *Id.*

⁶ *Id.*

⁷ Each county that operates under a government consolidated with that of one or more municipalities in the county may impose, pursuant to an ordinance enacted by the governing body of the county, a levy on the exercise within its boundaries of the taxable privilege of leasing or letting transient rental accommodations described in s. 212.0305(3), F.S., at the rate of 2 percent of each dollar and major fraction of each dollar of the total consideration charged therefor. *See* s. 212.0305(4)(a), F.S.

⁸ Each county, as defined in s. 125.011(1), F.S., may impose, under an ordinance enacted by the governing body of the county, a levy on the exercise within its boundaries of the taxable privilege of leasing or letting transient rental accommodations described in s. 212.0305(3), F.S., at the rate of 3 percent of the total consideration charged therefor. *See* s. 212.0305(4)(b), F.S. Section 125.011(1), F.S., defines “county” as any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the State Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the State Constitution, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word “county” within the above provisions shall include “board of county commissioners” of such county.

⁹ Each county which was chartered under Art. VIII of the State Constitution and which on January 1, 1984, levied a tourist advertising ad valorem tax within a special taxing district in that county may impose, pursuant to an ordinance enacted by the governing body of the county, a levy within the boundaries of such special taxing district on the exercise of the taxable privilege of leasing or letting transient rental accommodations described in s. 212.0305(3), F.S., at a rate of up to 3 percent of each dollar and major fraction of each dollar of the total consideration charged therefor. *See* s. 212.0305(4)(c), F.S.

¹⁰ Each county which was chartered under Art. VIII of the State Constitution and which on January 1, 1984, levied a tourist advertising ad valorem tax within a special taxing district in that county may impose, pursuant to an ordinance enacted by the governing body of the county, a levy outside the boundaries of such special taxing district and to the southeast of State Road

- Subcounty levy for convention development.¹¹

Economic Development Programs

Florida’s economic development programs are used to help promote a diverse and resilient economy.¹² Each program is designed to serve a different role, and there is an emphasis on attracting businesses and retaining jobs.¹³ The programs come in various forms such as tax refunds, tax credits, tax exemptions, and grants.¹⁴ An analysis of a project’s needs, as well as eligibility requirements of various programs help determine which programs may be a good fit for each project.¹⁵ Below is a chart that provides an overview of the different types of economic development programs, the claims process, and revenue sources.¹⁶

Program	Description	Overview of Claims Process	Revenue Source
Tax Refunds	Refund of taxes paid	(1) Business pays taxes (2) State verifies job creation, wages, and tax payments (3) State issues refund to eligible business	Annual appropriation
Tax Credits	Credit against taxes owed	(1) State verifies jobs and capital investment (as applicable) (2) Eligible business claims credits on state taxes after meeting program requirements	Foregone revenue
Tax Exemptions	Exemption from taxes owed	(1) DOR issues tax exemption permit to business for approved tax-exempt purchases (2) Business uses permit to make eligible tax-exempt purchases	Foregone revenue

415, on the exercise of the taxable privilege of leasing or letting transient rental accommodations described in s. 212.0305(3), F.S., at a rate of up to 3 percent of each dollar and major fraction of each dollar of the total consideration charged therefor. See 212.0305(4)(d), F.S.

¹¹ Each county which was chartered under Art. VIII of the State Constitution and which on January 1, 1984, levied a tourist advertising ad valorem tax within a special taxing district in that county may impose, pursuant to an ordinance enacted by the governing body of the county, a levy outside the boundaries of such special taxing district and to the northwest of State Road 415, on the exercise of the taxable privilege of leasing or letting transient rental accommodations described in s. 212.0305(3), F.S., at a rate of up to 3 percent of each dollar and major fraction of each dollar of the total consideration charged therefor. The proceeds of this levy shall be known as the subcounty convention development tax. See 212.0305(4)(e), F.S.

¹² Department of Economic Opportunity, *2022 Incentives Report*, available at <https://www.floridajobs.org/docs/default-source/reports-and-legislation/2021-2022-annual-incentives-report.pdf> (last visited Feb. 5, 2024).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

Grants	Grant with a performance-based agreement	(1) Business achieves performance milestones (2) State verifies job creation, wages, and capital investment (as applicable) (3) State issues payment	Annual appropriation
---------------	--	--	----------------------

Professional Sports Franchise Program

Florida is home to many professional and semi-professional sports teams, organizations and facilities, including professional football, basketball, baseball, hockey, soccer, and National Association of Stock Car Racing sanctioned tracks. The Professional Sports Franchise program allows professional sports franchises to receive state sales and use tax revenues to pay for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise.¹⁷ Local governments, non-profit, and for-profit entities may apply to the program.

The Florida Department of Commerce (DCM) is responsible for screening and certifying applicants for state funding.¹⁸ For both new and retained franchises, the DCM must confirm and verify the following:¹⁹

- A local government is responsible for the construction, management, or operation of the professional sports franchise facility, or holds title to the property where the facility is located;
- The applicant has a verified copy of a signed agreement with a new professional sports franchise for at least 10 years, or for 20 years in the case of a retained franchise;
- The applicant has a verified copy of the approval by the governing body of the NFL, MLB, NHL, or NBA authorizing the location of a new franchise in Florida after April 1, 1987, for new professional sports franchises, or verified evidence of a league-authorization location in Florida on or before December 31, 1976, for a retained professional sports franchise;
- The applicant has projections demonstrating a paid annual attendance of over 300,000;
- The applicant has an independent analysis demonstrating that the annual amount of sales taxes generated by the use or operation of the franchise’s facility will be at least \$2 million;
- The local government where the franchise’s facility is located, or the county of the facility is in an unincorporated area, has certified by resolution after a public hearing that the application serves a public purpose; and
- The applicant has demonstrated that it has provided, is capable of providing, financial or other commitments of more than one-half of the costs incurred or related to the improvements or development of the franchise’s facility.

¹⁷ Section 288.1162, F.S.

¹⁸ Section 288.1162(1), F.S.

¹⁹ Section 288.1162(4)(a)-(g), F.S.

Approved applicants are eligible to receive up to \$2,000,004 per year for a period of up to 30 years.²⁰ No more than eight facilities can be certified under this program at one time.²¹

Currently, at least seven facilities receive distributions under the Professional Sports Franchise Program, and one facility received its final distribution in June of 2023. Each facility is on track to receive \$60 million, which is the maximum distribution allowable under this program (\$166,667 per month or \$2,000,004 per year, over 30 years) as follows:²²

Facility name	Location, Certified entity, & certification date	Franchise	First and Final payments	Total payments as of Nov. 30, 2023
BB&T Center	Sunrise, Broward County, June 1996	Florida Panthers	Aug. 1996 July 2026	\$54,666,776
Hard Rock Stadium	Miami, South Florida Stadium Corp., May 1993	Miami Dolphins	June 1994 June 2023	\$60,000,120
TIAA Bank Field	Jacksonville, City of Jacksonville, April 1994	Jacksonville Jaguars	June 1994 May 2024	\$59,000,118
American Airlines Arena	Miami, Basketball Properties, LTD, Feb. 1998	Miami Heat	March 1998 March 2028	\$51,333,436
Amway Center	Orlando, City of Orlando, Nov. 2007	Orlando Magic	Feb. 2008 Jan. 2038	\$31,666,730
Raymond James Stadium	Tampa, Hillsborough County, Nov. 1996	Tampa Bay Buccaneers	Jan. 1997 Dec. 2026	\$53,833,441
AMALIE Arena	Tampa, Tampa Bay Sports Authority, July 1995	Tampa Bay Lightning	Sept. 1995 Aug. 2025	\$56,500,113
Tropicana Field	St. Petersburg, City of St. Petersburg, July 1995	Tampa Bay Rays	July 1995 June 2025	\$56,833,447
			Total:	\$423,834,181

Public-private Partnerships (P3s)

Public-private partnerships are contractual agreements formed between public entities and private sector entities that allow for greater private sector participation in the delivery and

²⁰ Section 212.20(6)(d)6.b., F.S.

²¹ Section 288.1162(6), F.S.

²² Florida Department of Commerce, *All Professional Sports Facilities Payments as of Nov. 30, 2023*. On file with the Senate Commerce and Tourism Committee.

financing of public building and infrastructure projects. Through these agreements, the skills and assets of each sector, public and private, are shared in delivering a service or facility for use by the general public. In addition to the sharing of resources, each party shares in the risks and rewards potential in the delivery of the service or facility.²³

Section 255.065, F.S., governs the procurement process for P3s for public purpose projects. It authorizes a responsible public entity to enter into a P3 for a specified qualifying project if the responsible public entity determines the project is in the public's best interest.²⁴

A "responsible public entity" is defined as a county, municipality, school district, special district, or any other political subdivision of the state; a public body politic and corporate; or a regional entity that serves a public purpose and is authorized to develop or operate a qualifying project.²⁵

A "qualifying project" is defined as:

- A facility or project that serves a public purpose, including any ferry or mass transit facility, vehicle parking facility, airport or seaport facility, rail facility or project, fuel supply facility, oil or gas pipeline, medical or nursing care facility, recreational facility, sporting or cultural facility, or educational facility or other building or facility that is used or will be used by a public educational institution, or any other public facility or infrastructure that is used or will be used by the public at large or in support of an accepted public purpose or activity;
- An improvement, including equipment, of a building that will be principally used by a public entity or the public at large or that supports a service delivery system in the public sector;
- A water, wastewater, or surface water management facility or other related infrastructure; or
- For projects that involve a facility owned or operated by the governing board of a county, district, or municipal hospital or health care system, or projects that involve a facility owned or operated by a municipal electric utility, only those projects that the governing board designates as qualifying projects.²⁶

Freedom of Speech

Freedom of speech is the right to engage in expression without censorship or interference from government or its agencies.²⁷ This right is guaranteed by the Constitution of the United States and the Constitution of the State of Florida.

The First Amendment of the United States Constitution provides that,

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

²³ See United States Department of Transportation, The Federal Highway Administration, Innovative Program Delivery, *P3 Defined*, available at <http://www.fhwa.dot.gov/ipd/p3/defined/index.htm> (last visited on Feb. 5, 2024).

²⁴ Section 255.065(3)(d), F.S.

²⁵ Section 255.065(1)(j), F.S.

²⁶ Section 255.065(1)(i), F.S.

²⁷ See *Perry Education Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37 (1983).

Article I, section 4 of the Florida Constitution provides that,

Every person may speak, write and publish sentiments on all subjects but shall be responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions and civil actions for defamation the truth may be given in evidence. If the matter charged as defamatory is true and was published with good motives, the party shall be acquitted or exonerated.

Violations and Permissible Regulations of Free Speech and Expression

The government or another state actor, such as a public university, violates a person's right of free speech and expression when the person's speech is punished or restricted based on its content. Even offensive content is constitutionally protected and subject to the highest level of constitutional scrutiny so long as it does not constitute a threat or incite violence,²⁸ is not fraudulent or falsely defamatory,²⁹ or is not grossly obscene, as in the case of child pornography.³⁰ For example, in *Cohen v. California*, the United States Supreme Court reversed the conviction of a man arrested for wearing a jacket that said "F**k The Draft" while walking through the corridor of a courthouse, where the conviction was based solely on the contents of the jacket's message.³¹ As noted by the Supreme Court, "so long as there is no showing of an intent to incite disobedience to or disruption of the draft, Cohen could not, consistently with the First and Fourteenth Amendments, be punished for asserting the evident position on the inutility or immorality of the draft his jacket reflected."³²

However, the government or a public actor may limit or regulate an individual's freedom of speech or expression if the speech or expression occurs on government-owned property, such as at a public elementary, middle, or high school, or at public universities.³³ Such limitations are determined by the characterization of the type of public forum created on government property.³⁴

Public Forums on Government Property

There are three types of public forums:³⁵

- A "traditional" or "open public forum"³⁶ is a place with a longstanding tradition of freedom of expression, such as a public park, sidewalk, or street corner. In an open public forum, the government may only impose *content-neutral*, logistical restrictions on the time, place, and manner of speech and expression.³⁷ Such content-neutral restrictions must be narrowly

²⁸ See *Cohen v. California*, 403 U.S. 15, 18 (1981), which notes the message on defendant's jacket did not incite violence or disrupt the draft.

²⁹ See *U.S. v. Alvarez*, 567 U.S. 709, 723 (2012) ("Where false claims are made to effect a fraud or secure moneys or other valuable considerations, say offers of employment, it is well established that the Government may restrict speech without affronting the First Amendment.").

³⁰ *New York v. Ferber*, 458 U.S. 747, 764 (1982).

³¹ See *Cohen*, 403 U.S. 15, 18 (1981).

³² *Id.*

³³ *International Society for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672, 678 (1992).

³⁴ *Id.* at 678-79.

³⁵ *Id.*

³⁶ See *Perry Education Association v. Perry Local Educators Association*, 460 U.S. 37, 45-46 (1992).

³⁷ *Id.*

tailored to serve a significant governmental interest and leave open alternative channels for communication.³⁸

- “Designated” public forums and “limited public forums”³⁹ are places with a more limited history of expressive activity. Examples may include a community theater or a university meeting hall.⁴⁰ A designated public forum usually refers to a place opened up for and designated to function like a traditional public forum, meaning the rules of a traditional public forum apply.⁴¹ On the other hand, a limited public forum is usually opened only for certain groups or topics, and thus, the government may also restrict the use of the forum to the purposes for which the forum was opened in addition to time, place, and manner restrictions.⁴² For example, when a public school permits outside groups to use its building after hours for certain types of meetings, a limited public forum has been opened.⁴³ Once a limited forum is open, any limitation must be reasonable and viewpoint-neutral.⁴⁴
- A “closed public forum” or “nonpublic forum” is a place that is not traditionally open to public expression, such as the teacher’s school mailroom at issue in *Perry* or a military base.

III. Effect of Proposed Changes:

The bill creates s. 760.61, F.S., the “Right to Rock Act,” which prohibits the owner or operator of a public venue from canceling a live performance of an artist, a performer, or a musical group because of the artist’s, performer’s, or musical group’s lawful exercise of freedom of speech or the artist’s, performer’s, or musical group members’ personal beliefs.

The bill defines “public venue” as a place, building, or structure, regardless of whether owned by or rented to a governmental entity, school, college, or university, which is funded by or constructed with public or government funds.

The bill provides that s. 760.61(1), F.S., does not apply to an owner or operator who cancels a live performance based on a reasonable belief that the performance would violate any applicable state law or rule.

The bill requires a venue owner or operator who cancels a live performance of an artist, a performer, or a musical group in violation of s. 760.61(1), F.S., to bear all costs, fees, and penalties enumerated in the related contract with the artist, performer, or musical group.

The bill takes effect July 1, 2024.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Pleasant Grove City, Utah v. Summum*, 555 U.S. 460, 469-70 (2009).

⁴² *Id.*

⁴³ *Good News Club v. Milford Central School*, 533 U.S. 98, 106–07 (2001) (holding a school’s exclusion of Christian children’s club from meeting after hours based on its religious nature was unconstitutional viewpoint discrimination given the public school had opened as a limited public forum).

⁴⁴ *Summum*, 555 U.S. at 470.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

See the "Present Situation," in Section II of this bill analysis.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 760.61 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Martin

33-00002B-24

20241206__

1 A bill to be entitled
 2 An act relating to live performances; providing a
 3 short title; creating s. 760.61, F.S.; prohibiting
 4 public venue owners or operators from canceling
 5 certain live performances on specified bases; defining
 6 the term "public venue"; providing an exception;
 7 providing that venue owners or operators who violate
 8 the prohibition bear the costs enumerated in the
 9 related contract with the artist, performer, or
 10 musical group whose performance was canceled;
 11 providing an effective date.

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

15 Section 1. This act may be cited as the "Right to Rock
 16 Act."

17 Section 2. Section 760.61, Florida Statutes, is created to
 18 read:

19 760.61 Discriminatory practices against artists or
 20 performers prohibited.—

21 (1) (a) The owner or operator of a public venue may not
 22 cancel a live performance of an artist, a performer, or a
 23 musical group because of the artist's, performer's, or musical
 24 group's lawful exercise of freedom of speech or the artist's,
 25 performer's, or musical group members' personal beliefs. For the
 26 purposes of this section, the term "public venue" means a place,
 27 building, or structure, regardless of whether owned by or rented
 28 to a governmental entity, school, college, or university, which
 29 is funded by or constructed with public or government funds.

Page 1 of 2

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

33-00002B-24

20241206__

30 (b) This subsection does not apply to an owner or operator
 31 who cancels a live performance based on a reasonable belief that
 32 the performance would violate any applicable state law or rule.

33 (2) A venue owner or operator who cancels a live
 34 performance of an artist, a performer, or a musical group in
 35 violation of subsection (1) shall bear all costs, fees, and
 36 penalties enumerated in the related contract with the artist,
 37 performer, or musical group.

38 Section 3. This act shall take effect July 1, 2024.

Page 2 of 2

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

APPEARANCE RECORD

02/06/2024

Meeting Date

1206

Bill Number or Topic

Commerce + Tourism

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Lauren Buete

Phone 727 212 7408

Address 317 E. Park Ave

Email laurenb@floridafas.org

Street

Tallahassee FL

32304

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

CourtSmart Tag Report

Room: SB 110 Case No.:
Caption: Senate Commerce and Tourism Committee

Type:
Judge:

Started: 2/6/2024 11:31:32 AM
Ends: 2/6/2024 11:45:22 AM Length: 00:13:51

11:31:32 AM Chair Trumbull calls the meeting to order
11:31:36 AM Roll call
11:31:40 AM Quorum present
11:31:55 AM Chair Trumbull with opening comments
11:32:02 AM Tab 1 SB 352, Virtual Currency Sales Tax Holiday introduced
11:32:23 AM Explanation by Senator Brodeur
11:32:58 AM Amendment Barcode 441992 introduced
11:33:04 AM Explanation by Senator Brodeur
11:33:14 AM Chair Trumbull
11:33:24 AM Closure waived
11:33:28 AM Amendment adopted
11:33:33 AM Chair Trumbull
11:33:40 AM Questions
11:33:45 AM Senator Torres
11:33:48 AM Senator Brodeur
11:34:17 AM Chair Trumbull
11:34:53 AM Senator Brodeur with closure
11:35:01 AM Roll call
11:35:14 AM CS/SB 352 reported favorably
11:35:30 AM Tab 2 CS/SB 458, Invalid Restrictive Covenants in Health Care introduced
11:35:41 AM Explanation by Senator Brodeur
11:36:05 AM Amendment Barcode 876150 introduced
11:36:09 AM Explanation by Senator Brodeur
11:36:19 AM Chair Trumbull
11:36:27 AM Closure waived
11:36:30 AM Amendment adopted
11:36:32 AM Chair Trumbull
11:36:40 AM Darren Patz waives
11:36:43 AM Aimee Diaz Lyon waives
11:36:52 AM Chair Trumbull
11:36:57 AM Closure waived
11:36:59 AM Roll call
11:37:02 AM CS/CS/SB 458 reported favorably
11:37:12 AM Tab 3 CS/SB 966, Home Warranty Transfers introduced
11:37:34 AM Explanation by Senator Burgess
11:37:40 AM Amendment Barcode 488320 introduced
11:37:44 AM Explanation by Senator Burgess
11:37:53 AM Chair Trumbull
11:38:18 AM Closure waived
11:38:20 AM Amendment adopted
11:38:25 AM Chair Trumbull
11:38:29 AM Edward Briggs waives
11:38:35 AM Speaker Rusty Payton
11:39:20 AM Karen Murillo waives
11:39:30 AM Senator Burgess with closure
11:39:41 AM Chair Trumbull
11:40:01 AM Roll call
11:40:04 AM CS/CS/SB 966 reported favorably
11:40:15 AM Tab 5 SB 1206, Live Performances
11:40:35 AM Explanation by Senator Martin
11:40:40 AM Chair Trumbull
11:41:09 AM Questions

11:41:12 AM Senator Torres
11:41:15 AM Senator Martin
11:41:30 AM Senator Torres
11:41:36 AM Senator Martin
11:42:39 AM Chair Trumbull
11:42:43 AM Lauren Buete waives
11:42:55 AM Chair Trumbull
11:43:02 AM Closure waived
11:43:04 AM Roll call
11:43:08 AM SB 1206 reported favorably
11:43:29 AM Tab 4 CS/SB 1074, Debt Relief Services introduced
11:43:48 AM Explanation by Senator Rodriguez presenting for Senator Calatayud
11:43:59 AM Chair Trumbull
11:44:05 AM Kelly Mallette waives
11:44:09 AM Chair Trumbull
11:44:15 AM Closure by Senator Rodriguez
11:44:20 AM Roll call
11:44:22 AM CS/SB 1074 reported favorably
11:44:33 AM Chair Trumbull
11:44:45 AM Senator Wright moves to adjourn
11:45:12 AM Meeting adjourned



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Education Postsecondary, Vice Chair
Fiscal Policy, Vice Chair
Appropriations Committee on Transportation,
Tourism, and Economic Development
Commerce and Tourism
Environment and Natural Resources
Judiciary

SELECT COMMITTEE:
Select Committee on Resiliency

JOINT COMMITTEES:
Joint Select Committee on Collective Bargaining

SENATOR LINDA STEWART
17th District

February 6, 2024

Chairman Trumbull,

Today I will need to leave committee to present multiple bills. Should I not be able to return to committee in a timely manner, please consider this letter a request to receive an excused absence from the Commerce and Tourism meeting today.

Best regards,

Senator Linda Stewart

REPLY TO:

- 1726 South Bumby Avenue, Orlando, Florida 32806 (407) 893-2422
- 205 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: www.fsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Community Affairs, Chair
Appropriations Committee on Education
Education Pre-K 12
Fiscal Policy
Health Policy
Select Committee on Resiliency

SENATOR Alexis Calatayud
38th District

February 6th, 2024

Honorable Senator Jay Trumbull
Chair – Committee on Commerce and Tourism
Honorable Chair Trumbull,

I respectfully request that you allow SB 1074, relating to Debt Relief Services to be presented by Committee on Commerce and Tourism member Senator Rodriguez, at today's meeting of the Commerce and Tourism Committee. Should you have any questions or concerns, please feel free to contact me or my office. Thank you in advance for your consideration.

Sincerely,

Senator Alexis M. Calatayud
Florida Senate, District 38

CC: Todd McKay, Staff Director
Renita Hayes, Committee Administrative Assistant

- 326 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5038

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore