

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**COMMERCE AND TOURISM**  
**Senator Gruters, Chair**  
**Senator Torres, Vice Chair**

**MEETING DATE:** Monday, March 25, 2019  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** *Toni Jennings Committee Room, 110 Senate Building*

**MEMBERS:** Senator Gruters, Chair; Senator Torres, Vice Chair; Senators Hutson, Stewart, and Wright

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
<p><b>Senate Confirmation Hearing:</b> A public hearing will be held for consideration of the below-named executive appointment to the office indicated.</p> <p><b>Executive Director, Department of Economic Opportunity</b></p>			
1	Lawson, Kenneth E. (Tallahassee)	Pleasure of Governor	Recommend Confirm Yeas 4 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
2	<b>SB 962</b> Diaz (Similar CS/H 1161)	Malt Beverages; Prohibiting sales and purchases of malt beverages on consignment or any basis other than a bona fide sale; authorizing a vendor to request return of undamaged product, damaged product, and out-of-code product to a distributor; specifying that a distributor is not required to accept returns authorized by the act; providing that returns pursuant to the act are not considered gifts, loans, or other forms of financial aid or assistance for purposes of tied house evil, etc.  IT     03/12/2019 Favorable CM     03/25/2019 Temporarily Postponed RC	Temporarily Postponed
3	<b>SB 990</b> Gibson (Similar H 563)	Unemployment Compensation; Prohibiting certain victims of domestic violence from being disqualified for benefits for voluntarily leaving work; prohibiting the employment record of an employing unit from being charged in certain circumstances, etc.  CM     03/25/2019 Favorable JU RC	Favorable Yeas 5 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Commerce and Tourism

Monday, March 25, 2019, 1:30—3:30 p.m.

---

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 1692</b> Rodriguez (Compare H 1377)	Corporate Income Tax; Revising the definition of the term “taxpayer”; revising the definition of the term “adjusted federal income” to prohibit specified deductions, to limit certain carryovers, and to require subtractions of certain dividends paid and received within a water’s edge group for the purpose of determining subtractions from taxable income; specifying circumstances under which a corporation is presumed to be, deemed to be, or deemed not to be a member of a water’s edge group, etc.  CM 03/25/2019 Unfavorable FT AP	Unfavorable Yeas 2 Nays 2
5	<b>SR 1808</b> Taddeo	Film and Television Production; Recognizing the value of film and television production as an economic driver and a creator of high-wage jobs, encouraging the collaboration of public-sector and private-sector efforts through the development of programs and partnerships, and encouraging the Florida Office of Film and Entertainment’s continued support of various collaborative programs and partnerships for national and international marketing, etc.  CM 03/18/2019 Temporarily Postponed CM 03/25/2019 Favorable RC	Favorable Yeas 5 Nays 0
6	<b>SR 1438</b> Torres (Similar HR 8011)	Taiwan; Enhancing the sister-state relationship and bilateral economic and cultural ties between Florida and the Republic of China (Taiwan), and reaffirming and maintaining the commitment of the State of Florida and the United States to the strong and deepening relationship with Taiwan, as the two nations together embrace the fundamental values of freedom, democracy, and the protection of human rights, etc.  CM 03/25/2019 Favorable RC	Favorable Yeas 5 Nays 0

---

**COMMITTEE MEETING EXPANDED AGENDA**

Commerce and Tourism

Monday, March 25, 2019, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	<b>SB 1788</b> Hutson (Identical H 1267)	Department of Agriculture and Consumer Services; Authorizing consumers to bring civil actions against telephone solicitors; providing that substance abuse marketing service providers are subject to the Florida Telemarketing Act; revising provisions for claims of exemption from the Florida Telemarketing Act; requiring separate registrations for each business, trade, or fictitious name used by a mover or moving broker; authorizing movers to act as moving brokers without a separate registration under certain conditions, etc.  CM 03/25/2019 Temporarily Postponed AEG AP	Temporarily Postponed
8	<b>SB 1414</b> Gruters (Similar H 761, Compare H 759, Linked S 1416)	Public Records/Trade Secrets Held by an Agency; Providing an exemption from public records requirements for trade secrets held by an agency; providing that an agency employee is not liable for the release of records in compliance with the act; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc.  CM 03/25/2019 Fav/CS GO RC	Fav/CS Yeas 5 Nays 0
9	<b>SB 1416</b> Gruters (Identical H 759, Compare H 761, H 7091, H 7097, S 7052, S 7054, Linked S 1414)	Public Records; Providing that certain information related to agency contracts is not confidential or exempt from public records requirements; deleting a provision exempting trade secrets held by local government agencies from public records requirements; repealing a provision relating to a public records exemption under the Florida Accidental Release Prevention and Risk Management Planning Act; revising provisions relating to public records exemptions for trade secrets and potential trade secrets received, generated, ascertained, or discovered during the course of research conducted within the state universities, etc.  CM 03/25/2019 Fav/CS GO RC	Fav/CS Yeas 5 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Commerce and Tourism

Monday, March 25, 2019, 1:30—3:30 p.m.

---

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	<b>SB 1422</b> Gruters (Compare CS/CS/H 997)	Health Plans; Revising eligibility requirements for multiple-employer welfare arrangements; revising applicability of requirements relating to preexisting conditions; providing disclosure requirements for short-term individual, group, blanket, and franchise health insurance policies; revising requirements for, and applicability relating to, association and small employer policies, etc.  BI 03/18/2019 Favorable CM 03/25/2019 Favorable RC	Favorable Yeas 4 Nays 1

---

Other Related Meeting Documents

---



Amended

A black and white copy of this document is not official

584

**STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections**

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

***Ken Lawson***

is duly appointed

**Executive Director,  
Department of Economic Opportunity**

for a term beginning on the Eleventh day of January, A.D., 2019,  
to serve at the pleasure of the Governor and is subject to be  
confirmed by the Senate during the next regular session of the  
Legislature.

*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Fourth day of February, A.D., 2019.*



Secretary of State



DSDE 99 (3/03)

The original document has a reflective line mark in paper. Hold at an angle to view when checking.

If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8 1/2 x 11" Document.



**RON DESANTIS**  
GOVERNOR

RECEIVED

2019 JAN 11 PM 3:32

TALLAHASSEE, FL

January 11, 2019

Secretary Michael Ertel  
Department of State  
R.A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, FL 32399-0250

Dear Secretary Ertel:

Please be advised I have made the following appointment under the provisions of Section 20.60, Florida Statutes:

Mr. Ken Lawson  
412 Shephard Street  
Tallahassee, FL 33611

as the Executive Director of the Department of Economic Opportunity, subject to confirmation by the Senate. This appointment is effective January 11, 2019, for a term ending at the pleasure of the Governor.

Sincerely,

Ron DeSantis  
Governor

RD/mm

**OATH OF OFFICE**  
(Art. II, § 5(b), Fla. Const.)

RECEIVED

STATE OF FLORIDA

2019 FEB -1 AM 10:07

County of Leon

DIVISION OF ELECTIONS  
TALLAHASSEE, FL

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Executive Director, Florida Department of Economic Opportunity  
(Title of Office)

on which I am now about to enter, so help me God.

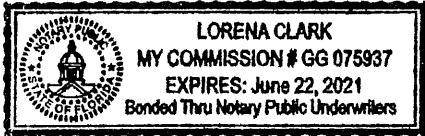
[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

~~Signature~~

Sworn to and subscribed before me this 25 day of January, 2019

Lorena Clark

Signature of Officer Administering Oath or of Notary Public



Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known  OR Produced Identification

Type of Identification Produced \_\_\_\_\_

**ACCEPTANCE**

I accept the office listed in the above Oath of Office.

Mailing Address:  Home  Office

107 E. Madison Street  
Street or Post Office Box  
Tallahassee, FL 32399  
City, State, Zip Code

Ken Lawson  
Print Name  
Ken Lawson  
Signature

THE FLORIDA SENATE

# COMMITTEE WITNESS OATH

---

**CHAIR:**

**Please raise your right hand and be sworn in as a witness.**

**Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?**

**WITNESS'S NAME:** Rep Lawson

**ANSWER:** Yes, I do.

Pursuant to §90.605(1), Florida Statutes: "The witness's answer shall be noted in the record."

**COMMITTEE NAME:** Comm Tourism

**DATE:** 3-25-19

**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 962

INTRODUCER: Senator Diaz

SUBJECT: Malt Beverages

DATE: March 22, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	<b>Favorable</b>
2.	<u>McKay</u>	<u>McKay</u>	<u>CM</u>	<b>Pre-meeting</b>
3.	_____	_____	<u>RC</u>	_____

---

**I. Summary:**

SB 962 provides a process for returns of malt beverages by a vendor to a distributor for an exchange of product, a refund, or a credit. A vendor may return malt beverages to a distributor if the malt beverages are a “damaged product,” an “out-of-code” product,” or an “undamaged product.” An “out-of-code product” is a malt beverage that has exceeded the manufacturer’s code date indicating the product’s freshness and availability for purchase at retail. A distributor is not required to accept a return request.

The bill prohibits the sale of malt beverages on consignment or on any basis other than a bona fide sale. A product may not be returned because it is overstocked or slow-moving or because there is only limited or seasonal demand for the product.

Under the bill, a vendor may request return of undamaged product to a distributor only for exchange of product or for credit. Returns of damaged and undamaged products must be made within seven days after the delivery date. Damaged product maybe returned for an exchange of product or a credit. The bill specifies the circumstances in which damaged or undamaged malt beverages may be returned if requested by the vendor.

Under the bill, an out-of-code product may be returned to a distributor only for an exchange of product at any time if the conditions in the bill are satisfied, e.g., the manufacturer’s code date is printed on the product container or, in the case of a keg, marked on a cap, collar, tag, or label affixed to the keg.

The bill requires a malt beverage distributor to keep a written record of each return of malt beverages.

The bill provides an effective date of July 1, 2019.

## II. Present Situation:

In Florida, alcoholic beverages are regulated by the Beverage Law,<sup>1</sup> which regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors.<sup>2</sup> The Division of Alcoholic Beverages and Tobacco (division) in the Department of Business and Professional Regulation administers and enforces the Beverage Law.<sup>3</sup>

“Alcoholic beverages” are defined in s. 561.01, F.S., as “distilled spirits and all beverages containing one-half of one percent or more alcohol by volume.” “Malt beverages” are brewed alcoholic beverages containing malt.<sup>4</sup>

Section 561.14, F.S., specifies the license and registration classifications used in the Beverage Law.

- “Manufacturers” are those “licensed to manufacture alcoholic beverages and distribute the same at wholesale to licensed distributors and to no one else within the state, unless authorized by statute.”<sup>5</sup>
- “Distributors” are those “licensed to sell and distribute alcoholic beverages at wholesale to persons who are licensed to sell alcoholic beverages.”<sup>6</sup>
- “Importers” are those licensed to sell, or to cause to be sold, shipped, and invoiced, alcoholic beverages to licensed manufacturers or licensed distributors, and to no one else in this state; provided that ss. 564.045 and 565.095, F.S., relating to primary American source of supply licensure, are in no way violated by such imports.<sup>7</sup>
- “Vendors” are those “licensed to sell alcoholic beverages at retail only” and who may not “purchase or acquire in any manner for the purpose of resale any alcoholic beverages from any person not licensed as a vendor, manufacturer, bottler, or distributor under the Beverage Law.”<sup>8</sup>

### Three-Tier System

In the United States, the regulation of alcohol since the repeal of Prohibition has traditionally been based upon a “three-tier system.” The system requires separation of the manufacture, distribution, and sale of alcoholic beverages. The manufacturer creates the beverages, and the distributor obtains the beverages from the manufacturer to deliver to the vendor. The vendor makes the ultimate sale to the consumer.<sup>9</sup> A manufacturer, distributor, or exporter may not be licensed as a vendor to sell directly to consumers.<sup>10</sup>

---

<sup>1</sup> Section 561.01(6), F.S., provides that the “The Beverage Law” means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

<sup>2</sup> See s. 561.14, F.S.

<sup>3</sup> Section 561.02, F.S.

<sup>4</sup> Section 563.01, F.S.

<sup>5</sup> Section 561.14(1), F.S.

<sup>6</sup> Section 561.14(2), F.S.

<sup>7</sup> Section 561.01(5), F.S.

<sup>8</sup> Section 561.14(3), F.S.

<sup>9</sup> Section 561.14, F.S.

<sup>10</sup> Section 561.22(1), F.S.

Generally, in Florida, only licensed vendors are permitted to sell alcoholic beverages directly to consumers at retail.<sup>11</sup> Licensed manufacturers, distributors, and registered exporters are prohibited from also being licensed as vendors.<sup>12</sup> Manufacturers are also generally prohibited from having an interest in a vendor and from distributing directly to a vendor.<sup>13</sup>

### **Tied House Evil Prohibitions**

States have enacted statutes designed to prevent or limit the control of retail alcoholic beverage vendors by manufacturers, wholesalers, and importers, or to prohibit "tied-house arrangements." Such legislation is referred to as "tied house" or "tied house evil" statutes.<sup>14</sup>

Section 561.42, F.S., Florida's "tied house evil" statute, regulates the permitted and prohibited relationships and interactions of manufacturers and distributors with vendors in order to prevent a manufacturer or distributor from having a financial interest, directly or indirectly, in the establishment or business of a licensed vendor, and to prevent a manufacturer or distributor from giving a vendor gifts, loans or property, or rebates.<sup>15</sup> The prohibitions also apply to an importer, primary American source of supply registrant,<sup>16</sup> brand owner or registrant, broker, and sales agent (or sales person thereof).

The tied house evil statute also prohibits any distributor or vendor from receiving any financial incentives from any manufacturer. It further prohibits manufacturers or distributors from assisting retail vendors by gifts or loans of money or property or by the giving of rebates. These prohibitions do not, however, apply to any bottles, barrels, or other containers necessary for the legitimate transportation of such beverages, to advertising materials, or to the extension of credit for liquors sold, if made strictly in compliance with the provisions of s. 561.42, F.S.<sup>17</sup>

Section 561.42, F.S., also prohibits licensed manufacturers and distributors from:

- Making further sales to vendors that the division has certified as not having fully paid for all liquors previously purchased;<sup>18</sup>
- Directly or indirectly giving, lending, renting, selling, or in any other manner furnishing to a vendor any outside sign, printed, painted, electric, or otherwise;<sup>19</sup>
- Providing neon or electric signs, window painting and decalcomanias, posters, placards, and other advertising material herein authorized to be used or displayed by the vendor in the interior of the licensed premises;<sup>20</sup> and
- Providing expendable retail advertising specialties, unless sold to the vendor at not less than the actual cost to the industry member who initially purchased them.<sup>21</sup>

<sup>11</sup> Section 561.14(3), F.S. However, see the exceptions provided in ss. 561.221 and 565.03, F.S.

<sup>12</sup> Section 561.22, F.S.

<sup>13</sup> Sections 563.022(14) and 561.14(1), F.S.

<sup>14</sup> 45 AM. JUR. 2d *Intoxicating Liquors*, s. 94 (2017).

<sup>15</sup> Section 561.42(1), F.S.

<sup>16</sup> See s. 564.045, F.S.

<sup>17</sup> Section 564.42(1). Section 561.42(2), F.S., permits distributors to extend credit for the sale of liquors to any vendor up to, but not including, the 10th day after the calendar week within which such sale was made.

<sup>18</sup> Section 561.42(4), F.S.

<sup>19</sup> Section 561.42(10), F.S.

<sup>20</sup> Section 561.42(12), F.S.

<sup>21</sup> Section 561.42(14)(a), F.S.

Section 561.42(14), F.S., further prohibits industry members from providing expendable retail advertising specialties, unless sold to the vendor at not less than the actual cost to the industry member who initially purchased them. A member of the malt beverage industry may provide a vendor with expendable retailer advertising specialties such as trays, coasters, mats, menu cards, napkins, cups, glasses, thermometers, and the like. The industry member must sell these items to a vendor only at a price not less than the actual cost to the industry member who initially purchased the items, without limitation in total dollar value of such items sold to a vendor. Industry members may not engage in cooperative advertising with a vendor.<sup>22</sup>

### **Division Rules - Returns of Products**

Florida law does not address the return of products to distributors by vendors. The division has adopted rules to provide guidance to the industry.

#### ***Return of Damaged Products***

Products are damaged if they exhibit product deterioration, leaking containers, damaged labels, or missing or mutilated tamper-evident closures.<sup>23</sup>

Under the division's rule, a vendor must request for return of damaged products within 15 days after delivery and may receive an exchange of product, cash, or a credit. A vendor may not return products damaged by the vendor or vendor's customers.<sup>24</sup> A distributor is required to make and keep a record of all exchanges of damaged products for product, cash, or credit.<sup>25</sup> Under current law, each manufacturer, distributor, broker, agent, and importer licensed under the Beverage Law is required to maintain and keep, for a period of three years at the licensed place of business, such records of alcoholic beverages received, sold, or delivered within or without this state as may be required by the division.<sup>26</sup>

If the vendor requests a return 15 or more days after delivery, a return may only be for exchange, cash, or credit, under the following circumstances:

- A manufacturer has issued a product recall that affects multiple unaffiliated vendors; or
- A product has deteriorated due to manufacturing or packaging problems.

#### ***Return of Undamaged Products***

A vendor must request for return of undamaged products within 10 days after delivery and may receive cash or a credit within 10 days of the request.<sup>27</sup> A distributor is required to make and keep a record of all undamaged products returned for cash or credit (not an exchange).<sup>28</sup>

If the vendor requests a return 10 or more days after delivery, a return may only be:

- For cash or credit, if the products may no longer be lawfully sold due to a change of law;

---

<sup>22</sup> Section 561.42(14)(e), F.S.

<sup>23</sup> Fla. Admin. Code R. 61A-1.0107(1) (2018)

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

<sup>25</sup> Fla. Admin. Code R. 61A-1.0107(2) (2018)

<sup>26</sup> Section 561.55(3)(a), F.S.

<sup>27</sup> Fla. Admin. Code R. 61A-1.0108(1) (2018)

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



- For cash or credit, if the vendor's business is terminated. This does not include a temporary seasonal shutdown;
- For an equal exchange of product, if there is a change in product, such as a change in formula, proof, label, or container;
- For cash or credit, if the product is discontinued; or
- For cash or credit, if a vendor, who is only open for a portion of the year, has product remaining at closure that will spoil in the off-season.<sup>29</sup>

### III. Effect of Proposed Changes:

The bill creates s. 563.061, F.S., to provide a process for returns of malt beverages by a vendor to a distributor for exchange of product, refund, or credit. A vendor may return malt beverages to a distributor if the malt beverages are a "damaged product," an "out-of-code" product," or an "undamaged product."

#### Definitions

The bill defines a "damaged product" to mean:

Malt beverages, whether sold in individual containers or kegs, which, upon delivery to a vendor, exhibit product deterioration, defective seals, leaking, damaged labels, or missing or mutilated tamper-evident closures.

A "manufacturer's code date" is defined to mean:

A coded best-by date, expiration date, or other designated date or dating system established by a manufacturer to signify the freshness of its malt beverages and which is printed on the malt beverage container or, in the case of a keg, marked on a cap, collar, tag, or label affixed to the keg.

An "out-of-code product" is defined to mean:

Malt beverages, whether sold in individual containers or kegs, which have exceeded the manufacturer's code date and which, according to the manufacturer's policies, must be removed and replaced with fresh products to ensure that only fresh malt beverages are available for purchase at retail.

An "undamaged product" is defined as those products that are not a "damaged product" or an "out-of-code product."

#### Prohibitions

The bill prohibits the sale of malt beverages on consignment or on any basis other than a bona fide sale. A return of malt beverages to a distributor is only allowed for the ordinary and usual commercial reasons authorized by the bill. A product may not be returned because it is overstocked or slow-moving or because there is only limited or seasonal demand for the product.

---

<sup>29</sup> Fla. Admin. Code R. 61A-1.0108(2) (2018)

### **Returns of Undamaged Product**

Under the bill, a vendor may request return of undamaged product to a distributor only for exchange of product or for credit. A distributor may not accept a return of undamaged product unless the return is requested within 7 days after the delivery date. However, a distributor may accept a return of undamaged product for:

- Credit or refund, if there is a change in regulation or administrative procedure over which the vendor or its employees or agents have no control, e.g., a change in authorized container sizes;
- Credit or refund, if a vendor terminates operations (a vendor's temporary seasonal shutdown is not a termination of operation) and requests return of any remaining products on hand;
- Exchange of product, if a vendor requests return of a product for purposes of quality control or freshness, and the product has not yet exceeded the manufacturer's code date;
- Exchange of product or credit, if a manufacturer has issued a product recall that affects multiple vendors who are not affiliated with one another through having common ownership, through being members of the same pool buying group, or through being members of the same advertising cooperative;
- Credit or refund, if a vendor requests a return because the production or importation of a product is discontinued; or
- Credit or refund, if a vendor who is open for a portion of the year has product remaining at closure which, with respect to quality control or freshness, would become unsuitable for sale during the off-season, according to the manufacturer's code date.

### **Returns of Damaged Products**

The bill permits a vendor to request return of damaged product to a distributor, if:

- The return is for exchange of product or for a credit;
- The vendor makes the request within seven days after the delivery date;
- The distributor verifies that the product is damaged before accepting the return; and
- The product was not damaged by the vendor or its customers.

### **Returns of Out-of-Code Product**

The bill permits a vendor to return out-of-code product to a distributor only for an exchange of product. The distributor must first verify that the product is an out-of-code product. A distributor may accept out-of-code product at any time, if:

- The manufacturer has written policies and procedures that specify the date that product should be removed;
- The manufacturer's policies and procedures are readily verifiable and consistently followed by the manufacturer; and
- The manufacturer's code date is printed on the product container or, in the case of a keg, marked on a cap, collar, tag, or label affixed to the keg.

The bill and current law do not require malt beverages manufacturers to maintain readily verifiable and consistently followed written policies regarding the date malt beverages products should be removed.

Out-of-code product returned to a distributor may not reenter the retail market.

### **Exchanges of Product**

The bill requires that an exchange of product must be in exact quantities with product of near or equal value made by the same manufacturer and in the same size individual container or keg. If a credit is permitted, the credit must be issued at the time of the return with supporting documentation.

### **Distributor Requirements**

Under the bill, a distributor is not required to accept returns of product. If a distributor accepts a return of product, the distributor must:

- Provide the exchange of product, the credit, or the refund to the vendor, as authorized under the bill, at the same time the distributor picks up the product being returned; and
- Pick up damaged or undamaged products being returned within 14 days after receipt of the vendor's request.

### **Recordkeeping Requirement**

The bill requires a distributor to keep and maintain a transaction record of each return for 3 years. The distributor must provide a copy of the transaction record to the vendor in a format accessible by and legible to the vendor.

### **Other Provisions**

The bill provides that bona fide returns for exchange of product, credit, or refund are not considered gifts, loans, or other forms of financial aid or assistance as prohibited by s. 561.42, F.S.

As provided in s. 561.29, F.S., the bill requires the division to impose a civil penalty of \$1,000 per violation against a distributor or vendor who violates s. 563.061, F.S., or any rule adopted under this section.

The bill also authorizes the division to adopt rules to administer and enforce s. 563.061, F.S.

### **Effective Date**

The bill provides an effective date of July 1, 2019.

## **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.

**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 563.061 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.

---



826274

LEGISLATIVE ACTION

Senate

.  
. .  
. .  
. .  
. .

House

---

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

**Senate Amendment**

Delete line 136

and insert:

(7) DISTRIBUTOR REQUIREMENTS FOR RETURNS.-This

By Senator Diaz

36-01115A-19

2019962\_\_

1 A bill to be entitled  
 2 An act relating to malt beverages; creating s.  
 3 563.061, F.S.; defining terms; prohibiting sales and  
 4 purchases of malt beverages on consignment or any  
 5 basis other than a bona fide sale; authorizing a  
 6 vendor to request return of undamaged product, damaged  
 7 product, and out-of-code product to a distributor;  
 8 authorizing a distributor to accept such returns under  
 9 certain circumstances; providing requirements for the  
 10 exchange of product; specifying that a distributor is  
 11 not required to accept returns authorized by the act;  
 12 requiring a distributor to take certain actions if the  
 13 distributor accepts return of product; requiring the  
 14 distributor to keep transaction records of each return  
 15 for a specified time; requiring the records to contain  
 16 certain information; requiring the distributor to  
 17 provide a copy of the transaction record to a vendor  
 18 and the Division of Alcoholic Beverages and Tobacco  
 19 under certain circumstances; providing requirements  
 20 for the maintenance of the transaction records;  
 21 providing that returns pursuant to the act are not  
 22 considered gifts, loans, or other forms of financial  
 23 aid or assistance for purposes of tied house evil;  
 24 providing for a civil penalty; authorizing the  
 25 division to adopt rules; providing an effective date.  
 26  
 27 Be It Enacted by the Legislature of the State of Florida:  
 28  
 29 Section 1. Section 563.061, Florida Statutes, is created to

Page 1 of 7

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

36-01115A-19

2019962\_\_

30 read:  
 31 563.061 Return of malt beverage products; prohibition of  
 32 consignment sales.  
 33 (1) DEFINITIONS.—As used in this section, the term:  
 34 (a) "Damaged product" means malt beverages, whether sold in  
 35 individual containers or kegs, which, upon delivery to a vendor,  
 36 exhibit product deterioration, defective seals, leaking, damaged  
 37 labels, or missing or mutilated tamper-evident closures.  
 38 (b) "Manufacturer's code date" means a coded best-by date,  
 39 expiration date, or other designated date or dating system  
 40 established by a manufacturer to signify the freshness of its  
 41 malt beverages and which is printed on the malt beverage  
 42 container or, in the case of a keg, marked on a cap, collar,  
 43 tag, or label affixed to the keg.  
 44 (c) "Out-of-code product" means malt beverages, whether  
 45 sold in individual containers or kegs, which have exceeded the  
 46 manufacturer's code date and which, according to the  
 47 manufacturer's policies, must be removed and replaced with fresh  
 48 products to ensure that only fresh malt beverages are available  
 49 for purchase at retail.  
 50 (d) "Undamaged product" means malt beverages, whether sold  
 51 in individual containers or kegs, which are not damaged products  
 52 or out-of-code products.  
 53 (2) CONSIGNMENT SALES PROHIBITED; AUTHORIZED BONA FIDE  
 54 RETURNS.—A distributor may not sell, offer for sale, or contract  
 55 to sell malt beverages on consignment or any basis other than a  
 56 bona fide sale. A vendor may not purchase, offer to purchase, or  
 57 contract to purchase malt beverages on consignment or any basis  
 58 other than a bona fide sale. Once a distributor sells malt

Page 2 of 7

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

36-01115A-19 2019962\_\_

59 beverages to a vendor, only bona fide returns are allowed for  
 60 the ordinary and usual commercial reasons authorized in this  
 61 section. A product may not be returned because it is overstocked  
 62 or slow-moving or because there is only limited or seasonal  
 63 demand for the product.

64 (3) RETURNS OF UNDAMAGED PRODUCT.—A vendor may request  
 65 return of undamaged product to a distributor and, unless  
 66 otherwise provided in paragraphs (a)-(f), a return under this  
 67 subsection may only be for exchange of product or for a credit.  
 68 A distributor may not accept a return of undamaged product  
 69 unless the return is requested within 7 days after the delivery  
 70 date or unless:

71 (a) There is a change in regulation or administrative  
 72 procedure over which the vendor or its employees or agents have  
 73 no control, including, but not limited to, when a particular  
 74 brand or container size is no longer allowed to be sold. A  
 75 return under this paragraph may be for a credit or a refund.

76 (b) A vendor terminates operations and requests return of  
 77 any remaining products on hand. A return under this paragraph  
 78 may be for a credit or a refund. This paragraph does not apply  
 79 to a vendor's temporary seasonal shutdown.

80 (c) Except as provided in paragraph (f), a vendor requests  
 81 return of a product for purposes of quality control or  
 82 freshness, and the product has not yet exceeded the  
 83 manufacturer's code date. A return under this paragraph may only  
 84 be for exchange of product.

85 (d) A manufacturer has issued a product recall that affects  
 86 multiple vendors who are not affiliated with one another through  
 87 having common ownership, through being members of the same pool

36-01115A-19 2019962\_\_

88 buying group, or through being members of the same advertising  
 89 cooperative. A return under this paragraph may be for exchange  
 90 of product or for a credit.

91 (e) A vendor requests a return because the production or  
 92 importation of a product is discontinued. A vendor's inventory  
 93 of the discontinued product may be returned under this paragraph  
 94 for a credit or a refund.

95 (f) A vendor who is open for a portion of the year has  
 96 product remaining at closure which, with respect to quality  
 97 control or freshness, would become unsuitable for sale during  
 98 the off-season, according to the manufacturer's code date. A  
 99 return under this paragraph may be for credit or a refund.

100 If undamaged product is returned pursuant to paragraphs (a)-(f),  
 101 documentation of a qualifying exception in paragraphs (a)-(f)  
 102 must be kept with the transaction record maintained by the  
 103 distributor pursuant to subsection (8).

104 (4) RETURNS OF DAMAGED PRODUCT.—

105 (a) A vendor may request return of damaged product to a  
 106 distributor, and a return under this subsection may only be for  
 107 exchange of product or for a credit. The distributor must verify  
 108 that the product is damaged before accepting the return. A  
 109 vendor is liable for any product damaged by the vendor or its  
 110 customers and such product may not be returned.

111 (b) A distributor may accept a return of damaged product if  
 112 the return is requested within 7 days after the delivery date.

113 (5) RETURNS OF OUT-OF-CODE PRODUCT.—

114 (a) A vendor may request return of out-of-code product to a  
 115 distributor, and a return under this subsection may only be for  
 116 exchange of product or for a credit.



36-01115A-19 2019962\_\_

117 exchange of product. The distributor must verify that the  
 118 product is an out-of-code product before accepting such return.  
 119 (b) A distributor may accept a return of out-of-code  
 120 product at any time after the manufacturer's code date if:  
 121 1. The manufacturer has written policies and procedures  
 122 that specify the date that product should be removed;  
 123 2. Such policies and procedures are readily verifiable and  
 124 consistently followed by the manufacturer; and  
 125 3. The manufacturer's code date is printed on the product  
 126 container or, in the case of a keg, marked on a cap, collar,  
 127 tag, or label affixed to the keg.  
 128 (c) Out-of-code product returned to a distributor may not  
 129 reenter the retail market.  
 130 (6) EXCHANGES OF PRODUCT.—An exchange of product authorized  
 131 under this section must be in exact quantities with product of  
 132 near or equal value made by the same manufacturer and in the  
 133 same size individual container or keg unless a credit, if  
 134 authorized by this section, is issued at the time of the return  
 135 with supporting documentation.  
 136 (7) DISTRIBUTOR NOT REQUIRED TO ACCEPT RETURNS.—This  
 137 section does not require a distributor to accept returns  
 138 authorized under this section. If a distributor accepts a return  
 139 of product, the distributor must:  
 140 (a) Provide the exchange of product, the credit, or the  
 141 refund to the vendor, as provided in subsections (3), (4), and  
 142 (5), at the same time the distributor picks up the product being  
 143 returned; and  
 144 (b) For damaged or undamaged product, pick up the product  
 145 being returned within 14 days after receipt of the vendor's

36-01115A-19 2019962\_\_

146 request.  
 147 (8) TRANSACTION RECORDS.—  
 148 (a) A distributor must keep and maintain for 3 years a  
 149 transaction record of each return which identifies:  
 150 1. The licensed vendor;  
 151 2. The licensed vendor's business name and address;  
 152 3. The licensed vendor's license number;  
 153 4. The product returned for exchange of product, credit, or  
 154 refund; and  
 155 5. Any documentation required by this section.  
 156 (b) The distributor must provide a copy of the transaction  
 157 record to the vendor in a format accessible by and legible to  
 158 the vendor. The distributor must provide a copy of the  
 159 transaction record to the division upon request in a format  
 160 accessible by and legible to the division.  
 161 (c) The transaction records must be maintained on the  
 162 distributor's licensed premises, or may be kept at another  
 163 location in this state if the distributor notifies the division  
 164 in writing before using the other location. The distributor must  
 165 notify the division in writing of any change in recordkeeping  
 166 location.  
 167 (9) RETURNS NOT TIED HOUSE EVIL.—Bona fide returns made  
 168 pursuant to this section for exchange of product, credit, or  
 169 refund are not considered gifts, loans, or other forms of  
 170 financial aid or assistance that are prohibited by s. 561.42.  
 171 (10) CIVIL PENALTY.—In accordance with s. 561.29, the  
 172 division shall impose a civil penalty of \$1,000 per violation  
 173 against a distributor or vendor who violates this section or any  
 174 rule adopted under this section.

36-01115A-19

2019962\_\_

175 (11) RULEMAKING AUTHORITY.-The division may adopt rules to  
176 administer and enforce this section.

177 Section 2. This act shall take effect July 1, 2019.



The Florida Senate

## Committee Agenda Request

**To:** Senator Joe Gruters, Chair  
Committee on Commerce and Tourism

**Subject:** Committee Agenda Request

**Date:** March 13, 2019

---

I respectfully request that **Senate Bill # 962**, relating to Malt Beverages, be placed on the:

- Committee agenda at your earliest possible convenience.
- Next committee agenda.

A handwritten signature in cursive script, appearing to read "M. Diaz, Jr.", written in black ink.

---

Senator Manny Diaz, Jr.  
Florida Senate, District 36

**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 990

INTRODUCER: Senators Gibson and Berman

SUBJECT: Unemployment Compensation

DATE: March 22, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McKay	CM	<b>Favorable</b>
2.			JU	
3.			RC	

---

**I. Summary:**

SB 990 provides that an individual may not be disqualified from receiving reemployment assistance benefits if he or she voluntarily leaves work as a direct result of circumstances related to domestic violence.

The bill takes effect July 1, 2019.

**II. Present Situation:**

**Reemployment Assistance Program**

The federal Unemployment Insurance Program provides unemployment benefits to eligible workers who are unemployed through no fault of their own (as determined under state law) and who meet the requirements of state law.<sup>1</sup> The program is administered as a partnership between the federal government and state governments.<sup>2</sup>

Florida's unemployment insurance program was created by the Legislature in 1937,<sup>3</sup> and rebranded as the "Reemployment Assistance Program" in 2012.<sup>4</sup> The Department of Economic Opportunity (DEO) is responsible for administering Florida's reemployment assistance laws, primarily through its Division of Workforce Services.<sup>5</sup>

---

<sup>1</sup> United States Department of Labor, Employment and Training Administration, State Unemployment Insurance Benefits, available at <http://workforcesecurity.doleta.gov/unemploy/uifactsheet.asp> (last visited March 22, 2019).

<sup>2</sup> There are 53 programs, including the 50 states, Puerto Rico, the Virgin Islands, and the District of Columbia.

<sup>3</sup> Ch. 18402, Laws of Fla.

<sup>4</sup> Ch. 2012-30, Laws of Fla.

<sup>5</sup> Section 20.60(5)(c), F.S., and s. 443.171, F.S.

An unemployed individual must apply to the DEO for benefits using Florida's Online Reemployment Assistance System.<sup>6</sup> To receive reemployment assistance (RA) benefits, a claimant must meet certain monetary and nonmonetary eligibility requirements and provide proof of identification.<sup>7</sup> Key eligibility requirements involve a claimant's earnings during a certain period of time, the manner in which the claimant became unemployed, and the claimant's efforts to find new employment. A notice of claim is sent to a claimant's most recent employer and all employers whose employment records are liable for benefits.<sup>8</sup>

### ***Benefits***

A qualified claimant may receive RA benefits equal to 25 percent of wages, not to exceed \$6,325 in a benefit year.<sup>9</sup> Benefits range from a minimum of \$32 per week to a maximum weekly benefit amount of \$275 for up to 23 weeks, depending on the claimant's length of prior employment, wages earned, and the unemployment rate.<sup>10</sup>

A claimant must meet certain requirements in order to be eligible for benefits for each week of unemployment. For example, each week an individual is required to contact at least five prospective employers (three prospective employers if the individual resides in a small county) or report to the one-stop career center<sup>11</sup> for reemployment services.<sup>12</sup>

### ***Disqualification for Benefits***

Section 443.101, F.S., specifies the circumstances under which an individual is disqualified from receiving RA benefits. An individual must be disqualified for benefits for the week in which he or she has voluntarily left work without good cause attributable to his or her employing unit or has been discharged by the employing unit for misconduct connected with his or her work, based on a finding by the DEO. Disqualification for voluntarily quitting continues for the full period of unemployment next ensuing after the individual has left his or her full-time, part-time, or temporary work voluntarily without good cause and until the individual has earned income equal to or greater than 17 times his or her weekly benefit amount.

An individual is not disqualified for voluntarily leaving temporary work to immediately return when called to work by the permanent employing unit that temporarily terminated his or her work within the previous 6 calendar months, or for voluntarily leaving work to relocate as a result of his or her military-connected spouse's permanent change of station orders, activation orders, or unit deployment orders.

---

<sup>6</sup> Fla. Admin Code R. 73B-11.013 (2019).

<sup>7</sup> See s. 443.091, F.S., and Fla. Admin. Code R. 73B-11.013.

<sup>8</sup> Section 445.151(3)(a), F.S.

<sup>9</sup> Section 443.111(5), F.S. The maximum amount of benefits available is calculated by multiplying an individual's weekly benefit amount by the number of available benefit weeks.

<sup>10</sup> Section 443.111(3), F.S. Pursuant to s. 443.111(5), F.S., if the average unemployment rate for the 3 months in the most recent third calendar year quarter is at or below 5 percent, then the maximum weeks of benefits available is 12; for each 0.5 percent that the unemployment rate is above 5 percent, an additional week of benefits becomes available for up to 23 weeks at an unemployment rate of 10.5 percent.

<sup>11</sup> The one-stop delivery system is Florida's primary customer service strategy for offering access to job search, referral, and placement assistance; career counseling and educational planning; and other services. Section 445.009, F.S.

<sup>12</sup> Section 443.091(1), F.S.

### ***Financing Reemployment Assistance***

In Florida, RA benefits are financed solely through contributions by employers. Public employers such as the military, counties, and state and federal agencies are generally reimbursable employers, meaning they pay back the exact amount of benefits received by claimants.<sup>13</sup> Private employers are contributory employers and fund the program through a tax on the first \$7,000 of each employee's wages.<sup>14</sup> The calculation for determining each employer's tax rate is statutorily set, and takes into consideration an employer's "experience" (as former employees collect RA benefits, these benefits are charged to the employer), the balance of the Unemployment Compensation Trust Fund, and other factors.<sup>15</sup>

### **Domestic Violence**

Section 741.28, F.S., defines domestic violence as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.

Florida Department of Law Enforcement (FDLE) data indicates that there were a total of 106,979 acts of domestic violence reported in 2017, and 64,781 arrests based on those acts.<sup>16</sup> Currently, Florida has 42 certified domestic violence shelters.<sup>17</sup> In Fiscal Year 2016-2017, the Florida Department of Children and Families reported that a total of 14,412 people were admitted to domestic violence shelters for the first time, while over 37,000 people received non-residential services from a certified shelter.<sup>18</sup>

According to some studies, 96 percent of employed domestic violence victims experience some type of work-related problem due to the violence.<sup>19</sup>

### **III. Effect of Proposed Changes:**

The bill amends s. 443.101, F.S., to provide that an individual may not be disqualified from receiving reemployment assistance if he or she voluntarily leaves work and is able to prove that

<sup>13</sup> Florida Department of Economic Opportunity, *Employer Reemployment Assistance FAQ*, <http://www.floridajobs.org/frequently-asked-questions-directory/faqs> (last visited March 22, 2019).

<sup>14</sup> Section 443.1217(2)(a)2., F.S.

<sup>15</sup> Section 443.131, F.S.

<sup>16</sup> Florida Department of Law Enforcement, *Crime in Florida, Florida uniform crime report (2017)*, [http://www.fdle.state.fl.us/FSAC/Documents/PDF/DV\\_ARR\\_JUR17.aspx](http://www.fdle.state.fl.us/FSAC/Documents/PDF/DV_ARR_JUR17.aspx) (last visited March 22, 2019). The FDLE includes murder, manslaughter, rape, fondling, aggravated assault, aggravated stalking, simple assault, threat/intimidation, and stalking in this data.

<sup>17</sup> Florida Coalition Against Domestic Violence, *2016-2017 Annual Report to the Florida Legislature: 40<sup>th</sup> Anniversary Edition*, <http://www.dcf.state.fl.us/programs/domesticviolence/publications/docs/2017AnnualReport%2021%20DEC%2017.pdf> (last visited March 22, 2019).

<sup>18</sup> Department of Children and Families, *Domestic Violence Annual Report, 7/1/2016 - 6/30/2017*, <http://www.dcf.state.fl.us/programs/domesticviolence/publications/docs/2016-2017%20Annual%20Statistics.pdf> (last visited March 22, 2019).

<sup>19</sup> *Unemployment Insurance and Domestic Violence: Learning from Our Experiences*, Rebecca Smith and Richard W. McHugh, Revised May, 2002, available at <https://www.nelp.org/wp-content/uploads/2015/03/UIDV-Learning-from-our-Experiences.pdf> (last visited March 22, 2019).

the discontinuation of employment is a direct result of circumstances related to domestic violence.

An individual who leaves voluntarily work as a result of domestic violence must:

- Make reasonable efforts to preserve employment or to decrease the risk of future incidents of domestic violence. Such efforts may include seeking a protective injunction, relocating to a secure place, or seeking reasonable accommodation from the employing unit, such as a transfer or change of assignment;
- Provide evidence such as an injunction, a protective order or other documentation authorized by state law which reasonably proves that domestic violence has occurred; and
- Reasonably believe that he or she is likely to be the victim of a future act of domestic violence at, in transit to, or departing from his or her place of employment.

An individual who is otherwise eligible for reemployment assistance under these criteria is ineligible for each week that he or she no longer meets these criteria or refuses a reasonable accommodation offered in good faith by his or her employing unit.

For contributory employers, the employment record of an employing unit may not be charged for the payment of benefits to an individual who has voluntarily left work pursuant to the bill's provisions.

The bill has an effective date of July 1, 2019.

#### **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.

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

None.

**B. Private Sector Impact:**

The bill prohibits charging the employment record of contributory employers for benefits paid pursuant to the bill's provisions.

**C. Government Sector Impact:**

The bill will allow RA benefits to be extended to persons who would previously have been disqualified. The number of persons to whom the bill's provisions would apply is unknown, so the RA benefit costs to reimbursable government employers is unknown, as is the amount of RA benefits that could be paid.

The DEO has indicated that it could absorb within its existing budget any costs that it would incur to implement the changes in the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill substantially amends section 443.101 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.



By Senator Gibson

6-01404A-19

2019990\_\_

A bill to be entitled

An act relating to unemployment compensation; amending s. 443.101, F.S.; making editorial changes; prohibiting certain victims of domestic violence from being disqualified for benefits for voluntarily leaving work; prohibiting the employment record of an employing unit from being charged in certain circumstances; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) of section 443.101, Florida Statutes, is amended to read:

443.101 Disqualification for benefits.—An individual shall be disqualified for benefits:

(1) (a) For the week in which he or she has voluntarily left work without good cause attributable to his or her employing unit or for the week in which he or she has been discharged by the employing unit for misconduct connected with his or her work, based on a finding by the Department of Economic Opportunity. As used in this paragraph, the term "work" means any work, whether full-time, part-time, or temporary.

1. Disqualification for voluntarily quitting continues for the full period of unemployment next ensuing after the individual has left his or her full-time, part-time, or temporary work voluntarily without good cause and until the individual has earned income equal to or greater than 17 times his or her weekly benefit amount. As used in this subsection, the term "good cause" includes only that cause attributable to

Page 1 of 4

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

6-01404A-19

2019990\_\_

the employing unit which would compel a reasonable employee to cease working or attributable to the individual's illness or disability requiring separation from his or her work. Additional disqualifications ~~Any other disqualification~~ may not be imposed.

2. An individual is not disqualified under this subsection for:

a. Voluntarily leaving temporary work to return immediately when called to work by the permanent employing unit that temporarily terminated his or her work within the previous 6 calendar months;

b. ~~or for~~ Voluntarily leaving work to relocate as a result of his or her military-connected spouse's permanent change of station orders, activation orders, or unit deployment orders; or

c. Voluntarily leaving work if he or she proves that his or her discontinued employment is a direct result of circumstances related to domestic violence as defined in s. 741.28. An individual who voluntarily leaves work under this subparagraph must:

(I) Make reasonable efforts to preserve employment or to decrease the risk of future incidents of domestic violence. Such efforts may include seeking a protective injunction, relocating to a secure place, or seeking reasonable accommodation from the employing unit, such as a transfer or change of assignment;

(II) Provide evidence such as an injunction, a protective order, or other documentation authorized by state law which reasonably proves that domestic violence has occurred; and

(III) Reasonably believe that he or she is likely to be the victim of a future act of domestic violence at, in transit to,

Page 2 of 4

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

6-01404A-19 2019990\_\_  
 59 or departing from his or her place of employment. An individual  
 60 who is otherwise eligible for benefits under this sub-  
 61 subparagraph is ineligible for each week that he or she no  
 62 longer meets such criteria or refuses a reasonable accommodation  
 63 offered in good faith by his or her employing unit.

64 3. The employment record of an employing unit may not be  
 65 charged for the payment of benefits to an individual who has  
 66 voluntarily left work under this paragraph.

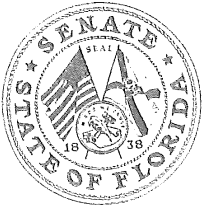
67 ~~4.2-~~ Disqualification for being discharged for misconduct  
 68 connected with his or her work continues for the full period of  
 69 unemployment next ensuing after having been discharged and until  
 70 the individual is reemployed and has earned income of at least  
 71 17 times his or her weekly benefit amount and for not more than  
 72 52 weeks immediately following that week, as determined by the  
 73 department in each case according to the circumstances or the  
 74 seriousness of the misconduct, under the department's rules  
 75 ~~adopted for determining determinations of~~ disqualification for  
 76 benefits for misconduct.

77 ~~5.3-~~ If an individual has provided notification to the  
 78 employing unit of his or her intent to voluntarily leave work  
 79 and the employing unit discharges the individual for reasons  
 80 other than misconduct before the date the voluntary quit was to  
 81 take effect, the individual, if otherwise entitled, shall  
 82 receive benefits from the date of the employer's discharge until  
 83 the effective date of his or her voluntary quit.

84 ~~6.4-~~ If an individual is notified by the employing unit of  
 85 the employer's intent to discharge the individual for reasons  
 86 other than misconduct and the individual quits without good  
 87 cause before the date the discharge was to take effect, the

6-01404A-19 2019990\_\_  
 88 claimant is ineligible for benefits pursuant to s. 443.091(1)(d)  
 89 for failing to be available for work for the week or weeks of  
 90 unemployment occurring before the effective date of the  
 91 discharge.

92 Section 2. This act shall take effect July 1, 2019.



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Rules, *Vice Chair*  
Appropriations  
Innovation, Industry, and Technology  
Judiciary

**JOINT COMMITTEE:**  
Joint Legislative Budget Commission

**SENATOR AUDREY GIBSON**  
*Minority Leader*  
6th District

February 25, 2019

Senator Joe Gruters, Chair  
Committee on Commerce and Tourism  
310 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Chair Gruters:

I respectfully request that SB 990, relating to unemployment compensation for victims of domestic violence, be placed on the next committee agenda.

SB 990, prohibits certain victims of domestic violence from being disqualified for benefits if he or she proves that his or her discontinued employment is a direct result of circumstances related to domestic violence.

Thank you for your time and consideration.

Sincerely,

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

Audrey Gibson  
State Senator  
District 6

101 East Union Street, Suite 104, Jacksonville, Florida 32202 (904) 359-2553  
200 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

**BILL GALVANO**  
President of the Senate

**DAVID SIMMONS**  
President Pro Tempore

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/25/19  
Meeting Date

990  
Bill Number (if applicable)

Topic UNEMPLOYMENT COMPENSATION

Amendment Barcode (if applicable)

Name JASMIN ROGERS-SHAW

Job Title POLICY DIRECTOR

Address 745 NW 54 ST  
Street

Phone 954 261 1380

MIAMI FL 33127  
City State Zip

Email JASMIN@THEWORKERS  
CENTER.ORG

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing MIAMI WORKERS CENTER

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/25/19

Meeting Date

990

Bill Number (if applicable)

Topic Unemployment Comp

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Exec. Director

Address 579 E. Call St.

Phone 850-321-9386

Street

Tallahassee FL 32301

Email fcfe@unfl.edu

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [x] In Support [ ] Against (The Chair will read this information into the record.)

Representing FL Center for Fiscal & Economic Policy

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-25-19

Meeting Date

990

Bill Number (if applicable)

Topic Unemployment Compensation

Amendment Barcode (if applicable)

Name Barbara Devane

Job Title Ms

Address 625 E. Brevard St

Phone 251-4282

Tallahassee FL 32308  
City State Zip

Email barbadevane1@yahoo.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FL NOW

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/25/19

Meeting Date

990

Bill Number (if applicable)

Topic Unemployment Compensation

Amendment Barcode (if applicable)

Name CHARO VALERO

Job Title STATE POLICY DIRECTOR

Address 1951 NW 7 AVE

Phone 786 442 8199

Street

City MIAMI State FL Zip 33136

Email CHARO@LATINA INSTITUTE ORG

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [X] In Support [ ] Against (The Chair will read this information into the record.)

Representing FL LATINA ADVOCACY NETWORK

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

**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 1692

INTRODUCER: Senator Rodriguez

SUBJECT: Corporate Income Tax

DATE: March 22, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McKay	CM	<b>Unfavorable</b>
2.	_____	_____	FT	_____
3.	_____	_____	AP	_____

---

**I. Summary:**

SB 1692 requires all members of a unitary business (water's edge group) to file a combined corporate income tax return and to allocate income to Florida using a single apportionment computation. The water's edge group is required to file a domestic disclosure spreadsheet disclosing the income reported to each state, the state tax liability, and the method used to apportion or allocate income to each state. The bill also specifies transition rules.

The bill provides that funds recaptured by operation of the bill's provisions must be appropriated in the General Appropriations Act to various school districts to reduce required local effort.

The Revenue Estimating Conference has not yet estimated the fiscal impact of this bill.

The Department of Revenue estimates that implementation of this bill would require expenditures of \$88,500 in Fiscal Year 2019-2020, and \$27,950 in Fiscal Year 2020-2021.

The bill provides an effective date of July 1, 2019.

**II. Present Situation:**

**Florida's Current Corporate Income Tax System**

Florida levies a tax on all corporations, organizations, associations and other artificial entities that have attributes not inherent to natural persons, such as perpetual life, and that derive income from the state. The tax is levied on the privilege and measured by net income at the rate of 5.5 percent on net income derived from the state.<sup>1</sup>

---

<sup>1</sup> Section 220.11, F.S.



Florida does not require commonly controlled corporations engaged in a unitary business to compute their state taxable income on a combined basis. Corporations that are members of an affiliated group have the choice of filing on a separate entity basis or as a consolidated group. To file on a consolidated basis, the parent company of an affiliated group subject to Florida tax must consolidate its taxable income with each member of the group. Each member must consent to consolidation. The group must have filed a consolidated federal return for the year. The group must be composed of the same members as those filing the federal return and each member must apportion its income in the same manner.<sup>2</sup>

Florida adopts the federal definition of taxable income.<sup>3</sup> A taxpayer's net income is its adjusted federal income, or the share of its adjusted federal income for the year that is apportioned to Florida, plus non-business income allocated to Florida, less the \$50,000 exemption of net income.<sup>4</sup>

State income taxation of a multistate business conducted in corporate form is primarily restricted by the Commerce Clause and the Due Process Clause of the U.S. Constitution. The former delegates the power to regulate commerce among the states to the federal government. The restraint it provides flows primarily from the negative implications of the clause, allowing only the federal government to regulate said commerce. Congress, through Public Law 86-272, has exercised its authority in this regard and has prevented states from imposing tax liability for activities considered nominal, such as solicitation.

The Due Process Clause prohibits states from reaching beyond their borders to impose tax. States are afforded significant latitude in taxing the income of multistate businesses. However, a state may not tax income wholly attributable to another jurisdiction, even on an apportioned basis.<sup>5</sup> Many states, including Florida, recognize this constraint by permitting the allocation of income. Florida subtracts non-business income from adjusted federal income.<sup>6</sup>

After allocation, corporations that conduct business both in Florida and outside the state apportion their business income among those states. Each state provides its own formula to apportion income. Florida generally uses a three factor formula apportionment consisting of a sales factor representing 50 percent, payroll at 25 percent and property at 25 percent.<sup>7</sup> There are special formulary apportionment rules for specific industries.<sup>8</sup>

Section 220.15(5), F.S., defines the sales factor. The numerator of the sales factor is the total sales of the taxpayer in Florida during the taxable year and the denominator is the total sales of the taxpayer everywhere during that time. All sales everywhere are included in the denominator of the sales factor. The receipt from a sale of tangible property is sourced to the state where it is delivered. If delivery is to Florida, the receipt is added to the numerator and denominator of the sales factor for apportionment purposes. Section 220.15(5), F.S., does not specifically address

---

<sup>2</sup> Section 220.131, F.S.

<sup>3</sup> Section 220.12, F.S.

<sup>4</sup> Section 220.14, F.S.

<sup>5</sup> *Allied Signal, Inc. v. Director*, 504 U.S. 768 (1992).

<sup>6</sup> Section 220.13(1)(b)(4), F.S..

<sup>7</sup> Section 220.15(1), F.S.

<sup>8</sup> Section 220.151, F.S.

the sourcing of the sale of a service. The sale of a service is either apportioned to the state in which the customer is located, or the state to which the majority of the income producing activity (also known as cost of performance) can be attributed. The Department of Revenue adopted a rule in the 1970's generally sourcing sales of services based on the income producing activity. A cost of performance basis may be used for the sourcing of some services.

Under federal law, multiple-entity groups that share 80 percent ownership can elect to file a single consolidated federal income tax return for the group. Multiple-entity groups currently may file separate corporate tax returns for each corporation doing business in Florida, or may file a consolidated return for all of their group's income.<sup>9</sup> Both separate and consolidated returns presently allow certain transfers to pass through entities that may have the effect of reducing Florida net income.

Consistent with and bounded by the Due Process Clause, a state may determine that affiliated companies operate as a single business with income subject to a single apportionment factor.<sup>10</sup> This is referred to as the unitary business principle. This principle has been adopted by several states that determined that separate accounting did not accurately measure contributions to income resulting from the group's functional integration, centralization of management, and economies of scale.<sup>11</sup>

### III. Effect of Proposed Changes:

This bill mandates combined reporting for the state's corporate income tax. Corporations that are members of a "water's edge group" are required to file a return combining income from those entities, and apportion the combined income to Florida based upon a statutory formula. The current statutory provisions allowing consolidated returns are replaced with provisions defining and mandating water's edge group reporting.

**Section 1** amends s. 220.03, F.S., to change or include the following definitions:

- "Taxpayer" is redefined to replace a reference to consolidated returns with a reference to members of a water's edge group, consistent with the changes in section 5 of the bill;
- "Tax haven" is defined as a jurisdiction which has been identified as a tax haven or as having a harmful preferential tax regime by the Organization for Economic Cooperation and Development (OECD),<sup>12</sup> or meets specified criteria; and
- "Tax regime" means a set or system of rules, laws, regulations, or practices by which taxes are imposed on any person, corporation, or entity or on any income, property, incident, indicia, or activity pursuant to government authority.

---

<sup>9</sup> Section 220.131, F.S.

<sup>10</sup> See *Mobil Oil Corp. v. Comm'r of Taxes of Vt.*, 445 U.S. 425 (1980).

<sup>11</sup> *Exxon Corp. v. Department of Revenue*, 447 U.S. 207 (1980).

<sup>12</sup> The OECD is an international organization of 36 countries dedicated to economic development. It has identified 53 preferential tax regimes. See OECD releases latest results on preferential regimes and moves to strengthen the level playing field with zero tax jurisdictions, available at: <http://www.oecd.org/tax/beps/oecd-releases-latest-results-on-preferential-regimes-and-moves-to-strengthen-the-level-playing-field-with-zero-tax-jurisdictions.htm>, (last visited March 22, 2019).

- “Water’s edge group” means a group of corporations related through common ownership whose business activities are integrated with, dependent upon, or contribute to a flow of value among the members. (Membership requirements are specified in section 4 of the bill.)

**Section 2** amends s. 220.13, F.S., to restrict deductions used to calculate adjusted federal income and to include the taxable income of one or more taxpayers which constitute a water’s edge group. A deduction is not allowed to water’s edge groups for net operating losses, net capital losses, or excess contribution deductions under the federal tax code for a member of a water’s edge group that is not a United States member. In addition, carryovers of net operating losses, net capital losses, or excess contributions may be subtracted only by the member of the water’s edge group that generates the carryover. Dividends received by a member of a water’s edge group for dividends paid by another member of the water’s edge group are subtracted from taxable income to the extent they had been included in taxable income.

**Section 3** repeals s. 220.131, F.S., which defines adjusted federal income for affiliated groups and authorizes the filing of a consolidated return. This type of return is replaced by the return required for a water’s edge group.

**Section 4** creates s. 220.136, F.S., to define membership in a water’s edge group.

A corporation with 50 percent or more of its outstanding voting stock directly or indirectly owned or controlled by a water’s edge group is presumed to be a member of the group.<sup>13</sup> A corporation having less than 50 percent of its outstanding voting stock directly or indirectly controlled by a water’s edge group is a member of the group if the businesses activities of the corporation show that the corporation is a member of the group. Ownership and control of voting stock is determined under federal law. All income of members of a water’s edge group is presumed to be unitary.

Excluded from water’s edge groups are corporations that conduct business outside the United States and have 80 percent or more of their property and payroll assignable to locations outside the United States. Those corporations do not use combined water’s edge reporting, and instead will file separate Florida income tax returns, avoiding the water’s edge reporting requirements. This exclusion does not apply to foreign corporations incorporated in a “tax haven” as defined by the bill.

**Section 5** creates s. 220.1363, F.S., describing special reporting requirements for water’s edge groups to determine the amount of group income apportionable to Florida. Income of the members is apportioned to Florida as a single tax payer based on three-factor apportionment of property, payroll, and sales. Under the water’s edge reporting method:

- The adjusted federal income for purposes of s. 220.12, F.S., (net income defined), means the sum of adjusted federal income for all members of the group determined for a concurrent taxable year;
- The numerators and denominators of the apportionment factors are calculated for all members of the water’s edge group combined;

---

<sup>13</sup> Compared to the 80 percent common ownership necessary to file a consolidated return.

- Intercompany sales transactions are not included in the sales factor;<sup>14</sup>
- The net proceeds for sales of intangibles made to entities outside the group are included in the sales factor;
- Sales that are not allocated or apportioned to any taxing jurisdiction (“nowhere sales”) are not included in the sales factor; and
- The income attributable to the Florida activities of a corporation exempt from taxation under federal law is excluded, even if another member of the water’s edge group has nexus with Florida and is subject to tax.

If a parent corporation is a member of the water’s edge group and has nexus with this state, a single water’s edge group return must be filed in the name and under the federal employer identification number of the parent corporation.

If members of a water’s edge group have different taxable years, the taxable year of a majority of the members of the water’s edge group is the taxable year of the water’s edge group.

A water’s edge group must file a computation schedule that:

- Combines the federal income of all members of the water’s edge group;
- Shows all intercompany eliminations;
- Shows Florida additions and subtractions under s. 220.13, F.S.; and
- Shows the calculation of the combined apportionment factors.

Additionally, the group is required to file a domestic disclosure spreadsheet, which discloses the income reported to each state, the state tax liability, the method used to apportion or allocate income to each state, and other information provided for by rule as may be necessary to determine the proper amount of tax due to each state and to identify the water’s edge group.

**Section 6** amends s. 220.14, F.S., to replace a reference to consolidated returns with members of a water’s edge group, consistent with the changes in section 4 of the bill.

**Section 7** repeals parts of s. 220.15, F.S., to remove the ability of a member of an affiliated group to have amounts from another member of the group be included in gross income only to the extent that the amount exceeds directly related expenses of the recipient.

**Sections 8-14** amend ss. 220.183, 220.1845, 220.1875, 220.191, 220.192, 220.193, and 220.51, F.S., respectively, to remove references to consolidated returns, which are repealed in section 3 of the bill. Specifically:

- Section 220.183, F.S., is amended to remove the authorization for taxpayers who file a Florida consolidated return as a member of an affiliated group to be allowed the community contribution tax credit on a consolidated return basis;

---

<sup>14</sup> The treatment of these intercompany transfers is another principal difference between tax treatment under water’s edge group combined reporting and the current consolidated reporting.

- Section 220.1845, F.S., is amended to delete the authorization for taxpayers who file a consolidated return as a member of an affiliated group to receive the contaminated site rehabilitation tax credit up to the amount of tax imposed on the consolidated group;
- Section 220.1875, F.S., is amended to deny credits for contributions to non-profit scholarship-funding organizations on Florida consolidated returns;
- Section 220.191, F.S., is amended to remove the capital investment tax credit for consolidated groups;
- Sections 220.192 and 220.193, F.S., are amended to delete the renewable energy technologies investment tax credit and the renewable energy production credit on consolidated returns; and
- Section 220.51, F.S., is amended to delete rule-making authority relating to consolidated reporting for affiliated groups.

**Section 15** amends s. 220.64, F.S., which pertains to special rules relating to taxation of banks and savings associations, to replace references to consolidated returns with water's edge provisions.

**Section 16** amends s. 288.1254, F.S., to remove the entertainment industry tax credit on Florida consolidated returns.

**Section 17** amends s. 376.30781, F.S., to correct a cross reference to s. 220.1845, F.S.

**Section 18** creates transitional rules. For the first taxable year beginning on or after January 1, 2020, a taxpayer that previously filed a separate Florida return and is part of a water's edge group must compute its income together with all members of the water's edge group and file a combined corporate tax return with all members of the water's edge group. An affiliated group of corporations that previously filed Florida consolidated returns are prohibited from filing consolidated returns for taxable years beginning January 1, 2020, and must file a combined corporate tax return with all members of the water's edge group. An affiliated group of corporations which filed a Florida consolidated corporate income tax return pursuant to an election in s. 220.131(1), F.S., must cease filing a Florida consolidated corporate income tax return using that method for taxable years beginning on or after January 1, 2020, and must file a combined Florida corporate income tax return with all members of its water's edge group. For taxable years beginning on or after January 1, 2020, a tax return for a member of a water's edge group must be a combined Florida corporate income tax return that includes tax information for all members of the water's edge group, filed by a member that has a nexus with this state.

**Section 19** provides that funds recaptured pursuant to the provisions of this bill must be appropriated in the General Appropriations Act to the various school districts to reduce the required local effort millage.

**Section 20** provides that the bill takes effect July 1, 2019.

**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.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet estimated the fiscal impact of this bill.

## B. Private Sector Impact:

This bill could increase tax burdens on corporate groups to the extent that they will have to report income that is currently untaxed.

## C. Government Sector Impact:

The bill provides that funds recaptured pursuant to this bill “must be appropriated” in the General Appropriations Act to various school districts to reduce required local effort.

The Department of Revenue estimates that implementation of this bill would require expenditures of \$88,500 in Fiscal Year 2019-2020, and \$27,950 in Fiscal Year 2020-2021.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The term “special industry corporation” is not defined in the bill, or in the Florida Statutes.

Lines 602-607 of the bill delegate permissive rulemaking authority to the department, but also provide legislative intent to grant the department “extensive authority” to adopt rules, and specifies topics the rules should encompass. If the legislature wants to ensure the department adopts rules the “may” on line 602 should be “shall.” Further, under the nondelegation doctrine, the legislature “may not delegate the power to enact a law or the right to exercise unrestricted discretion in applying the law,”<sup>15</sup> and the nondelegation doctrine precludes the legislature from delegating its powers “absent ascertainable minimal standards and guidelines.”<sup>16</sup>

### **VIII. Statutes Affected:**

This bill substantially amends sections 220.03, 220.13, 220.14, 220.15, 220.183, 220.1845, 220.1875, 220.191, 220.192, 220.193, 220.51, 220.64, 288.1254, and 376.30781 of the Florida Statutes.

The bill creates sections 220.136 and 220.1363 of the Florida Statutes.

The bill repeals section 220.131 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.

---

<sup>15</sup> *Sloban v. Florida Board of Pharmacy*, 982 So.2d 26, 29 (Fla. 1st DCA 2008) (citing *Sims v. State*, 754 So.2d 657, 668 (2000)).

<sup>16</sup> *Sloban v. Florida Board of Pharmacy*, 982 So.2d 26, 30 (Fla. 1st DCA 2008) (citing *Dep’t of Bus. Reg., Div. of Alcoholic Beverages; Tobacco v. Jones*, 474 So.2d 359, 361 (Fla. 1st DCA 1985)).

By Senator Rodriguez

37-00912B-19

20191692\_\_

1 A bill to be entitled  
 2 An act relating to the corporate income tax; amending  
 3 s. 220.03, F.S.; revising the definition of the term  
 4 "taxpayer"; defining terms; amending s. 220.13, F.S.;  
 5 revising the definition of the term "adjusted federal  
 6 income" to prohibit specified deductions, to limit  
 7 certain carryovers, and to require subtractions of  
 8 certain dividends paid and received within a water's  
 9 edge group for the purpose of determining subtractions  
 10 from taxable income; conforming provisions to changes  
 11 made by the act; repealing s. 220.131, F.S., relating  
 12 to the adjusted federal income of affiliated groups;  
 13 creating s. 220.136, F.S.; specifying circumstances  
 14 under which a corporation is presumed to be, deemed to  
 15 be, or deemed not to be a member of a water's edge  
 16 group; providing construction; defining the term  
 17 "United States"; creating s. 220.1363, F.S.; defining  
 18 the term "water's edge reporting method"; specifying  
 19 requirements for, limitations on, and prohibitions in  
 20 calculating and reporting income in a water's edge  
 21 group return; requiring all members of a water's edge  
 22 group to use the water's edge reporting method;  
 23 defining the term "sale"; specifying requirements for  
 24 designating the filing member and the taxable year of  
 25 the water's edge group; specifying income reporting  
 26 requirements for certain members of the water's edge  
 27 group; requiring that a water's edge group return  
 28 include a specified computational schedule and  
 29 domestic disclosure spreadsheet; authorizing the

Page 1 of 34

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

37-00912B-19

20191692\_\_

30 Department of Revenue to adopt rules; providing  
 31 legislative intent regarding the adoption of rules;  
 32 amending s. 220.14, F.S.; revising the calculation for  
 33 prorating a certain corporate income tax exemption to  
 34 reflect leap years; conforming a provision to changes  
 35 made by the act; amending ss. 220.15, 220.183,  
 36 220.1845, 220.1875, 220.191, 220.192, 220.193, and  
 37 220.51, F.S.; conforming provisions to changes made by  
 38 the act; amending s. 220.64, F.S.; providing  
 39 applicability of water's edge group provisions to the  
 40 franchise tax; conforming provisions to changes made  
 41 by the act; amending ss. 288.1254 and 376.30781, F.S.;  
 42 conforming provisions to changes made by the act;  
 43 specifying, beginning on a specified date,  
 44 requirements for corporate tax return filings for  
 45 certain taxpayers; requiring that recaptured funds be  
 46 appropriated for a certain purpose; providing an  
 47 effective date.

48  
 49 WHEREAS, the Legislature finds that the separate accounting  
 50 system used to measure the income of multistate and  
 51 multinational corporations for tax purposes often places Florida  
 52 corporations at a competitive disadvantage and, moreover, that  
 53 corporate business is increasingly conducted through groups of  
 54 commonly owned corporations, and

55 WHEREAS, the Legislature intends to more accurately measure  
 56 the business activities of corporations by adopting a combined  
 57 system of income tax reporting, NOW, THEREFORE,

58

Page 2 of 34

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



37-00912B-19

20191692\_\_

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

60  
61 Section 1. Paragraph (z) of subsection (1) of section  
62 220.03, Florida Statutes, is amended, and paragraphs (gg), (hh),  
63 and (ii) are added to that subsection, to read:

64 220.03 Definitions.—

65 (1) SPECIFIC TERMS.—When used in this code, and when not  
66 otherwise distinctly expressed or manifestly incompatible with  
67 the intent thereof, the following terms shall have the following  
68 meanings:

69 (z) "Taxpayer" means any corporation subject to the tax  
70 imposed by this code, and includes all corporations that are  
71 members of a water's edge group for which a consolidated return  
72 is filed under s. 220.131. However, the term "taxpayer" does not  
73 include a corporation having no individuals, ~~(including~~  
74 ~~individuals employed by an affiliate,)~~ receiving compensation in  
75 this state as defined in s. 220.15 when the only property owned  
76 or leased by ~~the said~~ corporation, ~~(including an affiliate,)~~ in  
77 this state is located at the premises of a printer with which it  
78 has contracted for printing, if such property consists of the  
79 final printed product, property which becomes a part of the  
80 final printed product, or property from which the printed  
81 product is produced.

82 (gg) "Tax haven" means a jurisdiction to which any of the  
83 following apply for a particular taxable year:

84 1. It is identified by the Organization for Economic Co-  
85 operation and Development as a tax haven or as having harmful  
86 tax practices or a preferential tax regime.

87 2. It is a jurisdiction that does not impose any, or

37-00912B-19

20191692\_\_

88 imposes only a nominal, effective tax on relevant income.

89 3. It has laws or practices that prevent the effective  
90 exchange of information with other governments for tax purposes,  
91 regarding taxpayers who are subject to, or are benefiting from,  
92 the tax regime.

93 4. It lacks transparency. For purposes of this  
94 subparagraph, a tax regime lacks transparency if the details of  
95 legislative, legal, or administrative requirements are not open  
96 to public scrutiny and apparent or are not consistently applied  
97 among similarly situated taxpayers.

98 5. It facilitates the establishment of foreign-owned  
99 entities without the need for a local substantive presence or  
100 prohibits the entities from having any commercial impact on the  
101 local economy.

102 6. It explicitly or implicitly excludes the jurisdiction's  
103 resident taxpayers from taking advantage of the tax regime's  
104 benefits or prohibits enterprises that benefit from the regime  
105 from operating in the jurisdiction's domestic market.

106 7. It has created a tax regime that is favorable for tax  
107 avoidance based on an overall assessment of relevant factors,  
108 including whether the jurisdiction has a significant untaxed  
109 offshore financial or other services sector relative to its  
110 overall economy.

111 (hh) "Tax regime" means a set or system of rules, laws,  
112 regulations, or practices by which taxes are imposed on any  
113 person, corporation, or entity or on any income, property,  
114 incident, indicia, or activity pursuant to government authority.

115 (ii) "Water's edge group" means a group of corporations  
116 related through common ownership whose business activities are

37-00912B-19

20191692\_\_

117 integrated with, dependent upon, or contribute to a flow of  
 118 value among members of the group.

119 Section 2. Section 220.13, Florida Statutes, is amended to  
 120 read:

121 220.13 "Adjusted federal income" defined.—

122 (1) The term "adjusted federal income" means an amount  
 123 equal to the taxpayer's taxable income as defined in subsection  
 124 (2), or such taxable income of a water's edge group ~~more than~~  
 125 ~~one taxpayer~~ as provided in s. 220.1363 ~~s. 220.131~~, for the  
 126 taxable year, adjusted as follows:

127 (a) *Additions.*—There shall be added to such taxable income:

128 1.a. The amount of any tax upon or measured by income,  
 129 excluding taxes based on gross receipts or revenues, paid or  
 130 accrued as a liability to the District of Columbia or any state  
 131 of the United States which is deductible from gross income in  
 132 the computation of taxable income for the taxable year.

133 b. Notwithstanding sub-subparagraph a., if a credit taken  
 134 under s. 220.1875 is added to taxable income in a previous  
 135 taxable year under subparagraph 11. and is taken as a deduction  
 136 for federal tax purposes in the current taxable year, the amount  
 137 of the deduction allowed shall not be added to taxable income in  
 138 the current year. The exception in this sub-subparagraph is  
 139 intended to ensure that the credit under s. 220.1875 is added in  
 140 the applicable taxable year and does not result in a duplicate  
 141 addition in a subsequent year.

142 2. The amount of interest which is excluded from taxable  
 143 income under s. 103(a) of the Internal Revenue Code or any other  
 144 federal law, less the associated expenses disallowed in the  
 145 computation of taxable income under s. 265 of the Internal

37-00912B-19

20191692\_\_

146 Revenue Code or any other law, excluding 60 percent of any  
 147 amounts included in alternative minimum taxable income, as  
 148 defined in s. 55(b)(2) of the Internal Revenue Code, if the  
 149 taxpayer pays tax under s. 220.11(3).

150 3. In the case of a regulated investment company or real  
 151 estate investment trust, an amount equal to the excess of the  
 152 net long-term capital gain for the taxable year over the amount  
 153 of the capital gain dividends attributable to the taxable year.

154 4. That portion of the wages or salaries paid or incurred  
 155 for the taxable year which is equal to the amount of the credit  
 156 allowable for the taxable year under s. 220.181. This  
 157 subparagraph shall expire on the date specified in s. 290.016  
 158 for the expiration of the Florida Enterprise Zone Act.

159 5. That portion of the ad valorem school taxes paid or  
 160 incurred for the taxable year which is equal to the amount of  
 161 the credit allowable for the taxable year under s. 220.182. This  
 162 subparagraph shall expire on the date specified in s. 290.016  
 163 for the expiration of the Florida Enterprise Zone Act.

164 6. The amount taken as a credit under s. 220.195 which is  
 165 deductible from gross income in the computation of taxable  
 166 income for the taxable year.

167 7. That portion of assessments to fund a guaranty  
 168 association incurred for the taxable year which is equal to the  
 169 amount of the credit allowable for the taxable year.

170 8. In the case of a nonprofit corporation which holds a  
 171 pari-mutuel permit and which is exempt from federal income tax  
 172 as a farmers' cooperative, an amount equal to the excess of the  
 173 gross income attributable to the pari-mutuel operations over the  
 174 attributable expenses for the taxable year.

37-00912B-19

20191692\_\_

175 9. The amount taken as a credit for the taxable year under  
 176 s. 220.1895.

177 10. Up to nine percent of the eligible basis of any  
 178 designated project which is equal to the credit allowable for  
 179 the taxable year under s. 220.185.

180 11. The amount taken as a credit for the taxable year under  
 181 s. 220.1875. The addition in this subparagraph is intended to  
 182 ensure that the same amount is not allowed for the tax purposes  
 183 of this state as both a deduction from income and a credit  
 184 against the tax. This addition is not intended to result in  
 185 adding the same expense back to income more than once.

186 12. The amount taken as a credit for the taxable year under  
 187 s. 220.192.

188 13. The amount taken as a credit for the taxable year under  
 189 s. 220.193.

190 14. Any portion of a qualified investment, as defined in s.  
 191 288.9913, which is claimed as a deduction by the taxpayer and  
 192 taken as a credit against income tax pursuant to s. 288.9916.

193 15. The costs to acquire a tax credit pursuant to s.  
 194 288.1254(5) that are deducted from or otherwise reduce federal  
 195 taxable income for the taxable year.

196 16. The amount taken as a credit for the taxable year  
 197 pursuant to s. 220.194.

198 17. The amount taken as a credit for the taxable year under  
 199 s. 220.196. The addition in this subparagraph is intended to  
 200 ensure that the same amount is not allowed for the tax purposes  
 201 of this state as both a deduction from income and a credit  
 202 against the tax. The addition is not intended to result in  
 203 adding the same expense back to income more than once.

Page 7 of 34

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

37-00912B-19

20191692\_\_

204 (b) ~~Subtractions.~~—

205 1. There shall be subtracted from such taxable income:

206 a. The net operating loss deduction allowable for federal  
 207 income tax purposes under s. 172 of the Internal Revenue Code  
 208 for the taxable year, except that any net operating loss that is  
 209 transferred pursuant to s. 220.194(6) may not be deducted by the  
 210 seller,

211 b. The net capital loss allowable for federal income tax  
 212 purposes under s. 1212 of the Internal Revenue Code for the  
 213 taxable year,

214 c. The excess charitable contribution deduction allowable  
 215 for federal income tax purposes under s. 170(d)(2) of the  
 216 Internal Revenue Code for the taxable year, and

217 d. The excess contributions deductions allowable for  
 218 federal income tax purposes under s. 404 of the Internal Revenue  
 219 Code for the taxable year.

220

221 However, a net operating loss and a capital loss shall never be  
 222 carried back as a deduction to a prior taxable year, but all  
 223 deductions attributable to such losses shall be deemed net  
 224 operating loss carryovers and capital loss carryovers,  
 225 respectively, and treated in the same manner, to the same  
 226 extent, and for the same time periods as are prescribed for such  
 227 carryovers in ss. 172 and 1212, respectively, of the Internal  
 228 Revenue Code. A deduction is not allowed for net operating  
 229 losses, net capital losses, or excess contribution deductions  
 230 under 26 U.S.C. ss. 170(d)(2), 172, 1212, and 404 for a member  
 231 of a water's edge group which is not a United States member.  
 232 Carryovers of net operating losses, net capital losses, or

Page 8 of 34

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

37-00912B-19 20191692\_\_

233 excess contribution deductions under 26 U.S.C. ss. 170(d)(2),  
 234 172, 1212, and 404 may be subtracted only by the member of the  
 235 water's edge group which generates a carryover.

236 2. There shall be subtracted from such taxable income any  
 237 amount to the extent included therein the following:

238 a. Dividends treated as received from sources without the  
 239 United States, as determined under s. 862 of the Internal  
 240 Revenue Code.

241 b. All amounts included in taxable income under s. 78 or s.  
 242 951 of the Internal Revenue Code.

243

244 However, as to any amount subtracted under this subparagraph,  
 245 there shall be added to such taxable income all expenses  
 246 deducted on the taxpayer's return for the taxable year which are  
 247 attributable, directly or indirectly, to such subtracted amount.  
 248 Further, no amount shall be subtracted with respect to dividends  
 249 paid or deemed paid by a Domestic International Sales  
 250 Corporation.

251 3. Amounts received by a member of a water's edge group as  
 252 dividends paid by another member of the water's edge group must  
 253 be subtracted from the taxable income to the extent that the  
 254 dividends are included in the taxable income.

255 4.3- In computing "adjusted federal income" for taxable  
 256 years beginning after December 31, 1976, there shall be allowed  
 257 as a deduction the amount of wages and salaries paid or incurred  
 258 within this state for the taxable year for which no deduction is  
 259 allowed pursuant to s. 280C(a) of the Internal Revenue Code  
 260 (relating to credit for employment of certain new employees).

261 5.4- There shall be subtracted from such taxable income any

37-00912B-19 20191692\_\_

262 amount of nonbusiness income included therein.

263 6.5- There shall be subtracted any amount of taxes of  
 264 foreign countries allowable as credits for taxable years  
 265 beginning on or after September 1, 1985, under s. 901 of the  
 266 Internal Revenue Code to any corporation which derived less than  
 267 20 percent of its gross income or loss for its taxable year  
 268 ended in 1984 from sources within the United States, as  
 269 described in s. 861(a)(2)(A) of the Internal Revenue Code, not  
 270 including credits allowed under ss. 902 and 960 of the Internal  
 271 Revenue Code, withholding taxes on dividends within the meaning  
 272 of sub-subparagraph 2.a., and withholding taxes on royalties,  
 273 interest, technical service fees, and capital gains.

274 7.6- Notwithstanding any other provision of this code,  
 275 except with respect to amounts subtracted pursuant to  
 276 subparagraphs 1. and 4.3-, any increment of any apportionment  
 277 factor which is directly related to an increment of gross  
 278 receipts or income which is deducted, subtracted, or otherwise  
 279 excluded in determining adjusted federal income shall be  
 280 excluded from both the numerator and denominator of such  
 281 apportionment factor. Further, all valuations made for  
 282 apportionment factor purposes shall be made on a basis  
 283 consistent with the taxpayer's method of accounting for federal  
 284 income tax purposes.

285 (c) *Installment sales occurring after October 19, 1980.-*

286 1. In the case of any disposition made after October 19,  
 287 1980, the income from an installment sale shall be taken into  
 288 account for the purposes of this code in the same manner that  
 289 such income is taken into account for federal income tax  
 290 purposes.

37-00912B-19

20191692\_\_

291 2. Any taxpayer who regularly sells or otherwise disposes  
 292 of personal property on the installment plan and reports the  
 293 income therefrom on the installment method for federal income  
 294 tax purposes under s. 453(a) of the Internal Revenue Code shall  
 295 report such income in the same manner under this code.

296 (d) *Nonallowable deductions.*—A deduction for net operating  
 297 losses, net capital losses, or excess contributions deductions  
 298 under ss. 170(d)(2), 172, 1212, and 404 of the Internal Revenue  
 299 Code which has been allowed in a prior taxable year for Florida  
 300 tax purposes shall not be allowed for Florida tax purposes,  
 301 notwithstanding the fact that such deduction has not been fully  
 302 utilized for federal tax purposes.

303 (e) *Adjustments related to federal acts.*—Taxpayers shall be  
 304 required to make the adjustments prescribed in this paragraph  
 305 for Florida tax purposes with respect to certain tax benefits  
 306 received pursuant to the Economic Stimulus Act of 2008, the  
 307 American Recovery and Reinvestment Act of 2009, the Small  
 308 Business Jobs Act of 2010, the Tax Relief, Unemployment  
 309 Insurance Reauthorization, and Job Creation Act of 2010, the  
 310 American Taxpayer Relief Act of 2012, the Tax Increase  
 311 Prevention Act of 2014, the Consolidated Appropriations Act,  
 312 2016, and the Tax Cuts and Jobs Act of 2017.

313 1. There shall be added to such taxable income an amount  
 314 equal to 100 percent of any amount deducted for federal income  
 315 tax purposes as bonus depreciation for the taxable year pursuant  
 316 to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as  
 317 amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No.  
 318 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No.  
 319 111-312, s. 331 of Pub. L. No. 112-240, s. 125 of Pub. L. No.

Page 11 of 34

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

37-00912B-19

20191692\_\_

320 113-295, s. 143 of Division Q of Pub. L. No. 114-113, and s.  
 321 13201 of Pub. L. No. 115-97, for property placed in service  
 322 after December 31, 2007, and before January 1, 2027. For the  
 323 taxable year and for each of the 6 subsequent taxable years,  
 324 there shall be subtracted from such taxable income an amount  
 325 equal to one-seventh of the amount by which taxable income was  
 326 increased pursuant to this subparagraph, notwithstanding any  
 327 sale or other disposition of the property that is the subject of  
 328 the adjustments and regardless of whether such property remains  
 329 in service in the hands of the taxpayer.

330 2. There shall be added to such taxable income an amount  
 331 equal to 100 percent of any amount in excess of \$128,000  
 332 deducted for federal income tax purposes for the taxable year  
 333 pursuant to s. 179 of the Internal Revenue Code of 1986, as  
 334 amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No.  
 335 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No.  
 336 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L.  
 337 No. 113-295, for taxable years beginning after December 31,  
 338 2007, and before January 1, 2015. For the taxable year and for  
 339 each of the 6 subsequent taxable years, there shall be  
 340 subtracted from such taxable income one-seventh of the amount by  
 341 which taxable income was increased pursuant to this  
 342 subparagraph, notwithstanding any sale or other disposition of  
 343 the property that is the subject of the adjustments and  
 344 regardless of whether such property remains in service in the  
 345 hands of the taxpayer.

346 3. There shall be added to such taxable income an amount  
 347 equal to the amount of deferred income not included in such  
 348 taxable income pursuant to s. 108(i)(1) of the Internal Revenue

Page 12 of 34

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

37-00912B-19

20191692\_\_

349 Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There  
 350 shall be subtracted from such taxable income an amount equal to  
 351 the amount of deferred income included in such taxable income  
 352 pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986,  
 353 as amended by s. 1231 of Pub. L. No. 111-5.

354 4. Subtractions available under this paragraph may be  
 355 transferred to the surviving or acquiring entity following a  
 356 merger or acquisition and used in the same manner and with the  
 357 same limitations as specified by this paragraph.

358 5. The additions and subtractions specified in this  
 359 paragraph are intended to adjust taxable income for Florida tax  
 360 purposes, and, notwithstanding any other provision of this code,  
 361 such additions and subtractions shall be permitted to change a  
 362 taxpayer's net operating loss for Florida tax purposes.

363 (2) For purposes of this section, a taxpayer's taxable  
 364 income for the taxable year means taxable income as defined in  
 365 s. 63 of the Internal Revenue Code and properly reportable for  
 366 federal income tax purposes for the taxable year, but subject to  
 367 the limitations set forth in paragraph (1)(b) with respect to  
 368 the deductions provided by ss. 172 (relating to net operating  
 369 losses), 170(d)(2) (relating to excess charitable  
 370 contributions), 404(a)(1)(D) (relating to excess pension trust  
 371 contributions), 404(a)(3)(A) and (B) (to the extent relating to  
 372 excess stock bonus and profit-sharing trust contributions), and  
 373 1212 (relating to capital losses) of the Internal Revenue Code,  
 374 except that, subject to the same limitations, the term:

375 (a) "Taxable income," in the case of a life insurance  
 376 company subject to the tax imposed by s. 801 of the Internal  
 377 Revenue Code, means life insurance company taxable income;

Page 13 of 34

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

37-00912B-19

20191692\_\_

378 however, for purposes of this code, the total of any amounts  
 379 subject to tax under s. 815(a)(2) of the Internal Revenue Code  
 380 pursuant to s. 801(c) of the Internal Revenue Code shall not  
 381 exceed, cumulatively, the total of any amounts determined under  
 382 s. 815(c)(2) of the Internal Revenue Code of 1954, as amended,  
 383 from January 1, 1972, to December 31, 1983;

384 (b) "Taxable income," in the case of an insurance company  
 385 subject to the tax imposed by s. 831(b) of the Internal Revenue  
 386 Code, means taxable investment income;

387 (c) "Taxable income," in the case of an insurance company  
 388 subject to the tax imposed by s. 831(a) of the Internal Revenue  
 389 Code, means insurance company taxable income;

390 (d) "Taxable income," in the case of a regulated investment  
 391 company subject to the tax imposed by s. 852 of the Internal  
 392 Revenue Code, means investment company taxable income;

393 (e) "Taxable income," in the case of a real estate  
 394 investment trust subject to the tax imposed by s. 857 of the  
 395 Internal Revenue Code, means the income subject to tax, computed  
 396 as provided in s. 857 of the Internal Revenue Code;

397 (f) "Taxable income," in the case of a corporation which is  
 398 a member of an affiliated group of corporations filing a  
 399 consolidated income tax return for the taxable year for federal  
 400 income tax purposes, means taxable income of such corporation  
 401 for federal income tax purposes as if such corporation had filed  
 402 a separate federal income tax return for the taxable year and  
 403 each preceding taxable year for which it was a member of an  
 404 affiliated group, ~~unless a consolidated return for the taxpayer  
 405 and others is required or elected under s. 220.131;~~

406 (g) "Taxable income," in the case of a cooperative

Page 14 of 34

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

37-00912B-19

20191692\_\_

407 corporation or association, means the taxable income of such  
408 organization determined in accordance with the provisions of ss.  
409 1381-1388 of the Internal Revenue Code;

410 (h) "Taxable income," in the case of an organization which  
411 is exempt from the federal income tax by reason of s. 501(a) of  
412 the Internal Revenue Code, means its unrelated business taxable  
413 income as determined under s. 512 of the Internal Revenue Code;

414 (i) "Taxable income," in the case of a corporation for  
415 which there is in effect for the taxable year an election under  
416 s. 1362(a) of the Internal Revenue Code, means the amounts  
417 subject to tax under s. 1374 or s. 1375 of the Internal Revenue  
418 Code for each taxable year;

419 (j) "Taxable income," in the case of a limited liability  
420 company, other than a limited liability company classified as a  
421 partnership for federal income tax purposes, as defined in and  
422 organized pursuant to chapter 605 or qualified to do business in  
423 this state as a foreign limited liability company or other than  
424 a similar limited liability company classified as a partnership  
425 for federal income tax purposes and created as an artificial  
426 entity pursuant to the statutes of the United States or any  
427 other state, territory, possession, or jurisdiction, if such  
428 limited liability company or similar entity is taxable as a  
429 corporation for federal income tax purposes, means taxable  
430 income determined as if such limited liability company were  
431 required to file or had filed a federal corporate income tax  
432 return under the Internal Revenue Code;

433 (k) "Taxable income," in the case of a taxpayer liable for  
434 the alternative minimum tax as defined in s. 55 of the Internal  
435 Revenue Code, means the alternative minimum taxable income as

37-00912B-19

20191692\_\_

436 defined in s. 55(b)(2) of the Internal Revenue Code, less the  
437 exemption amount computed under s. 55(d) of the Internal Revenue  
438 Code. A taxpayer is not liable for the alternative minimum tax  
439 unless the taxpayer's federal tax return, or related federal  
440 consolidated tax return, if included in a consolidated return  
441 for federal tax purposes, reflect a liability on the return  
442 filed for the alternative minimum tax as defined in s. 55(b)(2)  
443 of the Internal Revenue Code;

444 (1) "Taxable income," in the case of a taxpayer whose  
445 taxable income is not otherwise defined in this subsection,  
446 means the sum of amounts to which a tax rate specified in s. 11  
447 of the Internal Revenue Code plus the amount to which a tax rate  
448 specified in s. 1201(a)(2) of the Internal Revenue Code are  
449 applied for federal income tax purposes.

450 Section 3. Section 220.131, Florida Statutes, is repealed.

451 Section 4. Section 220.136, Florida Statutes, is created to  
452 read:

453 220.136 Determination of the members of a water's edge  
454 group.-

455 (1) A corporation having 50 percent or more of its  
456 outstanding voting stock directly or indirectly owned or  
457 controlled by a water's edge group is presumed to be a member of  
458 the water's edge group. A corporation having less than 50  
459 percent of its outstanding voting stock directly or indirectly  
460 owned or controlled by a water's edge group is a member of the  
461 water's edge group if the business activities of the corporation  
462 show that the corporation is a member of the water's edge group.  
463 All of the income of a corporation that is a member of a water's  
464 edge group is presumed to be unitary. For purposes of this

37-00912B-19

20191692\_\_

465 subsection, the attribution rules of 26 U.S.C. s. 318 must be  
 466 used to determine whether voting stock is indirectly owned.

467 (2) (a) A corporation that conducts business outside the  
 468 United States is not a member of a water's edge group if 80  
 469 percent or more of the corporation's property and payroll, as  
 470 determined by the apportionment factors described in ss. 220.15  
 471 and 220.1363, may be assigned to locations outside of the United  
 472 States. However, such corporations that are incorporated in a  
 473 tax haven may be a member of a water's edge group pursuant to  
 474 subsection (1). This subsection does not exempt a corporation  
 475 that is not a member of a water's edge group from this chapter.

476 (b) As used in this subsection, the term "United States"  
 477 means the 50 states, the District of Columbia, and Puerto Rico.

478 (c) The apportionment factors described in ss. 220.1363 and  
 479 220.15 must be used to determine whether a special industry  
 480 corporation has engaged in a sufficient amount of activities  
 481 outside of the United States to exclude it from treatment as a  
 482 member of a water's edge group.

483 Section 5. Section 220.1363, Florida Statutes, is created  
 484 to read:

485 220.1363 Water's edge groups; special requirements.-

486 (1) For purposes of this section, the term "water's edge  
 487 reporting method" is a method to determine the taxable business  
 488 profits of a group of entities conducting a unitary business.  
 489 Under this method, the net income of the entities must be added  
 490 together, along with the additions and subtractions under s.  
 491 220.13, and apportioned to this state as a single taxpayer under  
 492 ss. 220.15 and 220.151. However, each special industry member  
 493 included in a water's edge group return, which would otherwise

Page 17 of 34

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

37-00912B-19

20191692\_\_

494 be permitted to use a special method of apportionment under s.  
 495 220.151, shall convert its single-factor apportionment to a  
 496 three-factor apportionment of property, payroll, and sales. The  
 497 special industry member shall calculate the denominator of its  
 498 property, payroll, and sales factors in the same manner as those  
 499 denominators are calculated by members that are not special  
 500 industry members. The numerator of its sales, property, and  
 501 payroll factors is the product of the denominator of each factor  
 502 multiplied by the premiums or revenue-miles-factor ratio  
 503 otherwise applicable under s. 220.151.

504 (2) All members of a water's edge group must use the  
 505 water's edge reporting method, under which:

506 (a) Adjusted federal income, for purposes of s. 220.12,  
 507 means the sum of adjusted federal income of all members of the  
 508 water's edge group as determined for a concurrent taxable year.

509 (b) The numerators and denominators of the apportionment  
 510 factors must be calculated for all members of the water's edge  
 511 group combined.

512 (c) Intercompany sales transactions between members of the  
 513 water's edge group are not included in the numerator or  
 514 denominator of the sales factor under ss. 220.15 and 220.151,  
 515 regardless of whether indicia of a sale exist.

516 (d) For sales of intangibles, including, but not limited  
 517 to, accounts receivable, notes, bonds, and stock, which are made  
 518 to entities outside the group, only the net proceeds are  
 519 included in the numerator and denominator of the sales factor.

520 (e) Sales that are not allocated or apportioned to any  
 521 taxing jurisdiction, otherwise known as "nowhere sales," may not  
 522 be included in the numerator or denominator of the sales factor.

Page 18 of 34

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



37-00912B-19

20191692\_\_

523 (f) The income attributable to the Florida activities of a  
 524 corporation that is exempt from taxation under the Interstate  
 525 Income Act of 1959, Pub. L. No. 86-272, is excluded from the  
 526 apportionment factor numerators in the calculation of corporate  
 527 income tax, even if another member of the water's edge group has  
 528 nexus with this state and is subject to tax.

529  
 530 As used in this subsection, the term "sale" includes, but is not  
 531 limited to, loans, payments for the use of intangibles,  
 532 dividends, and management fees.

533 (3) (a) If a parent corporation is a member of the water's  
 534 edge group and has nexus with this state, a single water's edge  
 535 group return must be filed in the name and under the federal  
 536 employer identification number of the parent corporation. If the  
 537 water's edge group does not have a parent corporation, if the  
 538 parent corporation is not a member of the water's edge group, or  
 539 if the parent corporation does not have nexus with this state,  
 540 then the members of the water's edge group must choose a member  
 541 subject to the tax imposed by this chapter to file the return.  
 542 The members of the water's edge group may not choose another  
 543 member to file a corporate income tax return in subsequent years  
 544 unless the filing member does not maintain nexus with this state  
 545 or does not remain a member of the water's edge group. The  
 546 return must be signed by an authorized officer of the filing  
 547 member as the agent for the water's edge group.

548 (b) If members of a water's edge group have different  
 549 taxable years, the taxable year of a majority of the members of  
 550 the water's edge group is the taxable year of the water's edge  
 551 group. If the taxable years of a majority of the members of a

37-00912B-19

20191692\_\_

552 water's edge group do not correspond, the taxable year of the  
 553 member that must file the return for the water's edge group is  
 554 the taxable year of the water's edge group.

555 (c)1. A member of a water's edge group having a taxable  
 556 year that does not correspond to the taxable year of the water's  
 557 edge group shall determine its income for inclusion on the tax  
 558 return for the water's edge group. The member shall use:

559 a. The precise amount of taxable income received during the  
 560 months corresponding to the taxable year of the water's edge  
 561 group, if the precise amount can be readily determined from the  
 562 member's books and records.

563 b. The taxable income of the member converted to conform to  
 564 the taxable year of the water's edge group on the basis of the  
 565 number of months falling within the taxable year of the water's  
 566 edge group. For example, if the taxable year of the water's edge  
 567 group is a calendar year and a member operates on a fiscal year  
 568 ending on April 30, the income of the member must include 8/12  
 569 of the income from the current taxable year and 4/12 of the  
 570 income from the preceding taxable year. This method to determine  
 571 the income of a member may be used only if the return can be  
 572 timely filed after the end of the taxable year of the water's  
 573 edge group.

574 c. The taxable income of the member during its taxable year  
 575 that ends within the taxable year of the water's edge group.

576 2. The method of determining the income of a member of a  
 577 water's edge group whose taxable year does not correspond to the  
 578 taxable year of the water's edge group may not change as long as  
 579 the member remains a member of the water's edge group. The  
 580 apportionment factors for the member must be applied to the

37-00912B-19

20191692\_\_

581 income of the member for the taxable year of the water's edge  
582 group.

583 (4) (a) A water's edge group return must include a  
584 computational schedule that:

585 1. Combines the federal income of all members of the  
586 water's edge group;

587 2. Shows all intercompany eliminations;

588 3. Shows Florida additions and subtractions under s.  
589 220.13; and

590 4. Shows the calculation of the combined apportionment  
591 factors.

592 (b) In addition to its return, a water's edge group shall  
593 also file a domestic disclosure spreadsheet. The spreadsheet  
594 must fully disclose:

595 1. The income reported to each state;

596 2. The state tax liability;

597 3. The method used for apportioning or allocating income to  
598 the various states; and

599 4. Other information required by department rule in order  
600 to determine the proper amount of tax due to each state and to  
601 identify the water's edge group.

602 (5) The department may adopt rules and forms to administer  
603 this section. The Legislature intends to grant the department  
604 extensive authority to adopt rules and forms describing and  
605 defining principles for determining the existence of a water's  
606 edge business, definitions of common control, methods of  
607 reporting, and related forms, principles, and other definitions.

608 Section 6. Section 220.14, Florida Statutes, is amended to  
609 read:

Page 21 of 34

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

37-00912B-19

20191692\_\_

610 220.14 Exemption.—

611 (1) In computing a taxpayer's liability for tax under this  
612 code, there shall be exempt from the tax \$50,000 of net income  
613 as defined in s. 220.12 or such lesser amount as will, without  
614 increasing the taxpayer's federal income tax liability, provide  
615 the state with an amount under this code which is equal to the  
616 maximum federal income tax credit which may be available from  
617 time to time under federal law.

618 (2) In the case of a taxable year for a period of less than  
619 12 months, the exemption allowed by this section ~~must~~ shall be  
620 prorated on the basis of the number of days in such year to 365  
621 days, or, in a leap year, 366 days.

622 (3) Only one exemption shall be allowed to taxpayers filing  
623 a water's edge group ~~consolidated~~ return under this code.

624 (4) Notwithstanding any other provision of this code, not  
625 more than one exemption under this section may be allowed to the  
626 Florida members of a controlled group of corporations, as  
627 defined in s. 1563 of the Internal Revenue Code with respect to  
628 taxable years ending on or after December 31, 1970, filing  
629 separate returns under this code. The exemption described in  
630 this section shall be divided equally among such Florida members  
631 of the group, unless all of such members consent, at such time  
632 and in such manner as the department shall by regulation  
633 prescribe, to an apportionment plan providing for an unequal  
634 allocation of such exemption.

635 Section 7. Paragraph (c) of subsection (5) of section  
636 220.15, Florida Statutes, is amended to read:

637 220.15 Apportionment of adjusted federal income.—

638 (5) The sales factor is a fraction the numerator of which

Page 22 of 34

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

37-00912B-19

20191692\_\_

639 is the total sales of the taxpayer in this state during the  
640 taxable year or period and the denominator of which is the total  
641 sales of the taxpayer everywhere during the taxable year or  
642 period.

643 (c) Sales of a financial organization, including, but not  
644 limited to, banking and savings institutions, investment  
645 companies, real estate investment trusts, and brokerage  
646 companies, occur in this state if derived from:

647 1. Fees, commissions, or other compensation for financial  
648 services rendered within this state;

649 2. Gross profits from trading in stocks, bonds, or other  
650 securities managed within this state;

651 3. Interest received within this state, other than interest  
652 from loans secured by mortgages, deeds of trust, or other liens  
653 upon real or tangible personal property located without this  
654 state, and dividends received within this state;

655 4. Interest charged to customers at places of business  
656 maintained within this state for carrying debit balances of  
657 margin accounts, without deduction of any costs incurred in  
658 carrying such accounts;

659 5. Interest, fees, commissions, or other charges or gains  
660 from loans secured by mortgages, deeds of trust, or other liens  
661 upon real or tangible personal property located in this state or  
662 from installment sale agreements originally executed by a  
663 taxpayer or the taxpayer's agent to sell real or tangible  
664 personal property located in this state;

665 6. Rents from real or tangible personal property located in  
666 this state; or

667 7. Any other gross income, including other interest,

Page 23 of 34

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

37-00912B-19

20191692\_\_

668 resulting from the operation as a financial organization within  
669 this state.

670  
671 ~~In computing the amounts under this paragraph, any amount~~  
672 ~~received by a member of an affiliated group (determined under s.~~  
673 ~~1504(a) of the Internal Revenue Code, but without reference to~~  
674 ~~whether any such corporation is an "includable corporation"~~  
675 ~~under s. 1504(b) of the Internal Revenue Code) from another~~  
676 ~~member of such group shall be included only to the extent such~~  
677 ~~amount exceeds expenses of the recipient directly related~~  
678 ~~thereto.~~

679 Section 8. Paragraph (f) of subsection (1) of section  
680 220.183, Florida Statutes, is amended to read:

681 220.183 Community contribution tax credit.—

682 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX  
683 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM  
684 SPENDING.—

685 ~~(f) A taxpayer who files a Florida consolidated return as a~~  
686 ~~member of an affiliated group pursuant to s. 220.131(1) may be~~  
687 ~~allowed the credit on a consolidated return basis.~~

688 Section 9. Paragraphs (b), (c), and (d) of subsection (2)  
689 of section 220.1845, Florida Statutes, are amended to read:

690 220.1845 Contaminated site rehabilitation tax credit.—

691 (2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

692 (b) A tax credit applicant, or multiple tax credit  
693 applicants working jointly to clean up a single site, may not be  
694 granted more than \$500,000 per year in tax credits for each site  
695 voluntarily rehabilitated. Multiple tax credit applicants shall  
696 be granted tax credits in the same proportion as their

Page 24 of 34

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

37-00912B-19

20191692\_\_

697 contribution to payment of cleanup costs. Subject to the same  
698 conditions and limitations as provided in this section, a  
699 municipality, county, or other tax credit applicant which  
700 voluntarily rehabilitates a site may receive not more than  
701 \$500,000 per year in tax credits which it can subsequently  
702 transfer subject to ~~the provisions in paragraph (f) (g)~~.

703 (c) If the credit granted under this section is not fully  
704 used in any one year because of insufficient tax liability on  
705 the part of the corporation, the unused amount may be carried  
706 forward for up to 5 years. The carryover credit may be used in a  
707 subsequent year if the tax imposed by this chapter for that year  
708 exceeds the credit for which the corporation is eligible in that  
709 year after applying the other credits and unused carryovers in  
710 the order provided by s. 220.02(8). If during the 5-year period  
711 the credit is transferred, in whole or in part, pursuant to  
712 paragraph (f) (g), each transferee has 5 years after the date of  
713 transfer to use its credit.

714 ~~(d) A taxpayer that files a consolidated return in this~~  
715 ~~state as a member of an affiliated group under s. 220.131(1) may~~  
716 ~~be allowed the credit on a consolidated return basis up to the~~  
717 ~~amount of tax imposed upon the consolidated group.~~

718 Section 10. Subsection (2) of section 220.1875, Florida  
719 Statutes, is amended to read:

720 220.1875 Credit for contributions to eligible nonprofit  
721 scholarship-funding organizations.-

722 ~~(2) A taxpayer who files a Florida consolidated return as a~~  
723 ~~member of an affiliated group pursuant to s. 220.131(1) may be~~  
724 ~~allowed the credit on a consolidated return basis; however, the~~  
725 ~~total credit taken by the affiliated group is subject to the~~

37-00912B-19

20191692\_\_

726 ~~limitation established under subsection (1).~~

727 Section 11. Paragraphs (a) and (c) of subsection (3) of  
728 section 220.191, Florida Statutes, are amended to read:

729 220.191 Capital investment tax credit.-

730 (3) (a) Notwithstanding subsection (2), an annual credit  
731 against the tax imposed by this chapter shall be granted to a  
732 qualifying business which establishes a qualifying project  
733 pursuant to subparagraph (1) (g) 3., in an amount equal to the  
734 lesser of \$15 million or 5 percent of the eligible capital costs  
735 made in connection with a qualifying project, for a period not  
736 to exceed 20 years beginning with the commencement of operations  
737 of the project. The tax credit shall be granted against the  
738 corporate income tax liability of the qualifying business ~~and as~~  
739 ~~further provided in paragraph (e)~~. The total tax credit provided  
740 pursuant to this subsection shall be equal to no more than 100  
741 percent of the eligible capital costs of the qualifying project.

742 (c) The credit granted under this subsection may be used in  
743 whole or in part by the qualifying business ~~or any corporation~~  
744 ~~that is either a member of that qualifying business's affiliated~~  
745 ~~group of corporations, is a related entity taxable as a~~  
746 ~~cooperative under subchapter T of the Internal Revenue Code, or,~~  
747 ~~if the qualifying business is an entity taxable as a cooperative~~  
748 ~~under subchapter T of the Internal Revenue Code, is related to~~  
749 ~~the qualifying business. Any entity related to the qualifying~~  
750 ~~business may continue to file as a member of a Florida-nexus~~  
751 ~~consolidated group pursuant to a prior election made under s.~~  
752 ~~220.131(1), Florida Statutes (1985), even if the parent of the~~  
753 ~~group changes due to a direct or indirect acquisition of the~~  
754 ~~former common parent of the group. Any credit can be used by any~~

37-00912B-19

20191692\_\_

755 ~~of the affiliated companies or related entities referenced in~~  
 756 ~~this paragraph to the same extent as it could have been used by~~  
 757 ~~the qualifying business. However, any such use shall not operate~~  
 758 ~~to increase the amount of the credit or extend the period within~~  
 759 ~~which the credit must be used.~~

760 Section 12. Subsection (2) of section 220.192, Florida  
 761 Statutes, is amended to read:

762 220.192 Renewable energy technologies investment tax  
 763 credit.—

764 (2) TAX CREDIT.—For tax years beginning on or after January  
 765 1, 2013, a credit against the tax imposed by this chapter shall  
 766 be granted in an amount equal to the eligible costs. Credits may  
 767 be used in tax years beginning January 1, 2013, and ending  
 768 December 31, 2016, after which the credit shall expire. If the  
 769 credit is not fully used in any one tax year because of  
 770 insufficient tax liability on the part of the corporation, the  
 771 unused amount may be carried forward and used in tax years  
 772 beginning January 1, 2013, and ending December 31, 2018, after  
 773 which the credit carryover expires and may not be used. A  
 774 ~~taxpayer that files a consolidated return in this state as a~~  
 775 ~~member of an affiliated group under s. 220.131(1) may be allowed~~  
 776 ~~the credit on a consolidated return basis up to the amount of~~  
 777 ~~tax imposed upon the consolidated group.~~ Any eligible cost for  
 778 which a credit is claimed and which is deducted or otherwise  
 779 reduces federal taxable income shall be added back in computing  
 780 adjusted federal income under s. 220.13.

781 Section 13. Paragraphs (c) and (e) of subsection (3) of  
 782 section 220.193, Florida Statutes, are amended to read:

783 220.193 Florida renewable energy production credit.—

Page 27 of 34

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

37-00912B-19

20191692\_\_

784 (3) An annual credit against the tax imposed by this  
 785 section shall be allowed to a taxpayer, based on the taxpayer's  
 786 production and sale of electricity from a new or expanded  
 787 Florida renewable energy facility. For a new facility, the  
 788 credit shall be based on the taxpayer's sale of the facility's  
 789 entire electrical production. For an expanded facility, the  
 790 credit shall be based on the increases in the facility's  
 791 electrical production that are achieved after May 1, 2012.

792 (c) If the amount of credits applied for each year exceeds  
 793 the amount authorized in paragraph (f) ~~(g)~~, the Department of  
 794 Agriculture and Consumer Services shall allocate credits to  
 795 qualified applicants based on the following priority:

796 1. An applicant who places a new facility in operation  
 797 after May 1, 2012, shall be allocated credits first, up to a  
 798 maximum of \$250,000 each, with any remaining credits to be  
 799 granted pursuant to subparagraph 3., but if the claims for  
 800 credits under this subparagraph exceed the state fiscal year cap  
 801 in paragraph (f) ~~(g)~~, credits shall be allocated pursuant to  
 802 this subparagraph on a prorated basis based upon each  
 803 applicant's qualified production and sales as a percentage of  
 804 total production and sales for all applicants in this category  
 805 for the fiscal year.

806 2. An applicant who does not qualify under subparagraph 1.  
 807 but who claims a credit of \$50,000 or less shall be allocated  
 808 credits next, but if the claims for credits under this  
 809 subparagraph, combined with credits allocated in subparagraph  
 810 1., exceed the state fiscal year cap in paragraph (f) ~~(g)~~,  
 811 credits shall be allocated pursuant to this subparagraph on a  
 812 prorated basis based upon each applicant's qualified production

Page 28 of 34

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

37-00912B-19

20191692\_\_

813 and sales as a percentage of total qualified production and  
814 sales for all applicants in this category for the fiscal year.

815 3. An applicant who does not qualify under subparagraph 1.  
816 or subparagraph 2. and an applicant whose credits have not been  
817 fully allocated under subparagraph 1. shall be allocated credits  
818 next. If there is insufficient capacity within the amount  
819 authorized for the state fiscal year in paragraph (f) ~~(g)~~, and  
820 after allocations pursuant to subparagraphs 1. and 2., the  
821 credits allocated under this subparagraph shall be prorated  
822 based upon each applicant's unallocated claims for qualified  
823 production and sales as a percentage of total unallocated claims  
824 for qualified production and sales of all applicants in this  
825 category, up to a maximum of \$1 million per taxpayer per state  
826 fiscal year. If, after application of this \$1 million cap, there  
827 is excess capacity under the state fiscal year cap in paragraph  
828 (f) ~~(g)~~ in any state fiscal year, that remaining capacity shall  
829 be used to allocate additional credits with priority given in  
830 the order set forth in this subparagraph and without regard to  
831 the \$1 million per taxpayer cap.

832 ~~(e) A taxpayer that files a consolidated return in this~~  
833 ~~state as a member of an affiliated group under s. 220.131(1) may~~  
834 ~~be allowed the credit on a consolidated return basis up to the~~  
835 ~~amount of tax imposed upon the consolidated group.~~

836 Section 14. Section 220.51, Florida Statutes, is amended to  
837 read:

838 220.51 Adoption Promulgation of rules and regulations.—In  
839 accordance with the Administrative Procedure Act, chapter 120,  
840 the department is authorized to make, adopt promulgate, and  
841 enforce such reasonable rules and regulations, and to prescribe

37-00912B-19

20191692\_\_

842 such forms relating to the administration and enforcement of ~~the~~  
843 ~~provisions of this code~~, as it may deem appropriate, including:

844 (1) Rules for initial implementation of this code and for  
845 taxpayers' transitional taxable years commencing before and  
846 ending after January 1, 1972; and

847 (2) Rules or regulations to clarify whether certain groups,  
848 organizations, or associations formed under the laws of this  
849 state or any other state, country, or jurisdiction shall be  
850 deemed "taxpayers" for the purposes of this code, in accordance  
851 with the legislative declarations of intent in s. 220.02; ~~and~~

852 ~~(3) Regulations relating to consolidated reporting for~~  
853 ~~affiliated groups of corporations, in order to provide for an~~  
854 ~~equitable and just administration of this code with respect to~~  
855 ~~multicorporate taxpayers.~~

856 Section 15. Section 220.64, Florida Statutes, is amended to  
857 read:

858 220.64 Other provisions applicable to franchise tax.—To the  
859 extent that they are not manifestly incompatible with ~~the~~  
860 ~~provisions of this part~~, parts I, III, IV, V, VI, VIII, IX, and  
861 X of this code and ss. 220.12, 220.13, 220.136, 220.1363,  
862 220.15, and 220.16 apply to the franchise tax imposed by this  
863 part. Under rules prescribed by the department ~~in s. 220.131~~, a  
864 consolidated return may be filed by any affiliated group of  
865 corporations composed of one or more banks or savings  
866 associations, ~~its or~~ their Florida parent corporations  
867 ~~corporation~~, and any nonbank or nonsavings subsidiaries of such  
868 parent corporations ~~corporation~~.

869 Section 16. Paragraph (f) of subsection (4) and paragraph  
870 (a) of subsection (5) of section 288.1254, Florida Statutes, are

37-00912B-19 20191692\_\_

871 amended to read:

872 288.1254 Entertainment industry financial incentive  
873 program.—

874 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;  
875 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;  
876 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND  
877 ACQUISITIONS.—

878 ~~(f) Consolidated returns.—A certified production company~~  
879 ~~that files a Florida consolidated return as a member of an~~  
880 ~~affiliated group under s. 220.131(1) may be allowed the credit~~  
881 ~~on a consolidated return basis up to the amount of the tax~~  
882 ~~imposed upon the consolidated group under chapter 220.~~

883 (5) TRANSFER OF TAX CREDITS.—

884 (a) Authorization.—Upon application to the Office of Film  
885 and Entertainment and approval by the department, a certified  
886 production company, or a partner or member that has received a  
887 distribution under paragraph (4) (f) ~~(4) (g)~~, may elect to  
888 transfer, in whole or in part, any unused credit amount granted  
889 under this section. An election to transfer any unused tax  
890 credit amount under chapter 212 or chapter 220 must be made no  
891 later than 5 years after the date the credit is awarded, after  
892 which period the credit expires and may not be used. The  
893 department shall notify the Department of Revenue of the  
894 election and transfer.

895 Section 17. Subsections (9) and (10) of section 376.30781,  
896 Florida Statutes, are amended to read:

897 376.30781 Tax credits for rehabilitation of drycleaning-  
898 solvent-contaminated sites and brownfield sites in designated  
899 brownfield areas; application process; rulemaking authority;

37-00912B-19 20191692\_\_

900 revocation authority.—

901 (9) On or before May 1, the Department of Environmental  
902 Protection shall inform each tax credit applicant that is  
903 subject to the January 31 annual application deadline of the  
904 applicant's eligibility status and the amount of any tax credit  
905 due. The department shall provide each eligible tax credit  
906 applicant with a tax credit certificate that must be submitted  
907 with its tax return to the Department of Revenue to claim the  
908 tax credit or be transferred pursuant to s. 220.1845(2) (f) ~~s.~~  
909 ~~220.1845(2) (g)~~. The May 1 deadline for annual site  
910 rehabilitation tax credit certificate awards shall not apply to  
911 any tax credit application for which the department has issued a  
912 notice of deficiency pursuant to subsection (8). The department  
913 shall respond within 90 days after receiving a response from the  
914 tax credit applicant to such a notice of deficiency. Credits may  
915 not result in the payment of refunds if total credits exceed the  
916 amount of tax owed.

917 (10) For solid waste removal, new health care facility or  
918 health care provider, and affordable housing tax credit  
919 applications, the Department of Environmental Protection shall  
920 inform the applicant of the department's determination within 90  
921 days after the application is deemed complete. Each eligible tax  
922 credit applicant shall be informed of the amount of its tax  
923 credit and provided with a tax credit certificate that must be  
924 submitted with its tax return to the Department of Revenue to  
925 claim the tax credit or be transferred pursuant to s.  
926 220.1845(2) (f) ~~s. 220.1845(2) (g)~~. Credits may not result in the  
927 payment of refunds if total credits exceed the amount of tax  
928 owed.

37-00912B-19

20191692\_\_

929 Section 18. Transitional rules.—

930 (1) For the first taxable year beginning on or after  
 931 January 1, 2020, a taxpayer that filed a Florida corporate  
 932 income tax return in the preceding taxable year and that is a  
 933 member of a water's edge group shall compute its income together  
 934 with all members of its water's edge group and file a combined  
 935 Florida corporate income tax return with all members of its  
 936 water's edge group.

937 (2) An affiliated group of corporations which filed a  
 938 Florida consolidated corporate income tax return pursuant to an  
 939 election provided in former s. 220.131, Florida Statutes, shall  
 940 cease filing a Florida consolidated return for taxable years  
 941 beginning on or after January 1, 2020, and shall file a combined  
 942 Florida corporate income tax return with all members of its  
 943 water's edge group.

944 (3) An affiliated group of corporations which filed a  
 945 Florida consolidated corporate income tax return pursuant to the  
 946 election in s. 220.131(1), Florida Statutes (1985), which  
 947 allowed the affiliated group to make an election within 90 days  
 948 after December 20, 1984, or upon filing the taxpayer's first  
 949 return after December 20, 1984, whichever was later, shall cease  
 950 filing a Florida consolidated corporate income tax return using  
 951 that method for taxable years beginning on or after January 1,  
 952 2020, and shall file a combined Florida corporate income tax  
 953 return with all members of its water's edge group.

954 (4) A taxpayer that is not a member of a water's edge group  
 955 remains subject to chapter 220, Florida Statutes, and shall file  
 956 a separate Florida corporate income tax return as previously  
 957 required.

Page 33 of 34

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

37-00912B-19

20191692\_\_

958 (5) For taxable years beginning on or after January 1,  
 959 2020, a tax return for a member of a water's edge group must be  
 960 a combined Florida corporate income tax return that includes tax  
 961 information for all members of the water's edge group. The tax  
 962 return must be filed by a member that has a nexus with this  
 963 state.

964 Section 19. Funds recaptured pursuant to this act must be  
 965 appropriated in the General Appropriations Act to the various  
 966 school districts to reduce the required local effort millage.

967 Section 20. This act shall take effect July 1, 2019.

Page 34 of 34

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





## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Judiciary, *Vice Chair*  
Appropriations Subcommittee on Agriculture,  
Environment and General Government  
Ethics and Elections  
Rules

### SENATOR JOSE JAVIER RODRIGUEZ

37th District

March 12, 2019

Chair Gruters  
Committee on Commerce and Tourism  
404 S. Monroe Street  
Tallahassee, FL 32399-1100  
*Sent via email to gruters.joe@flsenate.gov*

Chair Gruters,

I respectfully request that you place SB 1692 Corporate Income Tax on the agenda of the Committee on Commerce and Tourism at your earliest convenience.

Should you have any questions or concerns, please feel free to contact me or my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in blue ink, appearing to read "JR", written over a white background.

Senator José Javier Rodríguez  
District 37

CC:

Todd McKay, Staff Director  
Madeline Reeve, Administrative Assistant  
Josh Barnhill, Legislative Assistant to Senator Gruters  
Victoria Brill, Legislative Assistant to Senator Gruters  
GeeDee Kerr, Legislative Assistant to Senator Gruters

REPLY TO:

- 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 854-0365
- 220 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5037

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**BILL GALVANO**  
President of the Senate

**DAVID SIMMONS**  
President Pro Tempore

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-25-2019

1692

*Meeting Date*

*Bill Number (if applicable)*

Topic Corporate Income Tax

*Amendment Barcode (if applicable)*

Name Kurt Wenner

Job Title Vice President

Address 106 N. Bronough

Phone 850-222-5052

*Street*

Tallahassee

FL

32301

Email kwenner@floridataxwatch.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida TaxWatch

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/28/19  
Meeting Date

1692  
Bill Number (if applicable)

Topic Bill

Amendment Barcode (if applicable)

Name Anthony DiMarco

Job Title ESVP of Int. Affairs

Address 1001 Thomasville Rd

Phone 224-2265

Tallahassee FL 32303  
City State Zip

Email admarco@floridabankers.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Bankers Assoc.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/25/19  
Meeting Date

1692  
Bill Number (if applicable)

Topic Corporate Income Tax

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Exec. Director

Address 579 E. Call St.  
Street

Phone 850-321-9586

Tallahassee, FL  
City State

32301  
Zip

Email fcfep@yahoo.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FJ Center for Fiscal & Economic Policy

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/25/19

*Meeting Date*

1692

*Bill Number (if applicable)*

Topic Corporate Income Tax

*Amendment Barcode (if applicable)*

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St

Phone 224-7173

*Street*

TLH

FL

32301

Email bbevis@aif.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Associated Industries of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/25

SB1692

Meeting Date

Bill Number (if applicable)

Topic CORPORATE INCOME TAX

Amendment Barcode (if applicable)

Name FRENCH BROWN

Job Title Lobbyist

Address 215 S. MARION ST. Suite 815

Phone 850-455-0992

Street

Tallahassee

FL

32301

Email fbrown@gmail.com

City

State

Zip

Speaking: For [ ] Against [X] Information [ ]

Waive Speaking: In Support [ ] Against [ ] (The Chair will read this information into the record.)

Representing FLORIDA Chamber of Commerce & Florida Petition Federation

Appearing at request of Chair: Yes [ ] No [X]

Lobbyist registered with Legislature: Yes [X] No [ ]

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

**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: SR 1808

INTRODUCER: Senator Taddeo

SUBJECT: Film and Television Production

DATE: March 22, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Reeve	McKay	CM	<b>Favorable</b>
2.			RC	

---

**I. Summary:**

SR 1808 recognizes the value of film and television production as an economic driver and creator of high-wage jobs. The resolution encourages the continuing collaboration of public- and private-sector efforts in program and partnership development, and encourages the Florida Office of Film and Entertainment’s collaborative programs and partnerships for national and international marketing.

Legislative resolutions have no force of law and are not subject to the approval or veto powers of the Governor.

**II. Present Situation:**

Florida has a rich history in the motion picture industry, dating back to the winter headquarters opened in North Florida by film studios in the early 20<sup>th</sup> century

**Industry Incentives**

The state did not have an official mechanism to encourage the development of the industry until the creation of the Office of Film and Entertainment (Office) within the Department of Economic Opportunity in 1999. The Office is tasked with promoting film, television, and digital media production through facilitating access to filming locations, serving as a liaison between the film industry and government entities, administering economic incentives, and marketing the state as a premier production center.

The Office administers the Entertainment Industry Sales Tax Exemption Program, which offers tax exemptions to companies that create qualified productions in Florida. The office approved 954 applications for the sales tax exemption during Fiscal Year 2017-2018, resulting in an

estimated 32,000 Florida jobs and \$1 billion in Florida expenditures.<sup>1</sup> Several local governments, including Miami-Dade and Hillsborough Counties, provide production incentives in the form of grants and rebates.

### **Tourism**

As one of Florida's main economic drivers, the tourism industry has capitalized on the many well-known films and television shows the state has provided a backdrop for. Tourism spurred by the entertainment industry encourages tourists to visit production sets and associated amusement activities in destinations they might not otherwise be drawn to; visitors also participate in film tourism activities while at particular destinations as a result of entertainment marketing efforts. Though no official state studies have been conducted, the Motion Picture Association of America estimated that at least 4.4 million of Florida's visitors in 2013 can be attributed to film induced tourism.<sup>2</sup>

### **Film Schools**

Florida has numerous film schools; two of the schools, the Ringling College of Art and Design Film Department and the Florida State University College of Motion Picture Arts, consistently rank among the top film schools in the nation.<sup>3</sup> Previous state incentive programs included provisions that would ensure entertainment projects employed graduates of Florida's film schools and made use of schools' production facilities.

## **III. Effect of Proposed Changes:**

SR 1808 recognizes the value of film and television production as an economic driver and creator of high-wage jobs. The resolution encourages the continuing collaboration of public- and private-sector efforts in program and partnership development, and encourages the Florida Office of Film and Entertainment's collaborative programs and partnerships for national and international marketing.

Legislative resolutions have no force of law and are not subject to the approval or veto powers of the Governor.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

---

<sup>1</sup> Florida Office of Film and Entertainment, *Fiscal Year 2017-2018 Annual Report* (2018), available at [https://filminflorida.com/wp-content/uploads/2018/11/Office-of-Film-and-Entertainment-Annual-Report-FY-2017-2018\\_FINAL.pdf](https://filminflorida.com/wp-content/uploads/2018/11/Office-of-Film-and-Entertainment-Annual-Report-FY-2017-2018_FINAL.pdf).

<sup>2</sup> Motion Picture Association of America, *Economic and Social Impacts of the Florida Film and Entertainment Industry Financial Incentive Program* (2013), available at <https://www.mpa.org/wp-content/uploads/2014/01/Economic-and-Social-Impacts-of-the-Florida-Film-and-Entertainment-Industry-Financial-Incentive-Program.pdf>.

<sup>3</sup> *The Top 25 American Film Schools*, The Hollywood Reporter (Aug. 2018), <https://www.hollywoodreporter.com/lists/top-25-american-film-schools-ranked-1134785/item/2018-top-25-film-schools-florida-state-university-1134838> (last visited March 22, 2019).



**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**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:**

None.

**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 Taddeo

40-01332-19

20191808\_\_

## Senate Resolution

A resolution recognizing the value of film and television production as an economic driver and a creator of high-wage jobs, encouraging the collaboration of public-sector and private-sector efforts through the development of programs and partnerships, and encouraging the Florida Office of Film and Entertainment's continued support of various collaborative programs and partnerships for national and international marketing.

WHEREAS, this state has a rich history as a primary center for film and television production in the United States and, with its natural scenic beauty and diverse environment, has long been considered one of the premier locations for film and television production in the world, and

WHEREAS, historically, this state has maintained a highly trained and professional film and television production workforce, a wide variety of support businesses essential to film and television production, and a resilient infrastructure capable of supporting film and television production, and

WHEREAS, this state's nationally acclaimed colleges and universities continue to produce talented filmmakers, many of whom are on scholarships funded by this state and would prefer to remain in this state upon graduation, but often decide to relocate in pursuit of more favorable economic environments, and

WHEREAS, tourism is a principal component of this state's economy, the opportunity to tour filming locations is widely acknowledged as a boon to tourism, and this state recognizes

Page 1 of 2

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

40-01332-19

20191808\_\_

that film production contributes substantially to tourism in this state, and

WHEREAS, traditionally, this state has supported the film and television industry through financial incentives, tax exemptions, and marketing, and

WHEREAS, counties and local communities also are engaging in efforts to reinvigorate film and television production across the state, and

WHEREAS, in its November 2018 analysis of this state's film and television industry, Florida TaxWatch, Inc., encouraged the private sector to develop its own incentive and subsidy programs and this approach has received public support, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Senate recognizes the value of film and television production as an economic driver and a creator of high-wage jobs.

BE IT FURTHER RESOLVED that the Senate encourages the continued collaboration of both public-sector and private-sector efforts to develop programs and partnerships related to film and television production.

BE IT FURTHER RESOLVED that the Senate supports and encourages the Florida Office of Film and Entertainment as it continues to promote such partnerships, including national and international collaborative programs, in its national and international marketing efforts.

Page 2 of 2

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

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/25/19  
Meeting Date

1808  
Bill Number (if applicable)

Topic SR 1808

Amendment Barcode (if applicable)

Name TODD ROOBIN

City of Job Title JACKSONVILLE FILM + TV OFFICE FILM COMMISSIONER

Address 117 W. DUVAL ST.  
Street

Phone 904 630 2522

JACKSONVILLE, FL 32202  
City State Zip

Email TROOP@NCOSJ.NET

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing JACKSONVILLE FILM + TV OFFICE

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE

APPEARANCE RECORD

3/25/19

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1808

Meeting Date

Bill Number (if applicable)

Topic Film + Television

Amendment Barcode (if applicable)

Name David Shepp

Job Title Lobbyist

Address P.O. Box 3739

Phone 863 581-4250

Street

City Lakeland State FL Zip 33802

Email sheppesstrategy.com

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [x] In Support [ ] Against (The Chair will read this information into the record.)

Representing Feld Entertainment

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/25/19

Meeting Date

SR 1808

Bill Number (if applicable)

Topic SR 1808

Amendment Barcode (if applicable)

Name SANDY LIGHTERMAN

Job Title MIAMI DADE COUNTY FILM & ENTERTAINMENT COMMISSIONER

Address 111 NW 1 ST 12 FIR

Phone 305 375 3288

Street

Miami FL 33128

City

State

Zip

Email SandyL@miamidade.gov

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [X] In Support [ ] Against (The Chair will read this information into the record.)

Representing Miami-Dade County Office of Film & Entertainment

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/25/2019  
Meeting Date

1808  
Bill Number (if applicable)

Topic SR/SB 1808 (Film + Television)

Amendment Barcode (if applicable)

Name John Lux

Job Title Exec Director

Address 2516 Quail Park Terr  
Street

Phone 407-494-6195

Kissimmee FL 34743  
City State Zip

Email jlux@filmflorida.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Film Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/25

Meeting Date

1808

Bill Number (if applicable)

Topic Film and Television Production

Amendment Barcode (if applicable)

Name Jack Hebert

Job Title Govt. Relations

Address 2861 Executive Dr Ste 100  
Street

Phone 727 560 3323

Clearwater FL 33762  
City State Zip

Email Jack @ mullerndgroup.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing American Advertising Federation, Fourth District

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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



THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/25/19

Meeting Date

1808

Bill Number (if applicable)

Topic Resolution for Film

Amendment Barcode (if applicable)

Name CHRIS RANUNG

Job Title Chair

Address 403 Shamrock Road

Phone 904/806-6369

Street City State Zip St. Augustine, Florida 32086

Email chrISRanung@aol.com

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

Representing COMPASS

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

31 25 / 19

Meeting Date

1808

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Phillip Suderman

Job Title Policy Director

Address 200 W. College Ave.  
Street

Phone \_\_\_\_\_

Tallahassee FL 32301  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Americans for Prosperity

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-25-19

Meeting Date

1808

Bill Number (if applicable)

Topic Resolution Film & TV

Amendment Barcode (if applicable)

Name LORI COLLINS RODRIGUEZ

Job Title REALTOR

Address 1339 Carmella Pl

Phone 941-320-6064

Street

Sarasota FL 34143

Email LORISARABAY@aol.com

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [X] In Support [ ] Against (The Chair will read this information into the record.)

Representing

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-25-2019

*Meeting Date*

1808

*Bill Number (if applicable)*

Topic Film & Television Production

*Amendment Barcode (if applicable)*

Name Kurt Wenner

Job Title Vice President

Address 106 N. Bronough

Phone 850-222-5052

*Street*

Tallahassee

FL

32301

Email kwenner@floridataxwatch.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida TaxWatch

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

03/25/19

*Meeting Date*

SB 1808

*Bill Number (if applicable)*

Topic Film and Television Production

*Amendment Barcode (if applicable)*

Name Joseph Salzverg ("Saul's-Verg")

Job Title Attorney and Government Consultant

Address 301 S. Bronough Street, Suite 600

Phone 850-577-9090

*Street*

Tallahassee

FL

32301

Email joseph.salzverg@gray-robinson.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Miami Downtown Development Authority

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/14/14)

**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: SR 1438

INTRODUCER: Senator Torres

SUBJECT: Taiwan

DATE: March 22, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Reeve</u>	<u>McKay</u>	<u>CM</u>	<b>Favorable</b>
2.	_____	_____	<u>RC</u>	_____

---

## I. Summary:

SR 1438 recognizes the economic and cultural ties between the United States and Taiwan and reaffirms Florida's commitment to the two countries' diplomatic relationship, one based on shared values of freedom, democracy, and the protection of human rights.

Legislative resolutions have no force of law and are not subject to the approval or veto powers of the Governor.

## II. Present Situation:

Taiwan, formally the Republic of China, is located off the southeastern coast of China. The population of Taiwan is roughly 23.5 million.<sup>1</sup> As of 2017, there were more than 8,000 Taiwanese citizens and 40,000 Americans of Taiwanese descent residing in Florida.<sup>2</sup>

April 10, 2019, marks the 40<sup>th</sup> anniversary of the Taiwan Relations Act (the Act), which outlined the unofficial relationship between the United States and Taiwan. The US does not recognize Taiwan as an independent state and instead considers it a part of China; however, the US and Taiwan have maintained strong cultural and economic ties since the creation of the Act in 1979. Taiwan is the United States' 11th largest trading partner, and the US is Taiwan's second largest trading partner. The Trade and Investment Framework Agreement for East Asia, the conditions under which Taiwan trades with the United States, has helped globalize the Taiwanese economy and solidify Taiwan as a key East Asian trade and security ally.<sup>3</sup>

---

<sup>1</sup> Republic of China Ministry of Foreign Affairs, *About Taiwan*, available at <https://www.taiwan.gov.tw/> (last visited March 22, 2019).

<sup>2</sup> Migration Policy Institute, *State Immigration Data Profile: Florida* (2017), available at <https://www.migrationpolicy.org/article/taiwanese-immigrants-united-states> (last visited March 22, 2019).

<sup>3</sup> United States Department of State, *U.S. Relations with Taiwan Fact Sheet* (2018), available at <https://www.state.gov/r/pa/ei/bgn/35855.htm> (last visited March 22, 2019).

Taiwan and the United States both hold memberships in a number of the same international organizations, including the World Trade Organization and the Asia-Pacific Economic Cooperation Forum. Taiwan also participates as an observer in several international organizations that promote ideals with which the United States aligns, such as the World Health Assembly and the International Criminal Policy Organization (known as INTERPOL).

Florida in particular enjoys close commercial and cultural relationships with Taiwan. Dr. Tsai Ing-wen, Taiwan's first female president, flew into Miami and met with Senator Marco Rubio on the first stop of her inaugural visit.<sup>4</sup> Taiwan is Florida's seventh largest export market in Asia, and the Department of Agriculture and Consumer Services promotes their "Fresh From Florida" brand of products in retail establishments there.<sup>5</sup> Sisterhood relationships exist between Florida and Taiwan, Miami-Dade County and New Taipei City (formerly Taipei County), and some Florida cities and their Taiwanese counterparts.<sup>6</sup>

### III. Effect of Proposed Changes:

The resolution recognizes the relationship and shared interests between the people of Taiwan and the people of the United States and supports the further strengthening of the ties between Florida and Taiwan. A copy of the resolution will be presented to President Tsai In-wen of Taiwan as a token of the sentiments of the Florida Senate.

Legislative resolutions have no force of law and are not subject to the approval or veto powers of the Governor.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

---

<sup>4</sup> Office of Senator Marco Rubio, *Rubio Welcomes Taiwanese President to Miami* (June 24, 2016), <https://www.rubio.senate.gov/public/index.cfm/press-releases?ID=5061149F-F0E3-4FF5-B4AC-C6E2AD09B785> (last visited March 22, 2019).

<sup>5</sup> *New Partnership to Expand 'Fresh From Florida' Footprint In Taiwan*, Growing Produce (Nov. 26, 2014), <https://www.growingproduce.com/vegetables/new-partnership-to-expand-fresh-from-florida-footprint-in-taiwan/> (last visited March 22, 2019).

<sup>6</sup> Enterprise Florida, *Directory of Consulates, Bi-National Chambers and Sister Cities in Florida* (2017), available at [https://www.enterpriseflorida.com/wp-content/uploads/Directory\\_of\\_Consulates\\_Chambers\\_and\\_Sister\\_Cities\\_in\\_Florida.pdf](https://www.enterpriseflorida.com/wp-content/uploads/Directory_of_Consulates_Chambers_and_Sister_Cities_in_Florida.pdf) (last visited March 22, 2019).

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**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:**

None.

**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.



By Senator Torres

15-01437-19

20191438\_\_

## Senate Resolution

A resolution enhancing the sister-state relationship and bilateral economic and cultural ties between Florida and the Republic of China (Taiwan), and reaffirming and maintaining the commitment of the State of Florida and the United States to the strong and deepening relationship with Taiwan, as the two nations together embrace the fundamental values of freedom, democracy, and the protection of human rights.

WHEREAS, Dr. Tsai Ing-wen, the first female president of the Republic of China (Taiwan), was welcomed in Miami on June 24, 2016, enhancing the already strong bilateral relationship between Taiwan and Florida, as well as strengthening the common values that Taiwan shares with the United States, and

WHEREAS, April 10, 2019, marks the 40th anniversary of the enactment of the Taiwan Relations Act, which maintains peace, security, and stability in the Western Pacific and promotes the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relationships between the people of the United States and the people of Taiwan, and

WHEREAS, Taiwan is an East Asian ally of the United States, which continues to provide defensive weaponry and arms to Taiwan through the sale of naval vessels, equipment, and munitions, including 60 Sikorsky UH-60M Black Hawk helicopters that were officially transferred in Florida, and the provision of post-sale training in this state, which created local employment

Page 1 of 3

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

15-01437-19

20191438\_\_

opportunities, and

WHEREAS, Taiwan's meaningful participation in international organizations, including its bid for observer status in the International Criminal Police Organization, better known as INTERPOL, and the World Health Assembly, is encouraged and supported, as is its meaningful participation in the United Nations Framework Convention on Climate Change and the International Civil Aviation Organization, both of which are in the best interests of the regional and global economy, and

WHEREAS, Taiwan participates in, observes, or cooperates with more than 50 international organizations and holds membership status in both the Asia-Pacific Economic Cooperation and the World Trade Organization, and

WHEREAS, Taiwan has been a member of the United States' Visa Waiver Program since November 1, 2012, reflecting the cooperation between the United States and Taiwan and making travel for business and tourism more convenient, and

WHEREAS, Taiwan's contributions in the global marketplace in both traditional and innovative industries, and its support for continued bilateral dialogue under the Trade and Investment Framework Agreement, together with exploration of the possibility of a future bilateral investment agreement with the United States, will globalize Taiwan's economy and eliminate trade barriers, thus solidifying Taiwan as a robust and trustworthy partner to the United States for trade and security in East Asia, and

WHEREAS, Taiwan is the United States' 11th largest trading partner and is Florida's 7th largest export market in Asia, and

WHEREAS, sisterhood relationships exist between Florida and

Page 2 of 3

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

15-01437-19

20191438\_\_

59 Taiwan, Miami-Dade County and New Taipei City (formerly Taipei  
60 County), and a number of Florida cities and the Port of Miami  
61 and their Taiwanese counterparts, NOW, THEREFORE,  
62

63 Be It Resolved by the Senate of the State of Florida:  
64

65 That the relationship and shared interests between the  
66 people of Taiwan and the people of the United States are  
67 recognized and the partnership between the two nations and  
68 further strengthening of the ties between Florida and Taiwan,  
69 including future trade opportunities, are supported.

70 BE IT FURTHER RESOLVED that a copy of this resolution, with  
71 the Seal of the Senate affixed, be presented to President Tsai  
72 Ing-wen of Taiwan, through the Taipei Economic and Cultural  
73 Office in Miami, as a tangible token of the sentiments of the  
74 Florida Senate.

**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 1788

INTRODUCER: Senator Hutson

SUBJECT: Department of Agriculture and Consumer Services

DATE: March 22, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	<b>Pre-meeting</b>
2.			AEG	
3.			AP	

---

**I. Summary:**

SB 1788 modifies provisions in several areas regulated by the Department of Agriculture and Consumer Services' (Department) Division of Consumer Services, including:

- Providing a civil cause of action available to consumers who receive two or more unsolicited phone calls within a year's span;
- Clarifying the licensure requirements and regulations applicable to substance abuse marketing service providers as distinct from commercial telephone sellers;
- Removing an exemption from licensure for certain classes of telemarketers;
- Requiring telemarketing licensees to provide to the Department all of the phone numbers from which they will make sales calls;
- Expanding the definition of a mover and moving broker to include the entity's owner, manager, operator, officers, directors, partners, or other individuals engaged in the business' management activities;
- Excluding from regulation by the Department a laborer hired directly by a shipper to assist with the loading and unloading of household goods during a move;
- Requiring a mover or moving broker to register each name under which they operate;
- Clarifying timelines for a mover's submission of proof of insurance and removing the requirement that a moving broker carry any such insurance;
- Expanding the bases upon which the Department may deny a mover or moving broker's registration;
- Providing for a process to immediately suspend a mover or moving broker's application for registration if the Department receives notice that the applicant is involved in certain criminal proceedings;
- Updating a mover and moving broker's record keeping requirements;
- Clarifying the administrative process by which a shipper who has been injured by a mover's acts may receive payment on the performance bond held in lieu of liability insurance by the mover;

- Adding violations that subject a mover to administrative penalty, including the improper storage of a shipper's goods, the increase of required payment for a move above that quoted in the estimate, and the requirement of payment for a move in cash;
- Requiring the Department to create a shipper's bill of rights with specific notices to shippers and requiring movers to provide this document to each shipper prior to executing a contract for a move;
- Permitting an individual who seeks certification as a master qualifier at a liquefied petroleum installer or liquefied petroleum dealer location to become qualified for the role by certification by a liquefied petroleum manufacturer;
- Providing a separate permitting process for temporary amusement rides;
- Requiring certain operational documents related to each amusement ride to be submitted to the Department in electronic format;
- Broadening the Department's ability to exempt rides from permitting;
- Requiring a ride operator to post the Department's contact information for ride patrons' benefit;
- Creating the position of a registered safety technician, providing minimum qualifications and associated duties at each operational amusement ride;
- Instituting additional procedures and documentation of their implementation to ensure the appropriate maintenance and safety of amusement rides;
- Conforming maintenance program guidelines to international standards; and
- Creating Departmental subpoena and investigative powers relating to amusement ride investigations.

## II. Present Situation:

The Department has numerous responsibilities, including safeguarding the public from unsafe or defective products and deceptive business practices, supporting Florida's agricultural economy, and administering the state's firearms licensing scheme. These responsibilities are spread among the Department's 12 divisions and 6 offices.<sup>1</sup>

The Division of Consumer Services (Division) within the Department serves as a clearinghouse for consumer complaints and information, and regulates 18 industry sectors, including household telemarketing, moving services, liquefied petroleum gas, and fair rides.<sup>2</sup>

### Telephone Solicitation

#### *Florida's Do Not Call Act*

The Department administers the Do Not Call Act, which prohibits unsolicited phone calls, text messages, direct-to-voicemail transmissions, and calls made by an automated dialer that play a

---

<sup>1</sup> Florida Department of Agriculture and Consumer Services, *Divisions & Offices*, <https://www.freshfromflorida.com/Divisions-Offices/> (last visited Mar. 22, 2019).

<sup>2</sup> The Bureau of Fair Rides Inspection regulates fair rides. *See*, Florida Department of Agriculture and Consumer Services, *Fair Rides Inspection*, <https://www.freshfromflorida.com/Business-Services/Fairs/Fair-Rides-Inspection> (last visited Mar. 15, 2019).

recorded message.<sup>3</sup> A call is unsolicited if made to a consumer whose phone number is included on the Do Not Call List, or to a consumer who has previously requested that the solicitor cease future contact.<sup>4</sup> A solicitor who violates this provision is subject to a civil prosecution by the Florida Department of Legal Affairs with a maximum penalty of a \$10,000 fine per violation, or a \$1,000 administrative fine per violation, in addition to attorney's fees and costs.<sup>5</sup>

### ***Florida Telemarketing Act***

The Department licenses and regulates, pursuant to the Florida Telemarketing Act, (the Act) ss. 501.601-501.626, F.S., substance abuse marketing providers and commercial telephone sellers ("telemarketers") who make unsolicited sales calls from a Florida location or to a Florida consumer. The Act generally requires businesses that solicit the sale of consumer goods or services to be licensed, post a form of security,<sup>6</sup> license all of their salespeople,<sup>7</sup> and provide the Department with a list of all telephone numbers used by the business to make sales calls.<sup>8</sup>

An application for licensure as a telemarketer must include the applicant's: identifying information; prior experience in the field; criminal and administrative history, especially relating to fraud, theft, or unfair and deceptive trade practices; phone numbers from which the telemarketer will make sales calls; and parent or affiliate entity under which it will transact business, if applicable.

Additionally, a telemarketer applicant must submit with its application: a script that will be used by its salespersons during calls, or other related literature; the identity, address, date of birth, and alias of each of the applicant's principal officers, directors, trustees, shareholders, owners, partners, office managers, and salespersons who are employed by or affiliated with the applicant; and a \$1,500 licensing fee.

Section 501.604, F.S., provides exemptions from licensure as a telemarketer for specific entities. However, these entities must file a notarized affidavit of exemption with the Department. The Department may also request these exempt entities to provide their sales scripts, contracts, or other documentation, but there is no fee for filing this affidavit.

### **Intrastate Household Movers**

Chapter 507, F.S., regulates movers and moving brokers engaged in intrastate transportation or shipment of household goods. These regulations co-exist with federal law, which governs interstate moving of household goods.

---

<sup>3</sup> Section 501.059, F.S. Florida Department of Agriculture and Consumer Services, *Florida Do Not Call*, <https://www.freshfromflorida.com/Consumer-Resources/Florida-Do-Not-Call> (last visited Mar. 22, 2019).

<sup>4</sup> Section 501.059(3)-(5), F.S.

<sup>5</sup> Section 501.059(9)-(10), F.S.

<sup>6</sup> Section 501.611, F.S., requires a \$50,000 bond, irrevocable letter of credit issued for the applicant, or a certificate of deposit in favor of the Department for payment on findings of fraud, misrepresentation, breach of contract, or other violation by the applicant.

<sup>7</sup> Section 501.607, F.S.

<sup>8</sup> Section 501.605(2)(k), F.S.

### ***Registration***

Section 507.01(9), F.S., defines a “mover” as a person who, for compensation, contracts for or engages in the loading, transportation, shipment, or unloading of household goods as part of a household move. A “moving broker” arranges for another person to load, transport, ship, or unload household goods as part of a household move, or refers a shipper to a mover by telephone, postal or electronic mail, website, or other means.<sup>9</sup> Movers and moving brokers must register annually with the Department. In order to obtain a registration certificate, a mover or moving broker must file an application, pay a \$300 annual registration fee, provide proof of insurance, and meet certain statutory qualifications.

### ***Insurance Coverage and Liability Limitations***

Movers and moving brokers must maintain liability and motor vehicle insurance. A mover who operates more than two vehicles is required to maintain liability insurance of at least \$10,000 per shipment, and not less than 60 cents per pound, per article.<sup>10</sup> Movers who operate fewer than two vehicles are required only to carry either a \$25,000 performance bond or a \$25,000 certificate of deposit in lieu of liability insurance.<sup>11</sup>

### ***Violations and Penalties***

An intrastate mover must provide an estimate and contract to the shipper before the move commences. Should a dispute over payment or costs arise, s. 507.06, F.S., provides that the mover may place the shipper’s goods in a storage unit until payment is tendered. Sometimes, moving fraud manifests as a “hostage load” situation, where an increased fee is assessed by the mover, who then refuses to relinquish the shipper’s goods until the inflated price has been paid in full.<sup>12</sup> While administrative, civil, and criminal penalties exist in ch. 507, F.S., for such fraudulent moving practices and other violations, the aggrieved shipper is not guaranteed the return of his or her goods until after such remedies have been finalized.

### ***Liquefied Petroleum Gas***

The Department licenses individuals and businesses that sell, transport, dispense, or store liquefied petroleum (LP) gas. Every licensed business must employ a full-time employee who has received a qualifier certificate from the Department, based on his or her passage of a Departmental examination on topics relating to LP gas.<sup>13</sup> Every Category I LP gas dealer (gas dealer) and Category V LP gas installer (gas installer) licensee must have a manager, owner, or employee with similar responsibility who has a current master qualifier certificate from the Department. An applicant for a master qualifier certificate must:<sup>14</sup>

---

<sup>9</sup> Section 507.01(10), F.S.

<sup>10</sup> Section 507.04, F.S.

<sup>11</sup> Section 507.04(1)(b), F.S.

<sup>12</sup> United States Department of Transportation, *Protect Your Move*,

<https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/consumer-protection/protect-your-move/407701/fmcsapyminfographic2018.pdf> (last visited Mar. 22, 2019).

<sup>13</sup> 527.0201(1)-(4), F.S. *See also*, Florida Department of Agriculture and Consumer Services, *LP Gas Training*, <https://www.freshfromflorida.com/Business-Services/LP-Gas-Inspection/LP-Gas-Training> (last visited Mar. 22, 2019).

<sup>14</sup> Section 527.0201(5), F.S. *See also*, Florida Department of Agriculture and Consumer Services, *LP Gas Training*, <https://www.freshfromflorida.com/Business-Services/LP-Gas-Inspection/LP-Gas-Training> (last visited Mar. 22, 2019).

- Be employed by a licensed LP gas dealer or installer;
- Have a qualifier certificate for at least 3 years; and
- Pass a master qualifier competency examination, which assesses the applicant's knowledge of Florida's laws and regulations regarding LP gas safety, general industry safety standards, and administrative procedures.

### **Amusement Rides**

Florida amusement parks and traveling amusement companies are subject to inspection by the Department.<sup>15</sup> These parks include carnivals, water parks, go-kart courses, and bungee-jumping parks, but exclude parks with more than 1,000 employees that have full-time ride inspectors on staff.<sup>16</sup> A temporary amusement ride must be inspected by the Department each time it is moved or set up in a new location; permanent rides are inspected semi-annually. Additionally, parks subject to the Department's regulations must show proof of sufficient employee training and insurance.<sup>17</sup>

## **III. Effect of Proposed Changes:**

### **Do Not Call Act**

**Section 1** amends s. 501.059, F.S., to create a private civil cause of action that allows a consumer who receives two or more phone calls that are prohibited under s. 501.059, F.S., within a year to sue the solicitor who made or caused the calls to be made. A court may award a prevailing consumer actual damages and a fine of up to \$500 per violation. The court may increase the fine to up to \$1,500 per violation if it finds that the solicitor willfully and knowingly violated the law, and it may enjoin the solicitor from further violations of s. 501.059, F.S.

### **Florida Telemarketing Act**

**Section 2** amends s. 501.603, F.S., to define a substance abuse marketing service provider as an entity that provides substance abuse advertising or marketing to a Florida service provider or recovery residence operator.<sup>18</sup> Although current law provides for the licensure of substance abuse marketing service providers, the type of entity is not defined.

**Section 5** moves licensing requirements for substance abuse marketing service providers to s. 501.6055, F.S. The licensing requirements remain the same. This section also clarifies that those who provide substance abuse marketing services to entities that are located in Florida must be licensed under Florida law to provide substance abuse marketing services. **Section 4** deletes provisions relating to substance abuse marketing service providers from s. 501.605, F.S., pursuant to which they were previously licensed along with commercial telephone sellers.

---

<sup>15</sup> Section 616.242, F.S. See also, Department of Agriculture and Consumer Services, *Fair Rides Inspection*, <https://www.freshfromflorida.com/Business-Services/Fairs/Fair-Rides-Inspection> (last visited Mar. 22, 2019).

<sup>16</sup> Section 616.242(2) and (3), F.S.

<sup>17</sup> Florida Department of Agriculture and Consumer Services, *Fair Rides Inspection*, <https://www.freshfromflorida.com/Business-Services/Fairs/Fair-Rides-Inspection> (last visited Mar. 22, 2019).

<sup>18</sup> Section 397.55, F.S., describes service providers and recovery residence operators as those that treat consumers with disabling conditions. Section 397.55, F.S., also prohibits deceptive practices by individuals and entities that market substance abuse services.

**Section 3** explicitly provides that substance abuse marketing service providers may not receive an exemption from licensure under s. 501.604, F.S.

Section 3 also subjects the following classes of commercial telephone sellers to regulation under the Florida Telemarketing Act by deleting their licensure exemption from s. 501.604, F.S.:

- Those who do not make their major sales presentation or intentionally make a sale during a call, but rather use a follow-up home solicitation to sell a product;
- Solicitors who offer a book, video, or record club or contractual plan;
- Persons who initiate sales through circulation of at least 150,000 catalogs annually;
- Telephone answering services solicitors, if the business that will perform the answering services also solicits the service itself;
- Retail businesses that exhibit their products and make a majority of their sales at their business location, and that telemarket under their business' name;
- Telemarketers who derive at least 75 percent of their income from contracts with persons otherwise exempt from licensure as a telemarketer, who have also provided telemarketing services for at least 5 years; and
- Publishers of a periodical or magazine who use telemarketing to garner new subscriptions.

**Section 7** amends s. 501.608, F.S., to allow exemptions from licensure as a commercial telephone seller or substance abuse marketing provider to be submitted on a claim form prescribed by the Department, rather than as an affidavit, as previously required. Additionally, this section requires claims of exemptions to include all of the telephone numbers that the solicitor or its employees will use to make outgoing telephone sales calls.

**Sections 6, 8-11** make clarifying and conforming changes to ss. 501.606, 501.609, 501.612, 501.616, and 501.618, F.S.

### **Intrastate Household Movers**

**Section 12** amends s. 507.01, F.S., to clarify that a mover or moving broker, for purposes of licensure and regulation, includes owners, operators, officers, directors, partners, or other individuals engaged in the business' management activities. Additionally, this section explicitly excludes from the definition of a mover laborers who are hired by a shipper to assist only in the loading and unloading of the shipper's household goods.

**Section 13** extensively amends household mover registration requirements provided in s. 507.03, F.S.

Section 13 requires a mover or moving broker to file a separate registration for each business, trade, or fictitious name under which it advertises or provides services, but allows a mover who also acts as a moving broker under the same name to do so under one registration. This section also deletes language that permits a mover or moving broker to change its registered name by notification to the Department—this ultimately permits a name change only at the time of the



mover's renewal of its registration. The Department states that these changes will allow for more effective investigation and regulation of movers' activities in Florida.<sup>19</sup>

Section 13 requires a mover to provide proof of insurance or other coverage at the time of its registration, and within 10 days after each renewal or change of its registration. This section also deletes a requirement that a moving broker maintain liability insurance or other coverages, "because these entities merely coordinate or arrange the move and do not handle the shipper's household goods...".<sup>20</sup>

Section 13 expands the bases for denial of a mover or moving broker's registration to include an applicant's conviction or pending allegation of crimes of theft, larceny, fraudulent conversion, misappropriation of property, dishonest dealing, or any other act of moral turpitude, or any crime arising from conduct during a move of household goods. Additionally, this section permits the Department to deny an application based on the applicant's position as a director, officer, owner, or general partner of an entity that is the subject of an action based on an allegation of specific financial crimes or a violation of the Florida Unfair and Deceptive Trade Practices Act.

Section 13 allows the Department to immediately suspend a mover's application for registration if the applicant is arrested for, or formally charged with a crime involving fraud, theft, larceny, fraudulent conversion, misappropriation of property, dishonest dealing, an act of moral turpitude, or any crime arising from conduct during a move of household goods. This immediate suspension would remain in effect until the final disposition of the registrant's underlying criminal case. Immediate suspensions are not subject to administrative review.

Section 13 requires each registrant to maintain signed estimates and contracts for 3 years, and to provide those documents to the Department for inspection within 10 days of its request.

**Section 14** establishes with greater detail the processes required in s. 507.05, F.S., to receive payment on a performance bond held in lieu of liability insurance by a household mover registered in Florida. To collect on the bond, the injured party must submit an affidavit to the Department within 120 days of the injury, discovery thereof, or entry of a judgment regarding the injury. Additionally, this section clarifies that the administrative proceedings required to determine the liability and claim payable for injury must be conducted in accordance with ch. 120, F.S.

**Sections 15 and 17** make technical, clarifying changes to ss. 507.06 and 507.11, F.S., respectively.

**Section 16** amends s. 507.07, F.S., to add as violations punishable by Department action:

- The storage of a shipper's goods in a unit that is owned by anyone other than the mover, or the shipper, if the shipper contracted directly with the storage unit;
- The increase of the cost of a move above the amount provided in the written estimate, unless the shipper requests additional services that are not listed on the written estimate; and

---

<sup>19</sup> Florida Department of Agriculture and Consumer Services, *SB 1788 Agency Analysis*, p. 3 (Mar. 5, 2019)(on file with the Committee on Commerce and Tourism).

<sup>20</sup> *Id.*

- The requirement of a cash payment from the shipper.

**Section 18** creates s. 507.15, F.S., which institutes the shipper’s bill of rights. The Department must prepare and make available on its website a shipper’s bill of rights, which must include notice that a mover is subject to the following criminal penalties:

- A third-degree felony for his or her failure to relinquish household goods in accordance with ch. 507, F.S.;<sup>21</sup>
- A first-degree misdemeanor for any other violation of ch. 507, F.S.;<sup>22</sup> and
- Any applicable penalty provided for in the Florida Deceptive and Unfair Trade Practices Act, Part II of ch. 501, F.S., for a violation of that chapter.<sup>23</sup>

The shipper’s bill of rights must also state the risks of shipping sentimental items or heirlooms; the required provision of valuation coverage by a mover, and the process for filing a complaint with the Department.

Lastly, section 18 requires a mover to provide a copy of the shipper’s bill of rights to a shipper before the parties execute a contract for a move, and to obtain the shipper’s acknowledged receipt of the publication in the contract.

### **Liquefied Petroleum Gas**

**Section 19** amends the master qualifier qualifications outlined in s. 527.0201, F.S., to require 3 years of verifiable experience as an employee with a qualifier certificate, or current certification by an LP gas equipment manufacturer as adopted by Department rule. This will allow individuals who have not been employed in a position with a qualifier certificate for the 3 years immediately prior to application for a master qualifier certificate to obtain the certificate.

### **Amusement Rides**

**Section 20** makes several amendments to s. 616.242, F.S.

#### *Definitions*

This section defines an “amusement ride event” as a ride operated at a specific location and date as listed on an annual permit application or temporary amusement ride permit application.

#### *Inspection and Permitting Processes*

This section deletes the inspection certificate process, which requires duplicative information otherwise submitted in the permitting process, but preserves the overall requirement that a ride be inspected by the Department prior to the issuance of a permit for operation. Additionally, this

<sup>21</sup> A third-degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. Sections 775.082(3)(e) and 775.083(1)(c), F.S.

<sup>22</sup> A first-degree misdemeanor is punishable by no more than 1-year imprisonment and a \$1,000 fine. Sections 775.082(4)(a) and 775.083(1)(d), F.S.

<sup>23</sup> A violation of the Florida Deceptive and Unfair Trade Practices Act is subject to a civil penalty of not more than \$10,000 per willful violation. Section 501.2075, F.S.

section adds an exemption from Departmental inspection for temporary rides that prove they were inspected and certified by an accredited trade organization.

Section 20 separates the permitting process for permanent amusement rides (permanent ride) from temporary amusement rides (temporary ride), and distinguishes the two by:

- Establishing that a permanent ride permit is valid for 1 year, and a temporary ride permit is valid for 6 months, or until the temporary ride is moved; and
- Requiring permanent ride and temporary ride applications for permit to be submitted 15 and 14 days prior to their opening dates, respectively.<sup>24</sup>

The permitting requirements for permanent and temporary rides are otherwise identical.

The bill requires a ride's operating instructions, fact sheet, and any bulletins concerning the ride to be submitted to the Department in electronic format as part of the permitting process. Similarly, a ride's owner must provide the Department, upon its request, a copy of certification performed by a professional engineer after the ride undergoes a major modification.

### ***Operational Requirements***

Section 20 requires ride owners and operators to display the Department's contact information for ride patrons' benefit.

The bill requires each ride operator to employ a registered safety technician who must certify the safety of each ride and be present during the hours of operation of a ride. This section also provides the minimum qualifications required to be registered as a registered safety technician.

The bill adds required procedures and documentation thereof for the daily inspection of rides and for the unscheduled cessation of a ride's operation to be performed by the ride's owner, manager, or registered safety technician. The bill further requires, in conformance with international standards,<sup>25</sup> a ride's owner or manager to implement and document:

- employee training;
- a comprehensive program of ride maintenance, testing, and inspection; and
- processes relating to recordkeeping of the ride's assembly and disassembly, maintenance, and repair.

### ***Departmental Authority***

Section 20 broadens the Department's authority to exempt types of rides from permitting by rule, but removes a blanket exemption of museums and similar institutions from law.

The bill increases the applicable administrative fine for a violation of this section from \$2,500 to \$10,000 per violation. The bill adds as a violation the presentment of a ride for inspection by the Department that has a defect that is known, or should be known. This specific violation carries

---

<sup>24</sup> However, the Department permits late-filed applications to proceed with the assessment of a late fee.

<sup>25</sup> Department of Agriculture and Consumer Services, *1788 Agency Bill Analysis*, p. 6 (Mar. 5, 2019) (on file with the Committee on Commerce and Tourism).

an additional penalty of an administrative fine of \$10,000, or more, if the violation resulted in serious injury or death to a patron.

Additionally, section 20 creates broad Departmental investigative and subpoena power for application in its investigations performed under this section of law. A person's refusal or failure to testify pursuant to such subpoena is guilty of a second-degree misdemeanor under this provision.<sup>26</sup>

### **Effective Date**

**Section 21** provides that the bill will take effect July 1, 2019.

## **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.

## **V. Fiscal Impact Statement:**

### A. Tax/Fee Issues:

None.

### B. Private Sector Impact:

None.

### C. Government Sector Impact:

None.

---

<sup>26</sup> A second-degree misdemeanor is punishable by imprisonment for a period of no more than 60 days and a fine of up to \$500. Sections 775.082-775.083, F.S.

**VI. Technical Deficiencies:**

Line 637 refers to a “marketing service provider.” For consistency, this term should be changed to “substance abuse marketing provider.”

Section 9 of the bill deletes a telemarketing “salesperson” from the parties subject to departmental action for specific violations of law. There are no other bases for discipline of a telemarketing salesperson’s license.

Lines 893-896 refer to a “Florida agent” and corporate “charter number.” Both of these terms are undefined in Florida law.

Lines 905-907 require certain movers to submit multiple registrations, but lines 920-922 prohibit a mover or moving broker from providing services under more than one name. These provisions appear to conflict.

Lines 908-915 require a \$300 annual registration fee “per mover or moving broker.” It is unclear whether a mover or moving broker who must file multiple registrations will be subject to only one \$300 fee, or one \$300 fee per registration.

Lines 912-915 include a provision that permits a mover to act as both a mover and moving broker under one registration within language relating to registration fees. The language may be clearer if included in its own paragraph.

991-995, regarding a mover or moving broker’s record keeping requirements, are placed under s. 507.03, F.S., “Registration.” This paragraph may be more appropriate if placed in s. 507.07, F.S., “Violations.”

**VII. Related Issues:**

The scope of the Department’s investigative authority provided for in s. 616.242(22), F.S., beginning on line 1927 of the bill could be clarified to state that the authority is limited to s. 616.242, F.S..

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 501.059, 501.603, 501.604, 501.605, 501.606, 501.608, 501.609, 501.612, 501.616, 501.618, 507.01, 507.03, 507.04, 507.06, 507.07, 507.11, 527.0201, and 616.242.

This bill creates sections 501.6055 and 507.15 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.

---



719936

LEGISLATIVE ACTION

Senate

.  
. .  
. .  
. .  
. .

House

---

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

**Senate Amendment**

Delete lines 637 - 1997  
and insert:  
salesperson, or substance abuse marketing services provider who:

(a) Has been convicted of, or is under indictment or information for, racketeering or any offense involving fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property. Conviction includes a finding of guilt where adjudication has been withheld;



719936

11 (b) Is involved in pending litigation or has had entered  
12 against him or her an injunction, a temporary restraining order,  
13 or a final judgment or order, including a stipulated judgment or  
14 order, an assurance of voluntary compliance, or any similar  
15 document, in any civil or administrative action involving  
16 racketeering, fraud, theft, embezzlement, fraudulent conversion,  
17 or misappropriation of property or the use of any untrue,  
18 deceptive, or misleading representation or the use of any  
19 unfair, unlawful, or deceptive trade practice;

20 (c) Is, or ever has been, subject to any litigation,  
21 injunction, temporary restraining order, or final judgment or  
22 order, including a stipulated judgment or order, an assurance of  
23 voluntary compliance, or any similar document or any restrictive  
24 court order relating to a business activity as the result of any  
25 action brought by a governmental agency, including any action  
26 affecting any license to do business or practice an occupation  
27 or trade;

28 (d) Has at any time during the previous 7 years filed for  
29 bankruptcy, been adjudged bankrupt, or been reorganized because  
30 of insolvency; or

31 (e) Has been a principal, director, officer, or trustee of,  
32 or a general or limited partner in, or had responsibilities as a  
33 manager in, any corporation, partnership, joint venture, or  
34 other entity that filed for bankruptcy, was adjudged bankrupt,  
35 or was reorganized because of insolvency within 1 year after the  
36 person held that position. The disclosures required in paragraph  
37 (d) shall be applicable insofar as they relate to the commercial  
38 telephone seller or substance abuse marketing service provider  
39 applicant, as well as any affiliated commercial seller,





719936

40 ~~affiliate or salesperson, or marketing service provider.~~

41 (3) Each commercial telephone seller and substance abuse  
42 marketing service provider shall disclose to the department the  
43 name, address, and account number of each institution where  
44 banking or similar monetary transactions are done by the  
45 commercial telephone seller or substance abuse marketing service  
46 provider.

47 Section 7. Section 501.608, Florida Statutes, is amended to  
48 read:

49 501.608 License or claim affidavit of exemption;  
50 occupational license.-

51 (1) (a) The department shall issue to each approved  
52 applicant a license in such form and size as is prescribed by  
53 the department and, in the case of a commercial telephone seller  
54 who is not exempt under ~~the provisions of~~ s. 501.604, shall  
55 issue a license for each location at which the commercial  
56 telephone seller proposes to do business.

57 (b) Except for a person claiming an exemption under s.  
58 501.604(1), any commercial telephone seller claiming to be  
59 exempt from the act under s. 501.604 ~~s. 501.604(2), (3), (5),~~  
60 ~~(6), (9), (10), (11), (12), (17), (21), (22), (24), or (26)~~ must  
61 file with the department a claim ~~notarized affidavit~~ of  
62 exemption. The claim affidavit of exemption must be on forms  
63 prescribed by the department and must require the name of the  
64 commercial telephone seller, the name of the business, ~~and~~ the  
65 business address, and all telephone numbers used by the  
66 commercial telephone seller or its authorized agents to make  
67 outgoing commercial telephone solicitations. At the request of  
68 the department, the commercial telephone seller shall provide



719936

69 sales scripts, contracts, and other documentation as needed to  
70 verify the validity of the exemption before the claim affidavit  
71 of exemption is accepted for filing. A commercial telephone  
72 seller maintaining more than one business may file a single  
73 claim ~~notarized affidavit~~ of exemption that clearly indicates  
74 the location of each place of business. If a change of ownership  
75 occurs, the commercial telephone seller must notify the  
76 department.

77 (c) The claim affidavit of exemption may be used for the  
78 purpose of obtaining an occupational license.

79 (d) Each license issued under this part must show the name  
80 and address of the person to whom it is issued, as well as the  
81 license number, if any, and date of issuance.

82 (2) Each licensee or person operating under a valid and  
83 properly filed exemption shall prominently display his or her  
84 license or a copy of his or her receipt of filing of the claim  
85 affidavit of exemption at each location where he or she does  
86 business and shall make the license or the receipt of filing of  
87 the claim affidavit of exemption available for inspection by any  
88 governmental agency upon request.

89 (3) Failure to obtain or display a license or a receipt of  
90 filing of a claim ~~an affidavit~~ of exemption is sufficient  
91 grounds for the department to issue an immediate cease and  
92 desist order, which shall act as an immediate final order under  
93 s. 120.569(2)(n). The order shall remain in effect until the  
94 commercial telephone seller, the ~~entity providing~~ substance  
95 abuse marketing service provider services, or a person claiming  
96 to be exempt shows the authorities that he or she is properly  
97 licensed or exempt. The department may order the business to



719936

98 cease operations and shall order the phones to be shut off.  
99 Failure of a commercial telephone seller or substance abuse  
100 marketing service provider salesperson to display a license or a  
101 receipt of filing of a claim ~~an affidavit~~ of exemption may  
102 result in the seller or marketing service provider salesperson  
103 being summarily ordered by the department to leave the office  
104 until he or she can produce a license or a receipt of filing of  
105 a claim ~~an affidavit~~ of exemption for the department.

106 (4) Any person applying for or renewing a local  
107 occupational license to engage in business as a commercial  
108 telephone seller or ~~as an entity providing~~ substance abuse  
109 marketing service provider services must exhibit an active  
110 license or a copy of the claim affidavit of exemption before the  
111 local occupational license may be issued or reissued.

112 (5) A claim ~~An affidavit~~ of exemption has no bearing on a  
113 person's burden of proof in any civil or criminal proceeding as  
114 provided in s. 501.624.

115 Section 8. Subsection (3) of section 501.609, Florida  
116 Statutes, is amended to read:

117 501.609 License renewal.—

118 (3) If any change is made to any script, outline,  
119 presentation, sales information, or literature used by a  
120 licensee in connection with any solicitation or any services  
121 provided by a substance abuse marketing service provider, the  
122 new or revised material must be submitted by the licensee to the  
123 department within 10 days after ~~of~~ the change.

124 Section 9. Subsection (1) of section 501.612, Florida  
125 Statutes, is amended to read:

126 501.612 Grounds for departmental action against licensure



719936

127 applicants or licensees.-

128 (1) The department may enter an order directing that one or  
129 more of the actions set forth in subsection (2) be taken if the  
130 department finds that a commercial telephone seller, ~~or~~  
131 salesperson, ~~or an entity providing~~ substance abuse marketing  
132 service provider services, or any person applying for licensure  
133 as a commercial telephone seller, ~~or~~ salesperson, ~~or an entity~~  
134 ~~providing~~ substance abuse marketing service provider services,  
135 including, but not limited to, owners, operators, officers,  
136 directors, partners, or other individuals engaged in the  
137 management activities of a business entity:

138 (a) Has, regardless of adjudication, been convicted or  
139 found guilty of, or has entered a plea of guilty or a plea of  
140 nolo contendere to, racketeering or any offense involving fraud,  
141 theft, embezzlement, fraudulent conversion, or misappropriation  
142 of property, or any other crime involving moral turpitude;

143 (b) Has, regardless of adjudication, been convicted or  
144 found guilty of, or has entered a plea of guilty or a plea of  
145 nolo contendere to, any felony;

146 (c) Has had entered against him or her or any business for  
147 which he or she has worked or been affiliated, an injunction, a  
148 temporary restraining order, or a final judgment or order,  
149 including a stipulated judgment or order, an assurance of  
150 voluntary compliance, or any similar document, in any civil or  
151 administrative action involving racketeering, fraud, theft,  
152 embezzlement, fraudulent conversion, or misappropriation of  
153 property or the use of any untrue or misleading representation  
154 in an attempt to sell or dispose of real or personal property or  
155 the use of any unfair, unlawful, or deceptive trade practice;



719936

156           (d) Is subject to or has worked or been affiliated with any  
157 company which is, or ever has been, subject to any injunction,  
158 temporary restraining order, or final judgment or order,  
159 including a stipulated judgment or order, an assurance of  
160 voluntary compliance, or any similar document, or any  
161 restrictive court order relating to a business activity as the  
162 result of any action brought by a governmental agency, including  
163 any action affecting any license to do business or practice an  
164 occupation or trade;

165           (e) Has at any time during the previous 7 years filed for  
166 bankruptcy, been adjudged bankrupt, or been reorganized because  
167 of insolvency;

168           (f) Has been a principal, director, officer, or trustee of,  
169 or a general or limited partner in, or had responsibilities as a  
170 manager in, any corporation, partnership, joint venture, or  
171 other entity that filed the bankruptcy, was adjudged bankrupt,  
172 or was reorganized because of insolvency within 1 year after the  
173 person held that position;

174           (g) Has been previously convicted of or found to have been  
175 acting as a salesperson, ~~or~~ commercial telephone seller, ~~or an~~  
176 ~~entity providing~~ substance abuse marketing service provider  
177 ~~services~~ without a license or whose licensure has previously  
178 been refused, revoked, or suspended in any jurisdiction;

179           (h) Falsifies or willfully omits any material information  
180 asked for in any application, document, or record required to be  
181 submitted or retained under this part;

182           (i) Makes a material false statement in response to any  
183 request or investigation by the department or the state  
184 attorney;



719936

185 (j) Refuses or fails, after notice, to produce any document  
186 or record or disclose any information required to be produced or  
187 disclosed under this part or the rules of the department;

188 (k) Is not of good moral character; or

189 (l) Otherwise violates or is operating in violation of any  
190 of ~~the provisions of~~ this part or of the rules adopted or orders  
191 issued thereunder.

192 Section 10. Subsections (4) and (5) of section 501.616,  
193 Florida Statutes, are amended to read:

194 501.616 Unlawful acts and practices.—

195 (4) A commercial telephone seller or salesperson or  
196 substance abuse marketing service provider must be licensed.

197 (5) A salesperson or commercial telephone seller or  
198 substance abuse marketing service provider may not otherwise  
199 violate this part.

200 Section 11. Section 501.618, Florida Statutes, is amended  
201 to read:

202 501.618 General civil remedies.—The department may bring:

203 (1) An action to obtain a declaratory judgment that an act  
204 or practice violates ~~the provisions of~~ this part.

205 (2) An action to enjoin a person who has violated, is  
206 violating, or is otherwise likely to violate ~~the provisions of~~  
207 this part.

208 (3) An action on behalf of one or more purchasers for the  
209 actual damages caused by an act or practice performed in  
210 violation of ~~the provisions of~~ this part. Such an action may  
211 include, but is not limited to, an action to recover against a  
212 bond, letter of credit, or certificate of deposit as otherwise  
213 provided in this part.



719936

214  
215 Upon motion of the enforcing authority in any action brought  
216 under this section, the court may make appropriate orders,  
217 including appointment of a general or special magistrate or  
218 receiver or sequestration of assets, to reimburse consumers  
219 found to have been damaged, to carry out a consumer transaction  
220 in accordance with the consumer's reasonable expectations, or to  
221 grant other appropriate relief. The court may assess the  
222 expenses of a general or special magistrate or receiver against  
223 a commercial telephone seller or ~~an entity providing~~ substance  
224 abuse marketing service provider ~~services~~. Any injunctive order,  
225 whether temporary or permanent, issued by the court shall be  
226 effective throughout the state unless otherwise provided in the  
227 order.

228 Section 12. Subsections (9) and (10) of section 507.01,  
229 Florida Statutes, are amended to read:

230 507.01 Definitions.—As used in this chapter, the term:

231 (9) "Mover" means a person who, for compensation, contracts  
232 for or engages in the loading, transportation or shipment, or  
233 unloading of household goods as part of a household move. The  
234 term includes, but is not limited to, owners, operators,  
235 officers, directors, partners, or other individuals engaged in  
236 the management activities of a business entity subject to  
237 regulation under this chapter. The term does not include a  
238 postal, courier, envelope, or package service that does not  
239 advertise itself as a mover or moving service or a person who is  
240 hired directly by the shipper as a laborer to assist a shipper  
241 only in the loading and unloading of the shipper's own household  
242 goods.



719936

243 (10) "Moving broker" or "broker" means a person who, for  
244 compensation, arranges for another person to load, transport or  
245 ship, or unload household goods as part of a household move or  
246 who, for compensation, refers a shipper to a mover by telephone,  
247 postal or electronic mail, Internet website, or other means. The  
248 term includes, but is not limited to, owners, operators,  
249 officers, directors, partners, or other individuals engaged in  
250 the management activities of a business entity subject to  
251 regulation under this chapter.

252 Section 13. Present subsections (10) and (11) of section  
253 507.03, Florida Statutes, are redesignated as subsection (11)  
254 and (12), respectively, a new subsection (10) is added to that  
255 section, and subsection (1), paragraph (a) of subsection (3),  
256 subsections (7) and (8), and present subsection (10) are  
257 amended, and subsection (13) is added to that section, to read:

258 507.03 Registration.—

259 (1) Each mover and moving broker must register with the  
260 department, providing its legal business and trade name, mailing  
261 address, and business locations; the full names, addresses, and  
262 telephone numbers of its owners, operators, ~~or corporate~~  
263 officers, ~~and~~ directors, partners, and any individuals engaged  
264 in management activities of the mover or moving broker and the  
265 registered ~~Florida~~ agent of the corporation; a statement whether  
266 it is a domestic or foreign corporation, its state and date of  
267 incorporation, ~~its charter number,~~ and, if a foreign  
268 corporation, the date it registered with the Department of  
269 State; the date on which the mover or broker registered its  
270 fictitious name if the mover or broker is operating under a  
271 fictitious or trade name; the name of all other corporations,





719936

272 business entities, and trade names through which each owner of  
273 the mover or broker operated, was known, or did business as a  
274 mover or ~~moving~~ broker within the preceding 5 years; and proof  
275 of the insurance or alternative coverages required under s.  
276 507.04. A mover or broker must file a separate registration for  
277 each business, trade, or fictitious name under which it is  
278 advertising or providing moving services. A mover may act as a  
279 broker without registering as a broker if the mover is  
280 advertising and providing services under a single business,  
281 trade, or fictitious name.

282 (3) (a) Registration fees shall be calculated at the rate of  
283 \$300 per year per registration ~~mover or moving broker~~. All  
284 amounts collected shall be deposited by the Chief Financial  
285 Officer to the credit of the General Inspection Trust Fund of  
286 the department for the sole purpose of administration of this  
287 chapter.

288 (7) A registration is not valid for any mover or moving  
289 broker transacting business at any place other than that  
290 designated in the mover's or broker's application, unless the  
291 department is first notified in writing before any change of  
292 location. A registration issued under this chapter is not  
293 assignable, ~~and the mover or broker may not conduct business~~  
294 ~~under more than one name except as registered~~. A mover or broker  
295 desiring to change its ~~registered name~~ or location or designated  
296 agent for service of process at a time other than upon renewal  
297 of registration must notify the department of the change.

298 (8) The department may deny, refuse to renew, or revoke the  
299 registration of any mover or moving broker based upon a  
300 determination that the mover or moving broker, or any of the



719936

301 mover's or moving broker's directors, officers, owners, or  
302 general partners:

303 (a) Has failed to meet the requirements for registration as  
304 provided in this chapter;

305 (b) Has been convicted of a crime involving fraud, theft,  
306 larceny, fraudulent conversion, misappropriation of property,  
307 dishonest dealing, or any other act of moral turpitude, or any  
308 crime arising from conduct during a movement of household goods  
309 ~~dishonest dealing, or any other act of moral turpitude;~~

310 (c) Has not satisfied a civil fine or penalty arising out  
311 of any administrative or enforcement action brought by any  
312 governmental agency or private person based upon conduct  
313 involving fraud, dishonest dealing, or any violation of this  
314 chapter;

315 (d) Has pending against him or her any criminal,  
316 administrative, or enforcement proceedings in any jurisdiction,  
317 based upon conduct involving fraud, theft, larceny, fraudulent  
318 conversion, misappropriation of property, dishonest dealing, or  
319 any other act of moral turpitude, or any crime arising from  
320 conduct during a movement of household goods ~~dishonest dealing,~~  
321 ~~or any other act of moral turpitude; or~~

322 (e) Has had a judgment entered against him or her in any  
323 action brought by the department or the Department of Legal  
324 Affairs under this chapter or ss. 501.201-501.213, the Florida  
325 Deceptive and Unfair Trade Practices Act; or

326 (f) Has been a director, officer, owner, or general  
327 partner, or has had responsibilities as a manager, of any  
328 corporation, partnership, joint venture, or other entity that  
329 has had a judgment or final order entered against it in any



719936

330 action brought by the department or the Department of Legal  
331 Affairs under this chapter or ss. 501.201-501.213, the Florida  
332 Deceptive and Unfair Trade Practices Act, or in any action based  
333 upon conduct involving fraud, theft, larceny, fraudulent  
334 conversion, misappropriation of property, dishonest dealing, or  
335 any other act of moral turpitude, or any crime arising from  
336 conduct during a move of household goods.

337 (10) The department shall, upon notification and subsequent  
338 written verification by a law enforcement agency, a court, a  
339 state attorney, or the Department of Law Enforcement,  
340 immediately suspend a registration or the processing of an  
341 application for a registration if the registrant, applicant, or  
342 director, officer, owner, or general partner of the registrant  
343 or applicant is formally charged with a crime involving fraud,  
344 theft, larceny, fraudulent conversion, misappropriation of  
345 property, dishonest dealing, or any other act of moral  
346 turpitude, or any crime arising from conduct during a move of  
347 household goods, until final disposition of the case or removal  
348 or resignation of the director, officer, owner, or general  
349 partner. The department shall notify the licensee suspended  
350 under this section of his or her right to a hearing pursuant to  
351 chapter 120. A hearing conducted regarding the temporary  
352 suspension must be for the limited purpose of determining  
353 whether the licensee has been arrested or charged with a  
354 disqualifying crime.

355 (11) ~~(10)~~ Each mover and moving broker shall provide  
356 evidence to the department of the current and valid insurance or  
357 alternative coverages required under s. 507.04 at the time of  
358 registration and within 10 days after renewing or making any



719936

359 change to the coverage.

360 (12)~~(11)~~ At the request of the department, each moving  
361 broker shall provide a complete list of the movers that the  
362 ~~moving~~ broker has contracted or is affiliated with, advertises  
363 on behalf of, arranges moves for, or refers shippers to,  
364 including each mover's complete name, address, telephone number,  
365 and e-mail address and the name of each mover's owner or other  
366 principal.

367 (13) Each mover and moving broker must maintain true and  
368 accurate signed estimates and contracts for moving services for  
369 at least 3 years. The records must be made available to the  
370 department for inspection and must be furnished no later than 10  
371 business days after request by the department.

372 Section 14. Subsection (1) of section 507.04, Florida  
373 Statutes, is amended to read:

374 507.04 Required insurance coverages; liability limitations;  
375 valuation coverage.—

376 (1) LIABILITY INSURANCE.—

377 (a)1. Except as provided in paragraph (b), each mover  
378 operating in this state must maintain current and valid  
379 liability insurance coverage of at least \$10,000 per shipment  
380 for the loss or damage of household goods resulting from the  
381 negligence of the mover or its employees or agents.

382 2. The mover must provide the department with evidence of  
383 liability insurance coverage before the mover is registered with  
384 the department under s. 507.03. All insurance coverage  
385 maintained by a mover must remain in effect throughout the  
386 mover's registration period. A mover's failure to maintain  
387 insurance coverage in accordance with this paragraph constitutes



719936

388 an immediate threat to the public health, safety, and welfare.

389 (b) A mover that operates two or fewer vehicles, in lieu of  
390 maintaining the liability insurance coverage required under  
391 paragraph (a), may, and each moving broker that is not also  
392 registered as a mover must, maintain one of the following  
393 alternative coverages:

394 1. A performance bond in the amount of \$25,000, for which  
395 the surety of the bond must be a surety company authorized to  
396 conduct business in this state; or

397 2. A certificate of deposit in a Florida banking  
398 institution in the amount of \$25,000.

399

400 The original bond or certificate of deposit must be filed with  
401 the department and must designate the department as the sole  
402 beneficiary. The department must use the bond or certificate of  
403 deposit exclusively for the payment of claims to shippers  
404 ~~consumers~~ who are injured by the fraud, misrepresentation,  
405 breach of contract, misfeasance, malfeasance, or financial  
406 failure of the mover or moving broker or by a violation of this  
407 chapter by the mover or broker. Liability for these injuries may  
408 be determined in an administrative proceeding of the department  
409 or through a civil action in a court of competent jurisdiction.  
410 However, claims against the bond or certificate of deposit must  
411 only be paid, in amounts not to exceed the determined liability  
412 for these injuries, by order of the department in an  
413 administrative proceeding. The bond or certificate of deposit is  
414 subject to successive claims, but the aggregate amount of these  
415 claims may not exceed the amount of the bond or certificate of  
416 deposit. Claims must be submitted in writing on an affidavit



719936

417 form adopted by department rule and must be received by the  
418 department within 120 days after an alleged injury has occurred  
419 or is discovered to have occurred or a judgment has been  
420 entered. The proceedings shall be conducted pursuant to chapter  
421 120. For proceedings conducted pursuant to ss. 120.569 and  
422 120.57, the agency shall act only as a nominal party.

423 Section 15. Subsections (1) and (3) of section 507.06,  
424 Florida Statutes, are amended to read:

425 507.06 Delivery and storage of household goods.—

426 (1) A mover must relinquish household goods to a shipper  
427 and must place the goods inside a shipper's dwelling or, if  
428 directed by the shipper, inside a storehouse or warehouse that  
429 is owned or rented by the shipper or the shipper's agent, unless  
430 the shipper has not tendered payment in the amount specified in  
431 a written contract or estimate signed and dated by the shipper  
432 that complies with the requirements of this chapter. A mover may  
433 not refuse to relinquish prescription medicines and goods for  
434 use by children, including children's furniture, clothing, or  
435 toys, under any circumstances.

436 (3) A mover that lawfully fails to relinquish a shipper's  
437 household goods may place the goods in storage until payment is  
438 tendered; however, the mover must notify the shipper of the  
439 location where the goods are stored and the amount due within 2  
440 5 days after receipt of a written request for that information  
441 from the shipper, which request must include the address where  
442 the shipper may receive the notice. A mover may not require a  
443 prospective shipper to waive any rights or requirements under  
444 this section.

445 Section 16. Subsection (5) of section 507.07, Florida



719936

446 Statutes, is amended and subsections (10), (11), and (12) are  
447 added to that section, to read:

448 507.07 Violations.—It is a violation of this chapter:

449 (5) To withhold delivery of household goods or in any way  
450 hold goods in storage against the expressed wishes of the  
451 shipper if payment has been made as delineated in the ~~estimate~~  
452 ~~or~~ contract for services.

453 (10) To operate in violation of or fail to comply with any  
454 requirement of this chapter.

455 (11) To increase the cost of the move above the cost listed  
456 on the written contract unless the shipper has requested that  
457 the mover perform additional services not listed on the written  
458 contract.

459 (12) To require a cash payment.

460 Section 17. Subsection (1) of section 507.11, Florida  
461 Statutes, is amended to read:

462 507.11 Criminal penalties.—

463 (1) The refusal of a mover or a mover's employee, agent, or  
464 contractor to comply with an order from a law enforcement  
465 officer to relinquish a shipper's household goods after the  
466 officer determines that the shipper has tendered payment of the  
467 amount of a written ~~estimate or~~ contract, or after the officer  
468 determines that the mover did not produce a signed ~~estimate or~~  
469 contract that complies with the requirements of this chapter  
470 upon which demand is being made for payment or failed to comply  
471 with s. 507.06 or s. 507.07(12) or (13), is a felony of the  
472 third degree, punishable as provided in s. 775.082, s. 775.083,  
473 or s. 775.084. A mover's compliance with an order from a law  
474 enforcement officer to relinquish goods to a shipper is not a



719936

475 waiver or finding of fact regarding any right to seek further  
476 payment from the shipper.

477 Section 18. Section 507.15, Florida Statutes, is created to  
478 read:

479 507.15 Shippers' bill of rights.-

480 (1) The department shall prepare a publication that  
481 includes a summary of the rights and remedies available to  
482 shippers and the responsibilities of movers under this chapter.

483 The publication must include, at a minimum, a notice stating:

484 (a)1. That a mover's failure to relinquish household goods  
485 as required by this chapter or failure to comply with s. 507.06  
486 or s. 507.07(12) or (13) constitutes a felony of the third  
487 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
488 775.084.

489 2. That any other violation of this chapter constitutes a  
490 misdemeanor of the first degree, punishable as provided in s.  
491 775.082 or s. 775.083.

492 3. That any violation of this chapter constitutes a  
493 violation of the Florida Deceptive and Unfair Trade Practices  
494 Act.

495 (b) The potential risks of shipping sentimental items or  
496 family heirlooms.

497 (c) The requirement that a mover must provide valuation  
498 coverage.

499 (d) The methods of contacting the department for more  
500 information or to file a complaint.

501  
502 The department shall make its publication available to the  
503 public on its website.





719936

504       (2) A mover may customize the color, design, and dimensions  
505 of the front and back covers of the standard department  
506 publication. If the mover customizes the publication, the  
507 customized publication must include the content specified in  
508 subsection (1) and the font size used must be at least 10  
509 points, with the exception that the following must appear  
510 prominently on the front cover in at least 12-point boldfaced  
511 type:

512       Your Rights and Responsibilities When You Move.  
513       Furnished by Your Mover, as Required by Florida Law.

514       (3) A mover must provide an electronic or hard copy of the  
515 department's publication to a prospective shipper and obtain the  
516 shipper's acknowledged receipt of such publication by written or  
517 electronic signature at the time that the estimate is provided.

518       Section 19. Paragraph (a) of subsection (5) of section  
519 527.0201, Florida Statutes, is amended to read:

520       527.0201 Qualifiers; master qualifiers; examinations.-

521       (5) In addition to all other licensing requirements, each  
522 category I and category V licensee must, at the time of  
523 application for licensure, identify to the department one master  
524 qualifier who is a full-time employee at the licensed location.  
525 This person shall be a manager, owner, or otherwise primarily  
526 responsible for overseeing the operations of the licensed  
527 location and must provide documentation to the department as  
528 provided by rule. The master qualifier requirement shall be in  
529 addition to the requirements of subsection (1).

530       (a) In order to apply for certification as a master  
531 qualifier, each applicant must have at least ~~been a registered~~  
532 ~~qualifier for a minimum of 3 years of verifiable LP gas~~



719936

533 experience or hold a professional certification by an LP gas  
534 equipment manufacturer as adopted by department rule ~~immediately~~  
535 ~~preceding submission of the application~~, must be employed by a  
536 licensed category I or category V licensee, or an applicant for  
537 such license, and must pass a master qualifier competency  
538 examination. Master qualifier examinations shall be based on  
539 Florida's laws, rules, and adopted codes governing liquefied  
540 petroleum gas safety, general industry safety standards, and  
541 administrative procedures. The applicant must successfully pass  
542 the examination with a grade of 70 percent or above. Each  
543 applicant for master qualifier registration must submit to the  
544 department a nonrefundable \$30 examination fee before the  
545 examination.

546 Section 20. Section 616.242, Florida Statutes, is amended  
547 to read:

548 616.242 Safety standards for amusement rides.—

549 (1) OWNER RESPONSIBILITY.—The owner of an amusement ride,  
550 and each amusement ride, must meet at all times the requirements  
551 of this section and any rules adopted hereunder ~~thereunder~~.

552 (2) SCOPE.—This section applies to all amusement rides  
553 within this state unless exempt under subsection (11) ~~(10)~~.

554 (3) DEFINITIONS.—As used in this section, the term:

555 (a) "Amusement ride" means any building, structure, or  
556 mechanical device or combination thereof through which a patron  
557 moves, walks, or is carried or conveyed on, along, around, over,  
558 or through a fixed or restricted course or within a defined area  
559 for the purpose of giving its patrons amusement, pleasure,  
560 thrills, or excitement.

561 (b) "Amusement ride event" means an amusement ride or rides



719936

562 operated by an owner at a specific location and date as listed  
563 on an annual permit application or a temporary amusement ride  
564 permit application.

565 (c)~~(b)~~ "Annual permit" means the United States Amusement  
566 Identification Number and the numbered and dated decal issued by  
567 the department, which signify that the permanent amusement ride  
568 has been permitted by the department.

569 (d)~~(e)~~ "Bungy operation" means an amusement ride which uses  
570 ~~utilizes~~ as a component a bungy cord which is an elastic rope  
571 made of rubber, latex, or other elastic type materials whether  
572 natural or synthetic.

573 (e)~~(d)~~ "Go-kart" means an amusement ride vehicle controlled  
574 or driven by patrons specifically designed for and run on a  
575 fixed course.

576 ~~(e) "Inspection certificate" means the document issued by~~  
577 ~~the department, which indicates that the amusement ride has~~  
578 ~~undergone a recurring inspection by the department as required~~  
579 ~~by this section.~~

580 (f) "Kiddie ride" means an amusement ride designed  
581 primarily for use by patrons up to 12 years of age.

582 (g) "Kiddie train" means a train designed as a kiddie ride  
583 which is operated on a flat surface or flat track, carries no  
584 more than 14 patrons, and does not exceed a speed of 3 miles per  
585 hour.

586 (h) "Major modification" means any change in ~~either~~ the  
587 structural or operational characteristics of an ~~the~~ amusement  
588 ride which will alter its performance from that specified in the  
589 manufacturer's design criteria.

590 (i) "Manager" means a person having possession, custody, or



719936

591 managerial control of an amusement ride, whether as owner,  
592 lessee, agent, operator, attendant, or otherwise.

593 (j) "Nondestructive testing" is the development and  
594 application of technical methods, including, but not limited to,  
595 radiographic, magnetic particle, ultrasonic, liquid penetrant,  
596 electromagnetic, neutron radiographic, acoustic emission,  
597 visual, and leak testing to examine materials or components in  
598 ways that do not impair their future usefulness and  
599 serviceability in order to detect, locate, measure, and evaluate  
600 discontinuities, defects, and other imperfections; to assess  
601 integrity, properties, and composition; and to measure  
602 geometrical characters.

603 (k) "Owner" means the person exercising ultimate dominion  
604 and control over an amusement ride.

605 (l) "Patron" means any person who is in the immediate  
606 vicinity of an amusement ride, getting on or off, or entering or  
607 exiting an amusement ride, or using an amusement ride. The term  
608 does not include employees, agents, or servants of the owner  
609 while they are engaged in the duties of their employment.

610 (m) "Permanent amusement ride" means an amusement ride that  
611 is not regularly relocated.

612 (n) "Permanent facility" means a location or place from  
613 which amusement rides are not regularly relocated and at which  
614 such rides operate as a lasting part of the premises.

615 (o) "Private event" means an event that is not open to the  
616 general public and for which ~~where no~~ admission is not charged.

617 (p) "Professional engineer" means a person who holds a  
618 valid license as a professional engineer issued by the  
619 Department of Business and Professional Regulation or by an



719936

620 equivalent licensing body in another state.

621 (q) "Qualified inspector" means an employee or agent of an  
622 insurance underwriter of an amusement ride who documents to the  
623 department in a manner established by rule of the department the  
624 following qualifications:

625 1. A minimum of 5 years' ~~years~~ experience in the amusement  
626 ride field, at least 2 years of which were involved in actual  
627 amusement ride inspection with a manufacturer, government  
628 agency, park, carnival, or insurance underwriter;

629 2. The completion of 32 hours per year of continuing  
630 education at a school approved by rule of the department, which  
631 includes inservice industry or manufacturer updates and  
632 seminars; and

633 3. At least 80 hours of formal education during the past 5  
634 years from a school approved by rule of the department for  
635 amusement ride safety. Nondestructive-testing training, as  
636 determined by rule of the department, may be substituted for up  
637 to one-half of the 80 hours of education.

638 (r) "Simulator" means any amusement ride that is a self-  
639 contained unit requiring little or no assembly and that uses a  
640 motion picture simulation, along with a mechanical movement, to  
641 simulate activities that provide amusement or excitement for the  
642 patron.

643 (s) "Temporary amusement ride" means an amusement ride that  
644 is regularly relocated, with or without disassembly.

645 (t) "Temporary amusement ride permit" means the United  
646 States Amusement Identification Number and the decal issued by  
647 the department, which signify that the temporary amusement ride  
648 has been permitted by the department.



719936

649           (u)~~(t)~~ "Water park" means a permanent facility with one or  
650 more amusement rides that totally or partially immerse a patron  
651 in water.

652           (4) ADOPTION OF STANDARDS; RULES.—

653           (a) The department shall adopt by rule standards for  
654 amusement rides which are the same as or similar to the  
655 following national standards:

656           1. ASTM International ~~American Society for Testing and~~  
657 ~~Materials~~ Committee F-24 Standards on Amusement Rides and  
658 Devices.

659           2. National Electric Code Handbook, ~~Article 525~~.

660           3. National Fire Protection Association standards ~~Code 101~~  
661 ~~(chapters 8-4.6 and 9-4.6)~~.

662           4. ~~ASTM Standards: E543 Practice for Determining the~~  
663 ~~Qualification of Nondestructive Testing Agencies.~~

664           5. ~~ASNT Document Recommended Practice SNT-TC-1A Personnel~~  
665 ~~Qualification and Certification in Nondestructive Testing.~~

666           (b) The department may adopt rules necessary to effectuate  
667 the statutory duties of the department in the interest of public  
668 health, safety, and welfare and to promote patron safety in the  
669 design, construction, assembly, disassembly, maintenance, and  
670 operation of amusement rides in this state.

671           (c) The Legislature finds that go-karts, amusement rides at  
672 water parks, and bungee operations are amusement rides that,  
673 because of their unique nature, pose safety risks to patrons  
674 distinct from other amusement rides. Therefore, the department  
675 shall adopt rules regulating their safe use and operation and  
676 establish safety standards and inspection requirements in  
677 addition to those required by this section or other rule of the



719936

678 department.

679 (d) The Legislature finds that, as a result of accidents or  
680 other unforeseen events, circumstances may arise requiring  
681 additional safety standards for the protection of patrons of  
682 amusement rides. ~~and~~ Therefore the department may adopt rules  
683 to address the circumstances that may arise following an  
684 accident or unforeseen event.

685 (5) PERMANENT AMUSEMENT RIDE ANNUAL PERMIT.—

686 (a) A permanent ~~An~~ amusement ride may not be operated  
687 without a current annual permit.

688 (b) To apply for an annual permit, an owner must submit to  
689 the department a written application on a form prescribed by  
690 rule of the department, which must include the following:

691 1. The legal name, address, and primary place of business  
692 of the owner.

693 2. A description, manufacturer's name, serial number, model  
694 number and, if previously assigned, the United States Amusement  
695 Identification Number of the amusement ride.

696 3. A valid certificate of insurance for each amusement  
697 ride.

698 4. If required under subsection (7), an annual affidavit of  
699 compliance and nondestructive testing certifying that the  
700 amusement ride was inspected in person by the affiant and that  
701 the amusement ride is in general conformance with the  
702 requirements of this section and all applicable rules adopted by  
703 the department. The affidavit must be executed by a professional  
704 engineer or a qualified inspector ~~no earlier than 60 days~~  
705 ~~before, but not later than, the date of the filing of the~~  
706 ~~application with the department. The owner shall request~~



719936

707 ~~inspection and permitting of the amusement ride within 60 days~~  
708 ~~of the date of filing the application with the department. The~~  
709 ~~department shall inspect and permit the amusement ride within 60~~  
710 ~~days after filing the application with the department.~~

711 ~~5. If required by subsection (6), an affidavit of~~  
712 ~~nondestructive testing dated and executed no earlier than 60~~  
713 ~~days before, but not later than, the date of the filing of the~~  
714 ~~application with the department. The owner shall request~~  
715 ~~inspection and permitting of the amusement ride within 60 days~~  
716 ~~of the date of filing the application with the department. The~~  
717 ~~department shall inspect and permit the amusement ride within 60~~  
718 ~~days after filing the application with the department.~~

719 ~~6. A request for inspection.~~

720 ~~5.7.~~ Upon request, the owner shall, at no cost to the  
721 department, provide the department an electronic a copy of the  
722 manufacturer's current recommended operating instructions ~~in the~~  
723 ~~possession of the owner~~, the owner's operating fact sheet, and  
724 any written bulletins ~~in the possession of the owner~~ concerning  
725 the safety, operation, or maintenance of the amusement ride.

726 (c) An annual permit application must be received by the  
727 department at least 15 days before the owner's planned opening  
728 date. If an application is received less than 15 days before the  
729 owner's planned opening date or less than 15 days before the  
730 expiration of the previous permit, the department may inspect  
731 the amusement ride and charge a late fee as set by rule of the  
732 department.

733 (d) ~~(e)~~ An annual permit must be issued by the department to  
734 the owner of an amusement ride when a completed application has  
735 been received, the amusement ride has passed the department's





719936

736 inspection, and all applicable fees, as set by rule of the  
737 department, have been paid.

738 (e)~~(d)~~ The annual permit is valid for 1 year after ~~from~~ the  
739 date of issue and is not transferable.

740 (f)~~(e)~~ The annual permit must be displayed in an accessible  
741 location on the amusement ride ~~in a place visible to patrons of~~  
742 ~~the amusement ride.~~

743 (g)~~(f)~~ Each go-kart track at the same permanent facility is  
744 considered a separate amusement ride.

745 (h)~~(g)~~ Amusement rides at water parks which operate from  
746 the same deck or level are considered one amusement ride.

747 (6) TEMPORARY AMUSEMENT RIDE PERMIT.-

748 (a) A temporary amusement ride may not be operated without  
749 a current permit.

750 (b) To apply for a permit, an owner must submit to the  
751 department a written application on a form prescribed by rule of  
752 the department, which must include the following:

753 1. The legal name, address, and primary place of business  
754 of the owner.

755 2. A description, manufacturer's name, serial number, model  
756 number and, if previously assigned, the United States Amusement  
757 Identification Number of the amusement ride.

758 3. A valid certificate of insurance for each amusement  
759 ride, unless a current certificate was previously submitted to  
760 the department.

761 4. If required under subsection (7), and unless a current  
762 annual affidavit was previously submitted to the department, an  
763 affidavit of compliance and nondestructive testing certifying  
764 that the amusement ride was inspected in person by the affiant



719936

765 and that the amusement ride is in general conformance with the  
766 requirements of this section and all applicable rules adopted by  
767 the department. The affidavit must be executed by a professional  
768 engineer or a qualified inspector.

769 5. The owner shall, at no cost to the department, provide  
770 the department an electronic copy of the manufacturer's current  
771 recommended operating instructions, the owner's operating fact  
772 sheet, and any written bulletins concerning the safety,  
773 operation, or maintenance of the amusement ride.

774 (c) A temporary amusement ride permit application must be  
775 received by the department each time the amusement ride is  
776 relocated with or without assembly at least 14 days before the  
777 date of the ride's first intended use at the new location. If  
778 the permit application is received less than 14 days before the  
779 date of the ride's first intended use at the new location, the  
780 department may inspect the amusement ride and charge a late fee,  
781 as set by rule of the department.

782 (d) A permit must be issued by the department to the owner  
783 of an amusement ride when a completed application has been  
784 received, the amusement ride has passed the department's  
785 inspection, and all applicable fees, as set by rule of the  
786 department, have been paid.

787 (e) The permit is valid for 6 months after the date of  
788 issue or until the ride is relocated with or without disassembly  
789 unless the relocation is exempt from inspection pursuant to  
790 subparagraphs (8) (a)1.-3.

791 (f) The permit must be displayed in an accessible location  
792 on the amusement ride.

793 (7) ~~(6)~~ NONDESTRUCTIVE TESTING; ANNUAL AFFIDAVIT;



719936

794 EXEMPTIONS.—

795 (a) Except as provided in paragraph (d), an owner may not  
796 operate an amusement ride unless the owner has at all times a  
797 current affidavit of nondestructive testing from a professional  
798 engineer or qualified inspector that the amusement ride has  
799 undergone nondestructive testing for metal fatigue at least  
800 annually. The nondestructive testing for metal fatigue must be  
801 conducted more often than annually, ~~if required by any rule~~  
802 ~~adopted under this section, by the manufacturer of the amusement~~  
803 ~~ride, or by the professional engineer or qualified inspector~~  
804 ~~executing the affidavit of nondestructive testing. The~~  
805 ~~nondestructive testing for metal fatigue must consist at least~~  
806 ~~of visual nondestructive testing as well as, ~~in addition,~~~~  
807 ~~nonvisual nondestructive testing for metal fatigue which must be~~  
808 ~~conducted on the components of the amusement ride as required by~~  
809 ~~any rule adopted under this section, by the manufacturer of the~~  
810 ~~amusement ride, or by the professional engineer or qualified~~  
811 ~~inspector executing the affidavit of nondestructive testing.~~

812 (b) Nondestructive testings must be performed by a  
813 technician who meets the requirements prescribed by rule of the  
814 department ~~of subparagraphs (4)(a)4. and 5.~~

815 (c) An affidavit of nondestructive testing must state:

816 1. That the amusement ride was inspected in person by the  
817 affiant.

818 2. That all nondestructive testing requirements are  
819 current.

820 3. That the nondestructive testing was performed by a  
821 qualified nondestructive testing technician.

822 4. The components of the amusement ride for which the



719936

823 manufacturer has recommended or required nondestructive testing.

824 5. The type of nondestructive testing required or  
825 recommended by the manufacturer.

826 6. The frequency of the nondestructive testing required or  
827 recommended by the manufacturer.

828 7. The components of the amusement ride for which the  
829 affiant has recommended or required nondestructive testing.

830 8. The type of nondestructive testing required or  
831 recommended by the affiant.

832 9. The frequency of the nondestructive testing as required  
833 or recommended by the affiant.

834 10. That visual nondestructive testing is adequate for the  
835 amusement ride to be in general conformance with the  
836 requirements of this section, and all applicable rules only if  
837 ~~only~~ visual nondestructive testing is required or recommended by  
838 ~~either~~ the manufacturer or the affiant.

839 (d) Nondestructive testing is not required for fun houses,  
840 houses of mirrors, haunted houses, mazes, wave pools, wave-  
841 making devices, kiddie pools, slides that are fully supported by  
842 an earthen mound, nonmotorized playground equipment that  
843 requires a manager, or lazy-river-type nonmotorized floating  
844 carriers propelled by water.

845 (8) ~~(7)~~ DEPARTMENT INSPECTIONS.—

846 (a) In order to obtain an annual or a temporary amusement  
847 ride permit, an amusement ride must be inspected by the  
848 department ~~in accordance with subsection (11) and receive an~~  
849 ~~inspection certificate. In addition, each permanent amusement~~  
850 ~~ride must be inspected semiannually by the department in~~  
851 ~~accordance with subsection (11) and receive an inspection~~



719936

852 ~~certificate, and each temporary amusement ride must be inspected~~  
853 ~~by the department in accordance with subsection (11), and must~~  
854 ~~receive an inspection certificate each time the ride is set up~~  
855 ~~or moved to a new location in this state unless the temporary~~  
856 ~~amusement ride is:~~

857 1. A temporary amusement ride used at a private event;

858 2. A temporary amusement ride simulator, the capacity of  
859 which does not exceed 16 persons; ~~or~~

860 3. A temporary amusement ride kiddie ride used at a public  
861 event, provided that not ~~there are no~~ more than three amusement  
862 rides are at the event, ~~none of~~ the kiddie rides at the event do  
863 not exceed ~~exceeds~~ a capacity of 12 persons, and the kiddie ride  
864 was inspected by the department ~~has an inspection certificate~~  
865 ~~that was issued~~ within the preceding 6 months. The capacity of a  
866 kiddie ride shall be determined by rule of the department,  
867 unless the capacity of the ride has been determined and  
868 specified by the manufacturer. Any owner of a kiddie ride  
869 operating under this exemption is responsible for ensuring that  
870 not ~~no~~ more than three amusement rides are operated at the  
871 event; or

872 4. A permanent amusement ride that was inspected and  
873 certified by an accredited trade organization as defined by  
874 department rule.

875 ~~(b) To obtain a department inspection for an amusement~~  
876 ~~ride, the owner must submit to the department on a form~~  
877 ~~prescribed by rule of the department a written Request for~~  
878 ~~Inspection. The owner must provide the following information to~~  
879 ~~the department:~~

880 1. ~~The legal name, address, and primary place of business~~



719936

881 ~~of the owner.~~

882 ~~2. A description, manufacturer's name, serial number, model~~  
883 ~~number, and the United States Amusement Identification Number,~~  
884 ~~if previously assigned, of the amusement ride.~~

885 ~~3. For a temporary amusement ride, for each time the~~  
886 ~~amusement ride is set up or moved to a new location, the date of~~  
887 ~~first intended use at the new location and the address or a~~  
888 ~~description of the new location.~~

889 ~~(c) For permanent amusement rides, the request for~~  
890 ~~inspection must be received by the department at least 15 days~~  
891 ~~before the owner's planned opening date or at least 15 days~~  
892 ~~before the expiration of the prior inspection certificate. If~~  
893 ~~the request for inspection is received less than 15 days before~~  
894 ~~the owner's planned opening date or less than 15 days before the~~  
895 ~~expiration of the prior inspection certificate, the department~~  
896 ~~may nevertheless inspect the amusement ride and charge a late~~  
897 ~~fee, as set by rule of the department.~~

898 ~~(d) For temporary amusement rides, the request for~~  
899 ~~inspection must be received by the department for each time the~~  
900 ~~amusement ride is set up or moved to a new location at least 14~~  
901 ~~days before the date of first intended use at the new location.~~  
902 ~~If the request for inspection is received less than 14 days~~  
903 ~~before the date of first intended use at the new location, the~~  
904 ~~department may nevertheless inspect the amusement ride and~~  
905 ~~charge a late fee, as set by rule of the department.~~

906 ~~(b)-(e)~~ Inspections will be assigned on a first come, first  
907 served basis, and overflow requests will be scheduled on the  
908 closest date to the date for which the inspection was requested.

909 ~~(c)-(f)~~ Upon failure of an amusement ride to pass any



719936

910 department inspection, the owner may request reinspection which  
911 shall be submitted in writing to the department on a form  
912 prescribed by rule of the department. The department shall  
913 reinspect the amusement ride as soon as practical after  
914 ~~following~~ receipt of the written request for reinspection and  
915 any applicable reinspection fees set by rule of the department.  
916 Inspections will be assigned on a first come, first served  
917 basis, and the overflow requests will be scheduled on the  
918 closest date to the date for which the inspection was requested.

919 ~~(g) If the amusement ride passes inspection and the owner~~  
920 ~~pays the applicable fee set by rule of the department, the~~  
921 ~~department shall issue an inspection certificate on a form~~  
922 ~~prescribed by rule of the department.~~

923 ~~(h) The inspection certificate must contain the date of~~  
924 ~~inspection, the site of the inspection, and the name of the~~  
925 ~~inspector.~~

926 ~~(i) The inspection certificate is valid only for the site~~  
927 ~~stated on the inspection certificate. The inspection certificate~~  
928 ~~is valid for a period of not more than 6 months from the date of~~  
929 ~~issuance, and is not transferable.~~

930 ~~(j) The inspection certificate must be displayed on the~~  
931 ~~amusement ride at a place readily visible to patrons of the~~  
932 ~~amusement ride.~~

933 ~~(d)-(k)~~ If the owner fails to timely cancel a scheduled  
934 ~~Request for~~ inspection, requests holiday or weekend inspections,  
935 or is required to have a replacement USAID plate issued by the  
936 department, the owner may be charged an appropriate fee to be  
937 set by rule of the department.

938 (9)-(8) FEES.-



719936

939 (a) The department shall by rule establish fees to cover  
940 the costs and expenditures associated with the fair rides  
941 inspection program, including all direct and indirect costs. If  
942 there is not sufficient general revenue appropriated by the  
943 Legislature, the industry shall pay for the remaining cost of  
944 the program. The fees must be deposited in the General  
945 Inspection Trust Fund.

946 (b) Any owner of an amusement ride who has not paid all the  
947 fees required under this section or who has any unpaid fine  
948 outstanding under this section may not operate any amusement  
949 ride in this state until the fees and fines have been paid to  
950 the department.

951 ~~(10)-(9)~~ INSURANCE REQUIREMENTS.-

952 (a) An owner may not operate an amusement ride unless the  
953 owner has in effect at all times of operation an insurance  
954 policy in an amount of at least \$1 million per occurrence, \$1  
955 million in the aggregate, which insures the owner of the  
956 amusement ride against liability for injury to persons arising  
957 out of the use of the amusement ride.

958 (b) The policy must be procured from an insurer that is  
959 licensed to transact business in this state or that is approved  
960 as a surplus lines insurer.

961 (c) ~~The insurance requirements imposed under~~ This  
962 subsection does ~~de~~ not apply to a governmental entity that is  
963 covered under ~~by the provisions of~~ s. 768.28(16).

964 ~~(11)-(10)~~ EXEMPTIONS.-

965 (a) This section does not apply to:

966 1. Permanent facilities that employ at least 1,000 full-  
967 time employees and that maintain full-time, in-house safety





719936

968 inspectors. ~~Furthermore,~~ The permanent facilities must file an  
969 affidavit of the annual inspection with the department, on a  
970 form prescribed by rule of the department. ~~Additionally,~~ The  
971 Department of Agriculture and Consumer Services may consult  
972 annually with the permanent facilities regarding industry safety  
973 programs.

974       2. Any playground operated by a school, local government,  
975 or business licensed under chapter 509, if the playground is an  
976 incidental amenity and the operating entity is not primarily  
977 engaged in providing amusement, pleasure, thrills, or  
978 excitement.

979       ~~3. Museums or other institutions principally devoted to the~~  
980 ~~exhibition of products of agriculture, industry, education,~~  
981 ~~science, religion, or the arts.~~

982       ~~3.4.~~ Conventions or trade shows for the sale or exhibit of  
983 amusement rides if there are a minimum of 15 amusement rides on  
984 display or exhibition, and if any operation of such amusement  
985 rides is limited to the registered attendees of the convention  
986 or trade show.

987       ~~4.5.~~ Skating rinks, arcades, laser or paint ball war games,  
988 bowling alleys, miniature golf courses, mechanical bulls,  
989 inflatable rides, trampolines, ball crawls, exercise equipment,  
990 jet skis, paddle boats, airboats, helicopters, airplanes,  
991 parasails, hot air or helium balloons whether tethered or  
992 untethered, theatres, batting cages, stationary spring-mounted  
993 fixtures, rider-propelled merry-go-rounds, games, side shows,  
994 live animal rides, or live animal shows.

995       ~~5.6.~~ Go-karts operated in competitive sporting events if  
996 participation is not open to the public.



719936

997           ~~6.7.~~ Nonmotorized playground equipment that is not required  
998 to have a manager.

999           ~~7.8.~~ Coin-actuated amusement rides designed to be operated  
1000 by depositing coins, tokens, credit cards, debit cards, bills,  
1001 or other cash money and which are not required to have a  
1002 manager, and which have a capacity of six persons or less.

1003           ~~8.9.~~ Facilities described in s. 549.09(1) (a) when such  
1004 facilities are operating cars, trucks, or motorcycles only.

1005           ~~9.10.~~ Battery-powered cars or other vehicles that are  
1006 designed to be operated by children 7 years of age or under and  
1007 that cannot exceed a speed of 4 miles per hour.

1008           ~~10.11.~~ Mechanically driven vehicles that pull train cars,  
1009 carts, wagons, or other similar vehicles, that are not confined  
1010 to a metal track or confined to an area but are steered by an  
1011 operator and cannot ~~do not~~ exceed a speed of 4 miles per hour.

1012           ~~11.12.~~ A water-related amusement ride operated by a  
1013 business licensed under chapter 509 if the water-related  
1014 amusement ride is an incidental amenity and the operating  
1015 business is not primarily engaged in providing amusement,  
1016 pleasure, thrills, or excitement and does not offer day rates.

1017           ~~12.13.~~ An amusement ride at a private, membership-only  
1018 facility if the amusement ride is an incidental amenity and the  
1019 facility is not open to the general public; is not primarily  
1020 engaged in providing amusement, pleasure, thrills, or  
1021 excitement; and does not offer day rates.

1022           ~~13.14.~~ A nonprofit permanent facility registered under  
1023 chapter 496 which is not open to the general public.

1024           (b) The department may, by rule, establish exemptions from  
1025 this section ~~for nonmotorized or human-powered amusement rides~~



719936

1026 ~~or coin-actuated amusement rides.~~

1027       (12)~~(11)~~ INSPECTION STANDARDS.—An amusement ride must  
1028 conform to ~~and must be inspected by the department in accordance~~  
1029 ~~with~~ the following standards:

1030           (a) All mechanical, structural, and electrical components  
1031 that affect patron safety must be in good working order.

1032           (b) All control devices, speed-limiting devices, brakes,  
1033 and safety equipment designated by the manufacturer must be in  
1034 good working order.

1035           (c) Parts must be properly aligned, and they may not be  
1036 bent, distorted, cut, or otherwise injured to force a fit. Parts  
1037 requiring lubrication must be lubricated in the course of  
1038 assembly. Fastening and locking devices must be installed when  
1039 ~~where~~ required for safe operation.

1040           (d) ~~Before being used by the public,~~ An amusement ride must  
1041 be placed or secured with blocking, cribbing, outriggers, guys,  
1042 or other means so as to be stable under all operating  
1043 conditions.

1044           (e) Areas in which patrons may be endangered by the  
1045 operation of an amusement ride must be fenced, barricaded, or  
1046 otherwise effectively guarded against inadvertent contact.

1047           (f) Machinery used in or with an amusement ride must be  
1048 enclosed, barricaded, or otherwise effectively guarded against  
1049 inadvertent contact.

1050           (g) An amusement ride powered so as to be capable of  
1051 exceeding its maximum safe operating speed must be provided with  
1052 a maximum-speed-limiting device.

1053           (h) The interior and exterior parts of all patron-carrying  
1054 amusement rides with which a patron may come in contact must be



719936

1055 smooth and rounded and free from sharp, rough, or splintered  
1056 edges and corners, without ~~with no~~ projecting studs, bolts,  
1057 screws, or other projections which might cause injury.

1058 (i) Signs that advise or warn patrons of age restrictions,  
1059 size restrictions, health restrictions, weight limitations, or  
1060 any other special consideration or use restrictions required or  
1061 recommended for the amusement ride by the manufacturer shall be  
1062 prominently displayed at the patron entrance of each amusement  
1063 ride.

1064 (j) All amusement rides presented for inspection as ready  
1065 for operation or in operation must comply with this section and  
1066 the rules adopted hereunder.

1067 (k) Signs containing the toll-free number of the department  
1068 and informing patrons that they may contact the department with  
1069 complaints or concerns regarding the operation of amusement  
1070 rides must be posted in a manner conspicuous to the public at  
1071 each entrance of a permanent amusement ride facility and  
1072 temporary amusement ride event, unless such facility or event is  
1073 exempt under subsection (11). Specifications for such signs  
1074 shall be prescribed by rule of the department.

1075 (13) REGISTERED SAFETY TECHNICIAN.-

1076 (a) In addition to the requirements of subsections (5) and  
1077 (6), an owner applying for a permit to operate an amusement ride  
1078 must designate a registered safety technician.

1079 (b) A registered safety technician must certify that  
1080 amusement rides meet the requirements of subsection (12) and are  
1081 ready for operation before inspection.

1082 (c) A registered safety technician, owner, or manager must  
1083 be present and monitor operation of the rides during the hours



719936

1084 of operation at each amusement ride event.

1085 (d) A registered safety technician must demonstrate  
1086 competency by:

1087 1. Holding a valid National Association of Amusement Ride  
1088 Safety Officials (NAARSO) certification, or a valid Amusement  
1089 Industry Manufacturers and Suppliers (AIMS) International  
1090 certification, or certification from another professional  
1091 organization that meets or exceeds the certification  
1092 requirements set forth in this subparagraph and further  
1093 specified by department rule.

1094 2. Passing a written examination administered by the  
1095 department or its agent with a grade of at least 70 percent. The  
1096 department shall by rule specify the general areas of competency  
1097 to be covered by each examination.

1098 (f) Registration shall expire 2 years after the date of  
1099 issuance.

1100 (g) The department shall establish by rule timeframes  
1101 during which an owner may operate an amusement ride event if the  
1102 registered safety technician employed by the owner leaves  
1103 employment.

1104 (h) Application for registration shall be on a form  
1105 provided by the department. Application may be made by an  
1106 individual or by an owner, a partner, or any person employed by  
1107 the permit applicant. Upon successful completion of the  
1108 requirements in paragraph (e), the department shall issue a  
1109 registration.

1110 (i) The department may deny, refuse to renew, suspend, or  
1111 revoke a registration for:

1112 1. Violation of any provision of this chapter or any rule



719936

1113 or order of the department; or

1114 2. Falsification of records.

1115 (j) All examinations are confidential and exempt from s.  
1116 119.07(1).

1117 (14)-(12) MAJOR MODIFICATION.—After an amusement ride has  
1118 undergone a major modification, and before ~~prior to~~ the time it  
1119 is placed in operation, a professional engineer licensed by the  
1120 state in which the certification is performed must certify that  
1121 the amusement ride is in compliance with this section and all  
1122 rules adopted pursuant thereto. The owner of the amusement ride  
1123 must provide a copy of the required certification and all  
1124 evidence used by the professional engineer to prepare the  
1125 certification to the department upon request.

1126 (15)-(13) ENTRY FOR INSPECTION OR INVESTIGATION.—Upon  
1127 presentation of identification, an authorized employee of the  
1128 department may enter unannounced and inspect amusement rides at  
1129 any time and in a reasonable manner and has the right to  
1130 question any owner or manager; to inspect, investigate,  
1131 photograph, and sample all pertinent places, areas, and devices;  
1132 and to conduct or have conducted all appropriate tests including  
1133 nondestructive testing. The department may impose fees for  
1134 unannounced inspections and recover the cost of tests authorized  
1135 by this subsection.

1136 (16)-(14) REPORTING AND INVESTIGATION OF ACCIDENTS AND  
1137 DEFECTS; IMPOUNDMENTS.—

1138 (a) Any accident of which the owner or manager has  
1139 knowledge or, through the exercise of reasonable diligence  
1140 should have knowledge, and for which a patron is transported to  
1141 a hospital, as defined in chapter 395, must be reported by the



719936

1142 owner or manager to the department by telephone within 4 hours  
1143 after the occurrence of the accident and must be followed up by  
1144 a written report to the department within 24 hours after the  
1145 occurrence of the accident.

1146 (b) Any mechanical, structural, or electrical defects  
1147 affecting patron safety for which an amusement ride is closed to  
1148 patron use for more than 4 hours must be reported by the owner  
1149 or manager to the department by telephone or facsimile within 8  
1150 hours after the closing of the ride. A written report of the  
1151 closing of the ride, on a form prescribed by rule of the  
1152 department, must be filed by the owner or manager with the  
1153 department within 24 hours after the closing of the amusement  
1154 ride.

1155 (c) The department may impound an amusement ride involved  
1156 in an accident for which a patron is transported to a hospital  
1157 as defined in chapter 395 or which has a mechanical, structural,  
1158 or electrical defect affecting patron safety, and may impound  
1159 any other amusement ride of a similar make and model, and may  
1160 perform all necessary tests to determine the cause of the  
1161 accident or the mechanical, structural, or electrical defect, or  
1162 to determine the safety of the amusement ride and any other  
1163 amusement ride of a similar make and model. The cost of  
1164 impounding the amusement ride and performing the necessary tests  
1165 must be borne by the owner of the amusement ride.

1166 (17)-(15) INSPECTION BY OWNER, OR MANAGER, OR REGISTERED  
1167 SAFETY TECHNICIAN. ~~Before opening on each day of operation and~~  
1168 ~~before any inspection by the department,~~ The owner, or manager,  
1169 or registered safety technician of an amusement ride must:

1170 (a) Implement and document procedures for performing



719936

1171 documented and signed preopening inspections. The preopening  
1172 inspection shall include, but is not limited to, ASTM  
1173 International standards, as adopted by department rule.

1174 (b) Before opening on each day of operation and before any  
1175 scheduled inspection by the department, inspect each and test  
1176 the amusement ride to ensure compliance with all requirements of  
1177 this section. Each inspection must be recorded on a form  
1178 prescribed by rule of the department and signed by the person  
1179 who conducted the inspection and be reviewed by a registered  
1180 safety technician if the registered safety technician did not  
1181 conduct the inspection. In lieu of the form prescribed by rule  
1182 of the department, the owner or manager may request approval of  
1183 an alternative form if the alternative form includes, at a  
1184 minimum, the information required on the form prescribed by rule  
1185 of the department. Inspection records of the last 14 daily  
1186 inspections must be kept on site by the owner or manager and  
1187 made immediately available to the department upon request.

1188 (c) Implement and document procedures to be followed in the  
1189 event of any unscheduled cessation of operation of the ride. The  
1190 procedures shall require that when an unscheduled cessation of  
1191 operation of the ride that is potentially due to mechanical  
1192 failure occurs, the ride may not be operated again with patrons  
1193 on board until an inspection or test operation of the ride has  
1194 demonstrated that the ride is functioning properly.

1195 (18)-(16) TRAINING OF EMPLOYEES.—The owner or manager of an  
1196 amusement ride shall:

1197 (a) Implement and document a program of training to be  
1198 provided to all employees performing operations or maintenance.  
1199 The training program shall conform to the specifications of ASTM





719936

1200 International standards as adopted by department rule, include a  
1201 manual containing the training subject matter, and specify the  
1202 length of initial and refresher training as well as the  
1203 frequency of refresher training.

1204       (b) Maintain a record of employee training for each  
1205 employee authorized to operate, assemble, disassemble,  
1206 transport, or conduct maintenance on an amusement ride on a form  
1207 prescribed by rule of the department. In lieu of the form  
1208 prescribed by rule of the department, the owner or manager may  
1209 request approval of an alternative form if the alternative form  
1210 includes, at a minimum, the information required on the form  
1211 prescribed by rule of the department. The training record must  
1212 be kept on site by the owner or manager and made immediately  
1213 available to the department upon request. Training may not be  
1214 conducted when an amusement ride is open to the public unless  
1215 the training is conducted under the supervision of an employee  
1216 who is trained in the operation of that ride. The owner or  
1217 manager shall certify that each employee is trained, as required  
1218 by this section and any rules adopted thereunder, on the  
1219 amusement ride for which the employee is responsible.

1220       (19) MAINTENANCE.-

1221       (a) The owner of an amusement ride shall implement a  
1222 comprehensive program of maintenance, testing, and inspection  
1223 based on the amusement ride manufacturer's recommendations which  
1224 provides for the duties and responsibilities necessary to care  
1225 for the ride. Maintenance procedures shall conform with  
1226 specifications in ASTM F770 and ASTM F2291 as adopted by  
1227 department rule.

1228       (b) Maintenance must be conducted in the presence of or



719936

1229 approved by a registered safety technician.

1230 (c) If documentation meeting the requirements of paragraph

1231 (a) does not exist or is not available, maintenance procedures

1232 shall conform to manufacturer-originated maintenance

1233 instructions and shall include, but not be limited to, the

1234 following:

1235 1. A description of the ride operation, including the

1236 function and operation of its major components.

1237 2. A description of the motions the ride is designed to

1238 undergo while in operation.

1239 3. Lubrication procedures, including types of lubricants

1240 and frequency of lubrication, and a lubrication drawing, chart,

1241 or other effective means of demonstrating lubrication point

1242 locations.

1243 4. A description, including a schedule, of all maintenance,

1244 testing, and inspections to be performed on the ride.

1245 5. Maintenance procedures for electrical components, as

1246 well as schematics of electrical power, lighting, and controls.

1247 6. Maintenance procedures and schematics for hydraulic and

1248 pneumatic systems on or used to control the ride, including

1249 component locations; location charts; fluid, pressure, line, and

1250 fitting specifications; and troubleshooting guidelines.

1251 7. Specifications for the use of replacement fasteners and,

1252 when applicable, torque requirements for fasteners.

1253 8. A checklist to be made available to each person

1254 performing the regularly scheduled maintenance on each ride.

1255 9. Additional requirements as prescribed by rule of the

1256 department.

1257 (d) Upon request, the owner shall, at no cost to the



719936

1258 department, provide the department a copy of the manufacturer's  
1259 current maintenance manual and documentation confirming a  
1260 comprehensive maintenance program is being followed.

1261 (e) The owner shall keep a record of the assembly and  
1262 disassembly of, and all maintenance and repair performed on,  
1263 each amusement ride. When such work is performed by a party  
1264 other than the owner, the owner shall obtain a summary of work  
1265 performed from the party as a record. Such records shall be  
1266 retained and available for review by the department for at least  
1267 3 years or until the maintenance action is repeated or suspended  
1268 according to the manufacturer.

1269 (20) PATRON RESPONSIBILITY.—The department shall adopt by  
1270 rule ASTM International standards for patron responsibility.

1271 (21)~~(17)~~ PROHIBITIONS RELATED TO BUNGY OPERATIONS.—The  
1272 following bungee operations are prohibited:

1273 (a) A bungee operation conducted with balloons, blimps,  
1274 helicopters, or other aircraft.

1275 (b) Sand bagging, which is the practice of holding onto any  
1276 object, including another person, while bungee jumping, for the  
1277 purpose of exerting more force on the bungee cord to stretch it  
1278 further, and then releasing the object during the jump causing  
1279 the jumper to rebound with more force than could be created by  
1280 the jumper's weight alone.

1281 (c) Tandem or multiple bungee jumping.

1282 (d) Bungee jumping from any bridge, overpass, or any other  
1283 structure not specifically designed as an amusement ride.

1284 (e) The practice of bungee catapulting or reverse bungee  
1285 jumping.

1286 (22)~~(18)~~ IMMEDIATE FINAL ORDERS.—



719936

1287 (a) An amusement ride that fails to meet the requirements  
1288 of this section or pass the inspections required by this  
1289 section, or an amusement ride that is involved in an accident  
1290 for which a patron is transported to a hospital as defined in  
1291 chapter 395, or an amusement ride that has a mechanical,  
1292 structural, or electrical defect that affects patron safety may  
1293 be considered an immediate serious danger to public health,  
1294 safety, and welfare and, upon issuance of an immediate final  
1295 order prohibiting patron use of the ride, may not be operated  
1296 for patron use until it has passed a subsequent inspection by or  
1297 at the direction of the department.

1298 (b) An amusement ride of a similar make and model to an  
1299 amusement ride described in paragraph (a) may be considered an  
1300 immediate serious danger to the public health, safety, and  
1301 welfare and, upon issuance of an immediate final order  
1302 prohibiting patron use of the ride, may not be operated for  
1303 patron use until it has passed a subsequent inspection by or at  
1304 the direction of the department.

1305 (23) ACCIDENT INVESTIGATION WITNESSES AND EVIDENCE.-

1306 (a) In any examination or investigation conducted by the  
1307 department or by an examiner appointed by the department, the  
1308 department may administer oaths, examine and cross-examine  
1309 witnesses, receive oral and documentary evidence, subpoena  
1310 witnesses, compel witness attendance and testimony, and require  
1311 by subpoena the production of documents or other evidence which  
1312 it deems relevant to the inquiry.

1313 (b) If any person refuses to comply with such subpoena or  
1314 to testify as to any relevant matter, the Circuit Court of Leon  
1315 County, or the circuit court of the county in which such



719936

1316 examination or investigation is being conducted or the county in  
1317 which such person resides pursuant to an application filed with  
1318 the department, may issue an order requiring such person to  
1319 comply with the subpoena and to testify. Any failure to obey  
1320 such an order of the court may be punished by the court as a  
1321 contempt thereof.

1322 (c) Subpoenas shall be served and proof of such service  
1323 made in the same manner as if issued by a circuit court. Witness  
1324 fees and mileage, if claimed, shall be allowed the same as for  
1325 testimony in a circuit court.

1326 (d) Any person willfully testifying falsely under oath as  
1327 to any matter material to any such examination, investigation,  
1328 or hearing shall, upon conviction thereof, be guilty of perjury  
1329 and shall be punished accordingly.

1330 (e) If any person asks to be excused from attending or  
1331 testifying or from producing any documents or other evidence in  
1332 connection with any examination, hearing, or investigation being  
1333 conducted on the ground that the testimony or evidence required  
1334 may tend to incriminate him or her or subject him or her to a  
1335 penalty or forfeiture and shall notwithstanding be directed to  
1336 give such testimony or produce such evidence, he or she shall,  
1337 if so directed by the department and the Department of Legal  
1338 Affairs, nonetheless comply with such direction. The person  
1339 shall not thereafter be prosecuted or subjected to any penalty  
1340 or forfeiture for or on account of any transaction, matter, or  
1341 thing concerning which he or she may have testified or produced  
1342 evidence, and no testimony given or evidence produced shall be  
1343 received against him or her in any criminal action,  
1344 investigation, or proceeding. However, a person so testifying



719936

1345 shall not be exempt from prosecution or punishment for any  
1346 perjury committed by him or her in such testimony, and the  
1347 testimony or evidence given or produced shall be admissible  
1348 against him or her in any criminal action, investigation, or  
1349 proceeding concerning such perjury; and the person shall not be  
1350 exempt from the refusal, suspension, or revocation of any  
1351 license, permission, or authority conferred or to be conferred  
1352 pursuant to this chapter.

1353 (f) Any such individual may execute, acknowledge, and file  
1354 in the office of the department a statement expressly waiving  
1355 such immunity or privilege in respect to any transaction,  
1356 matter, or thing specified in such statement; and thereupon the  
1357 testimony of such individual or such evidence in relation to  
1358 such transaction, matter, or thing may be received or produced  
1359 before any judge or justice, court, tribunal, grand jury, or  
1360 otherwise; and, if so received or produced, such individual  
1361 shall not be entitled to any immunity or privileges on account  
1362 of any testimony he or she may so give or evidence so produced.

1363 (g) Any person who refuses or fails without lawful cause to  
1364 testify relative to the affairs of any person, when subpoenaed  
1365 and requested by the department to so testify, is guilty of a  
1366 misdemeanor of the second degree, punishable as provided in s.  
1367 775.083.

1368 (24) ~~(19)~~ ENFORCEMENT AND PENALTIES.—

1369 (a) The department may deny, suspend for a period not to  
1370 exceed 1 year, or revoke any permit ~~or inspection certificate.~~  
1371 In addition to denial, suspension, or revocation, the department  
1372 may impose an administrative fine in the Class III ~~Class II~~  
1373 category pursuant to s. 570.971 not to exceed \$10,000 ~~\$2,500~~ for



719936

1374 each violation, for each day the violation exists, against the  
1375 owner, manager, and registered safety technician of the  
1376 amusement ride if it finds that:

By Senator Hutson

7-01620A-19

20191788\_\_

1 A bill to be entitled  
 2 An act relating to the Department of Agriculture and  
 3 Consumer Services; amending s. 501.059, F.S.;  
 4 authorizing consumers to bring civil actions against  
 5 telephone solicitors; providing for the award of  
 6 damages; amending s. 501.603, F.S.; providing a  
 7 definition; amending s. 501.604, F.S.; providing that  
 8 substance abuse marketing service providers are  
 9 subject to the Florida Telemarketing Act; amending s.  
 10 501.605, F.S.; conforming provisions to changes made  
 11 by the act; creating s. 501.6055, F.S.; providing  
 12 licensing requirements for substance abuse marketing  
 13 service providers; amending s. 501.606, F.S.;  
 14 requiring such providers to disclose specified  
 15 information; amending s. 501.608, F.S.; revising  
 16 provisions for claims of exemption from the Florida  
 17 Telemarketing Act; amending s. 501.609, F.S.;  
 18 requiring substance abuse marketing service providers  
 19 to submit new or revised material to the department  
 20 within a specified time; amending s. 501.612, F.S.;  
 21 providing grounds for departmental action against such  
 22 providers; amending s. 501.616, F.S.; providing  
 23 unlawful acts and practices for such providers;  
 24 amending s. 501.618, F.S.; providing general civil  
 25 remedies in actions against such providers; amending  
 26 s. 507.01, F.S.; revising definitions; amending s.  
 27 507.03, F.S.; requiring separate registrations for  
 28 each business, trade, or fictitious name used by a  
 29 mover or moving broker; authorizing movers to act as

Page 1 of 72

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

7-01620A-19

20191788\_\_

30 moving brokers without a separate registration under  
 31 certain conditions; revising the conditions for  
 32 denying, refusing to renew, or revoking the  
 33 registrations of movers and moving brokers; requiring  
 34 movers and moving brokers to provide evidence of  
 35 insurance or alternative coverages at specified times;  
 36 requiring movers and moving brokers to maintain  
 37 estimates and contracts for a specified time and to  
 38 make such records available for inspection by the  
 39 department; amending s. 507.04, F.S.; revising  
 40 requirements for alternative insurance coverage and  
 41 liability insurance claims; amending s. 507.06, F.S.;  
 42 revising provisions authorizing movers to store  
 43 household goods until payment is made; amending s.  
 44 507.07, F.S.; providing violations; amending s.  
 45 507.11, F.S.; revising criminal penalties; creating s.  
 46 507.15, F.S.; directing the department to prepare and  
 47 post on its website a publication regarding shippers'  
 48 rights and remedies; specifying information to be  
 49 included in such publication; requiring movers to  
 50 provide a copy of such publication to shippers before  
 51 executing a contract; amending s. 527.0201, F.S.;  
 52 revising master qualifier licensing requirements;  
 53 amending s. 616.242, F.S.; providing and revising  
 54 definitions; revising standards for rules adopted by  
 55 the department relating to amusement rides; revising  
 56 provisions for permanent amusement ride annual  
 57 permits; providing for temporary amusement ride  
 58 permits; revising provisions for nondestructive

Page 2 of 72

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



7-01620A-19

20191788\_\_

59 testing and department testing of amusement rides;  
 60 removing the exemption from safety standards for  
 61 certain museums and institutions; removing the  
 62 limitation on the authority of the department to  
 63 establish exemptions from safety standards; revising  
 64 inspection standards for amusement rides; directing  
 65 the department to prescribe by rule specified signage  
 66 to be posted at amusement ride facilities and  
 67 temporary amusement ride events; requiring owners of  
 68 amusement rides to employ registered safety  
 69 technicians; providing requirements for such  
 70 technicians; revising requirements for compliance  
 71 certifications after major modifications to amusement  
 72 rides; revising requirements for amusement ride  
 73 inspections by owners, managers, and registered safety  
 74 technicians; revising requirements for employee  
 75 training; providing maintenance requirements for  
 76 amusement rides; providing for witnesses and evidence  
 77 in examinations and investigations conducted by the  
 78 department; revising penalties; providing an effective  
 79 date.

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

82  
 83 Section 1. Subsections (10) through (12) of section  
 84 501.059, Florida Statutes, are renumbered as subsections (11)  
 85 through (13), respectively, and a new subsection (10) is added  
 86 to that section to read:  
 87 501.059 Telephone solicitation.—

Page 3 of 72

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

7-01620A-19

20191788\_\_

88 (10) A consumer may bring a civil action in a court of  
 89 competent jurisdiction against a person who has made or caused  
 90 to be made more than one telephonic sales call to the consumer  
 91 within any 12-month period in violation of this section. A  
 92 person who fails to comply with this section is liable for  
 93 actual damages and for additional statutory damages as the court  
 94 may allow in an amount not to exceed \$500 per violation. If the  
 95 court finds that any violation of this section was committed  
 96 willfully or knowingly, it may, in its discretion, increase the  
 97 amount of the additional statutory damages by an amount not to  
 98 exceed \$1,500 per violation. The court may also enjoin the  
 99 defendant from further violations of this section.

100 Section 2. Subsection (13) is added to section 501.603,  
 101 Florida Statutes, to read:

102 501.603 Definitions.—As used in this part, unless the  
 103 context otherwise requires, the term:

104 (13) "Substance abuse marketing service provider" means any  
 105 entity providing substance abuse advertising or marketing  
 106 services to any service provider or operator of a recovery  
 107 residence as described in s. 397.55. The term includes, but is  
 108 not limited to, owners, operators, officers, directors,  
 109 partners, or other individuals engaged in the management  
 110 activities of a business entity pursuant to this part.

111 Section 3. Section 501.604, Florida Statutes, is amended to  
 112 read:

113 501.604 Exemptions.—~~The provisions of~~ This part, except ss.  
 114 501.608 and 501.616(6) and (7), does ~~do~~ not apply to:

115 (1) A person engaging in commercial telephone solicitation  
 116 when ~~where~~ the solicitation is an isolated transaction and not

Page 4 of 72

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

7-01620A-19

20191788\_\_

117 done in the course of a pattern of repeated similar transactions  
118 ~~of like nature.~~

119 (2) A person soliciting for religious, charitable,  
120 political, or educational purposes. A person soliciting for  
121 other noncommercial purposes is exempt only if that person is  
122 soliciting for a nonprofit corporation and if that corporation  
123 is properly registered as such with the Secretary of State and  
124 is included within the exemption of s. 501(c)(3) or (6) of the  
125 Internal Revenue Code.

126 ~~(3) A person who does not make the major sales presentation  
127 during the telephone solicitation and who does not intend to,  
128 and does not actually, complete or obtain provisional acceptance  
129 of a sale during the telephone solicitation, but who makes the  
130 major sales presentation and completes the sale at a later face-  
131 to-face meeting between the seller and the prospective purchaser  
132 in accordance with the home solicitation provisions in this  
133 chapter. However, if a seller, directly following a telephone  
134 solicitation, causes an individual whose primary purpose it is  
135 to go to the prospective purchaser to collect the payment or  
136 deliver any item purchased, this exemption does not apply.~~

137 (3)(4) A licensed securities, commodities, or investment  
138 broker, dealer, or investment adviser, when soliciting within  
139 the scope of his or her license, or a licensed associated person  
140 of a securities, commodities, or investment broker, dealer, or  
141 investment adviser, when soliciting within the scope of his or  
142 her license. As used in this section, the term "licensed  
143 securities, commodities, or investment broker, dealer, or  
144 investment adviser" means a person subject to license or  
145 registration as such by the Securities and Exchange Commission,

7-01620A-19

20191788\_\_

146 by the Financial Industry Regulatory Authority or other self-  
147 regulatory organization as defined by the Securities Exchange  
148 Act of 1934, 15 U.S.C. s. 781, or by an official or agency of  
149 this state or of any state of the United States. As used in this  
150 section, the term "licensed associated person of a securities,  
151 commodities, or investment broker, dealer, or investment  
152 adviser" means an associated person registered or licensed by  
153 the Financial Industry Regulatory Authority or other self-  
154 regulatory organization as defined by the Securities Exchange  
155 Act of 1934, 15 U.S.C. s. 781, or by an official or agency of  
156 this state or of any state of the United States.

157 (4)(5) A person primarily soliciting the sale of a  
158 newspaper of general circulation.

159 ~~(6) A book, video, or record club or contractual plan or  
160 arrangement:~~

161 ~~(a) Under which the seller provides the consumer with a  
162 form which the consumer may use to instruct the seller not to  
163 ship the offered merchandise.~~

164 ~~(b) Which is regulated by the Federal Trade Commission  
165 trade regulation concerning "use of negative option plans by  
166 sellers in commerce."~~

167 ~~(c) Which provides for the sale of books, records, or  
168 videos which are not covered under paragraph (a) or paragraph  
169 (b), including continuity plans, subscription arrangements,  
170 standing order arrangements, supplements, and series  
171 arrangements under which the seller periodically ships  
172 merchandise to a consumer who has consented in advance to  
173 receive such merchandise on a periodic basis.~~

174 (5)(7) A supervised financial institution or parent,

7-01620A-19

20191788\_\_

175 subsidiary, or affiliate thereof operating within the scope of  
 176 supervised activity. As used in this section, the term  
 177 "supervised financial institution" means a commercial bank,  
 178 trust company, savings and loan association, mutual savings  
 179 bank, credit union, industrial loan company, consumer finance  
 180 lender, commercial finance lender, or insurer, provided that the  
 181 institution is subject to supervision by an official or agency  
 182 of this state, of any state, or of the United States. For the  
 183 purposes of this exemption, the term "affiliate" means a person  
 184 who directly, or indirectly through one or more intermediaries,  
 185 controls or is controlled by, or is under common control with, a  
 186 supervised financial institution.

187 (6)(8) Any licensed insurance broker, agent, customer  
 188 representative, or solicitor when soliciting within the scope of  
 189 his or her license. As used in this section, the term "licensed  
 190 insurance broker, agent, customer representative, or solicitor"  
 191 means any insurance broker, agent, customer representative, or  
 192 solicitor licensed by an official or agency of this state or of  
 193 any state of the United States.

194 (7)(9) A person soliciting the sale of services provided by  
 195 a cable television system operating under authority of a  
 196 franchise or permit.

197 (8)(10) A business-to-business sale when ~~where~~:

198 (a) The commercial telephone seller has been lawfully  
 199 operating continuously for at least 3 years under the same  
 200 business name and has at least 50 percent of its dollar volume  
 201 consisting of repeat sales to existing businesses;

202 (b) The purchaser business intends to resell or offer for  
 203 purposes of advertisement or as a promotional item the property

7-01620A-19

20191788\_\_

204 or goods purchased; or

205 (c) The purchaser business intends to use the property or  
 206 goods purchased in a recycling, reuse, remanufacturing, or  
 207 manufacturing process.

208 ~~(11) A person who solicits sales by periodically publishing~~  
 209 ~~and delivering a catalog of the seller's merchandise to~~  
 210 ~~prospective purchasers, if the catalog:~~

211 ~~(a) Contains a written description or illustration of each~~  
 212 ~~item offered for sale.~~

213 ~~(b) Includes the business address or home office address of~~  
 214 ~~the seller.~~

215 ~~(c) Includes at least 20 pages of written material and~~  
 216 ~~illustrations and is distributed in more than one state.~~

217 ~~(d) Has an annual circulation by mailing of not less than~~  
 218 ~~150,000.~~

219 (9)(12) A person who solicits contracts for the maintenance  
 220 or repair of goods previously purchased from the person making  
 221 the solicitation or on whose behalf the solicitation is made.

222 (10)(13) A commercial telephone seller licensed pursuant to  
 223 chapter 516 or part III of chapter 520. For purposes of this  
 224 exemption, the seller must solicit to sell a consumer good or  
 225 service within the scope of his or her license and the completed  
 226 transaction must be subject to ~~the provisions of~~ chapter 516 or  
 227 part III of chapter 520.

228 (11)(14) A telephone company subject to chapter 364, or  
 229 affiliate thereof or its agents, or a telecommunications  
 230 business that is regulated by the Florida Public Service  
 231 Commission, or a Federal Communications Commission licensed  
 232 cellular telephone company or other bona fide radio

7-01620A-19 20191788\_\_

233 telecommunication services provider. For the purposes of this  
234 exemption, the term "affiliate" means a person who directly, or  
235 indirectly through one or more intermediaries, controls or is  
236 controlled by, or is under common control with, a telephone  
237 company subject to chapter 364.

238 ~~(12)~~(15) A person who is licensed pursuant to chapter 497  
239 and who is soliciting within the scope of the license.

240 ~~(13)~~(16) An issuer or a subsidiary of an issuer that has a  
241 class of securities which is subject to s. 12 of the Securities  
242 Exchange Act of 1934, 15 U.S.C. s. 781, and which is either  
243 registered or exempt from registration under paragraph (A),  
244 paragraph (B), paragraph (C), paragraph (E), paragraph (F),  
245 paragraph (G), or paragraph (H) of subsection (g) (2) of that  
246 section.

247 ~~(17) A business soliciting exclusively the sale of~~  
248 ~~telephone answering services provided that the telephone~~  
249 ~~answering services will be supplied by the solicitor.~~

250 ~~(14)~~(18) A person soliciting a transaction regulated by the  
251 Commodity Futures Trading Commission if the person is registered  
252 or temporarily licensed for this activity with the Commodity  
253 Futures Trading Commission under the Commodity Exchange Act, 7  
254 U.S.C. ss. 1 et seq., and the registration or license has not  
255 expired or been suspended or revoked.

256 ~~(15)~~(19) A person soliciting the sale of food or produce as  
257 defined in chapter 500 or chapter 504 if the solicitation  
258 neither intends to result in, or actually results in, a sale  
259 which costs the purchaser in excess of \$500.

260 ~~(16)~~(20) A person who is registered pursuant to part XI of  
261 chapter 559 and who is soliciting within the scope of the

7-01620A-19 20191788\_\_

262 registration.

263 ~~(17)~~(21) A person soliciting business from ~~prospective~~  
264 consumers who have an existing business relationship with or who  
265 have previously purchased from the business enterprise for which  
266 the solicitor is calling, if the solicitor is operating under  
267 the same exact business name.

268 ~~(22) A person who has been operating, for at least 1 year,~~  
269 ~~a retail business establishment under the same name as that used~~  
270 ~~in connection with telemarketing, and both of the following~~  
271 ~~occur on a continuing basis:~~

272 ~~(a) Either products are displayed and offered for sale or~~  
273 ~~services are offered for sale and provided at the business~~  
274 ~~establishment.~~

275 ~~(b) A majority of the seller's business involves the buyer~~  
276 ~~obtaining such products or services at the seller's location.~~

277 ~~(18)~~(23) A person who is a registered developer or exchange  
278 company pursuant to chapter 721 and who is soliciting within the  
279 scope of the chapter.

280 ~~(24) Any person who has been lawfully providing~~  
281 ~~telemarketing sales services continuously for at least 5 years~~  
282 ~~under the same ownership and control and who derives 75 percent~~  
283 ~~of its gross telemarketing sales revenues from contracts with~~  
284 ~~persons exempted in this section.~~

285 ~~(19)~~(25) A person licensed pursuant to chapter 475 and who  
286 is soliciting within the scope of the chapter.

287 ~~(26) A publisher, or an agent of a publisher by written~~  
288 ~~agreement, who solicits the sale of his or her periodical or~~  
289 ~~magazine of general, paid circulation. The term "paid~~  
290 ~~circulation" shall not include magazines that are only~~

7-01620A-19 20191788\_\_

291 ~~circulated as part of a membership package or that are given as~~  
 292 ~~a free gift or prize from the publisher or agent of the~~  
 293 ~~publisher by written agreement.~~

294 ~~(20)-(27)~~ A person who is a licensed operator or an  
 295 identification cardholder as defined in chapter 482, and who is  
 296 soliciting within the scope of the chapter.

297 ~~(21)-(28)~~ A licensee, or an affiliate of a licensee,  
 298 regulated under chapter 560, the Money Transmitters' Code, for  
 299 foreign currency exchange services.

300

301 This section does not apply to substance abuse marketing service  
 302 providers.

303 Section 4. Section 501.605, Florida Statutes, is amended to  
 304 read:

305 501.605 Licensure of commercial telephone sellers ~~and~~  
 306 ~~entities providing substance abuse marketing services.-~~

307 (1) Before doing business in this state, a commercial  
 308 telephone seller ~~or an entity providing substance abuse~~  
 309 ~~marketing services in accordance with s. 397.55~~ shall obtain a  
 310 license from the department. Doing business in this state  
 311 includes ~~either~~ telephone solicitation from a location in  
 312 Florida or solicitation from other states or nations of  
 313 purchasers located in Florida.

314 (2) An applicant for a license as a commercial telephone  
 315 seller ~~or as an entity providing substance abuse marketing~~  
 316 ~~services~~ must submit to the department, in such form as it  
 317 prescribes, a written application for the license. The  
 318 application must state ~~set forth~~ the following information:

319 (a) The true name, date of birth, driver license number or

7-01620A-19 20191788\_\_

320 other valid form of identification, and home address of the  
 321 applicant, including each name under which he or she intends to  
 322 do business.

323 (b) Each business or occupation engaged in by the applicant  
 324 during the 3 years immediately preceding the date of the  
 325 application, and the location thereof.

326 (c) The previous experience of the applicant as a  
 327 commercial telephone seller or salesperson ~~or as an entity~~  
 328 ~~providing substance abuse marketing services.~~

329 (d) Whether the applicant has previously been arrested for  
 330 ~~or~~ convicted of, or is under indictment or information for, a  
 331 felony and, if so, the nature of the felony. Conviction includes  
 332 a finding of guilt where adjudication has been withheld.

333 (e) Whether the applicant has previously been convicted of,  
 334 or is under indictment or information for, racketeering or any  
 335 offense involving fraud, theft, embezzlement, fraudulent  
 336 conversion, or misappropriation of property. Conviction includes  
 337 a finding of guilt where adjudication has been withheld.

338 (f) Whether there has ever been a judicial or  
 339 administrative finding that the applicant has previously been  
 340 convicted of acting as a salesperson without a license, or  
 341 whether such a license has previously been refused, revoked, or  
 342 suspended in any jurisdiction.

343 (g) Whether the applicant has worked for, or been  
 344 affiliated with, a company that has had entered against it an  
 345 injunction, a temporary restraining order, or a final judgment  
 346 or order, including a stipulated judgment or order, an assurance  
 347 of voluntary compliance, or any similar document, in any civil  
 348 or administrative action involving racketeering, fraud, theft,

7-01620A-19

20191788\_\_

349 embezzlement, fraudulent conversion, or misappropriation of  
 350 property or the use of any untrue, deceptive, or misleading  
 351 representation or the use of any unfair, unlawful, or deceptive  
 352 trade practice.

353 (h) Whether the applicant has had entered against him or  
 354 her an injunction, a temporary restraining order, or a final  
 355 judgment or order, including a stipulated judgment or order, an  
 356 assurance of voluntary compliance, or any similar document, in  
 357 any civil or administrative action involving racketeering,  
 358 fraud, theft, embezzlement, fraudulent conversion, or  
 359 misappropriation of property or the use of any untrue,  
 360 deceptive, or misleading representation or the use of any  
 361 unfair, unlawful, or deceptive trade practice; and whether ~~or~~  
 362 ~~not~~ there is any litigation pending against the applicant.

363 (i) The name of any parent or affiliated entity that:

364 1. Will engage in a business transaction with the purchaser  
 365 relating to any sale solicited by the applicant; or

366 2. Accepts responsibility or is otherwise held out by the  
 367 applicant as being responsible for any statement or act of the  
 368 applicant relating to any sale solicited by the applicant.

369 (j) The complete street address of each location,  
 370 designating the principal location, from which the applicant  
 371 will be doing business. The street address may not be a mail  
 372 drop.

373 (k) A list of all telephone numbers to be used by the  
 374 applicant, with the address where each telephone using these  
 375 numbers will be located.

376 (l) The true name, current home address, date of birth, and  
 377 all other names by which known, or previously known, of each:

7-01620A-19

20191788\_\_

378 1. Principal officer, director, trustee, shareholder,  
 379 owner, or partner of the applicant, and of each other person  
 380 responsible for the management of the business of the applicant.

381 2. Office manager or other person principally responsible  
 382 for a location from which the applicant will do business.

383 3. Salesperson or other person to be employed by the  
 384 applicant.

385  
 386 The application shall be accompanied by a copy of any+ script,  
 387 outline, or presentation the applicant will require or suggest a  
 388 salesperson to use when soliciting, or, if no such document is  
 389 used, a statement to that effect; sales information or  
 390 literature to be provided by the applicant to a salesperson; and  
 391 sales information or literature to be provided by the applicant  
 392 to a purchaser in connection with any solicitation.

393 (3) When an application states ~~sets forth~~ information  
 394 regarding an applicant as described in paragraphs (2) (d)-(h),  
 395 the applicant must:

396 (a) Identify the court or administrative agency rendering  
 397 the conviction, judgment, or order against the applicant ~~person~~  
 398 or pending litigation.

399 (b) Provide the docket number of the matter; the date of  
 400 the conviction, judgment, or order; and the name of the  
 401 governmental agency, if any, that brought the action resulting  
 402 in the conviction, judgment, or order. The applicant must also  
 403 include litigation.

404 (4) If the applicant is other than a natural person, or if  
 405 any parent or affiliated entity is identified pursuant to  
 406 paragraph (2) (i), the applicant must, for itself and for any

7-01620A-19 20191788\_\_

407 such entity, identify its place of organization and:

408 (a) In the case of a partnership, provide a copy of any

409 written partnership agreement; or

410 (b) In the case of a corporation, provide a copy of its

411 articles of incorporation and bylaws.

412 (5) An application filed pursuant to this part must be

413 verified and accompanied by:

414 (a) A bond, letter of credit, or certificate of deposit

415 satisfying the requirements of s. 501.611. ~~An entity providing~~

416 ~~substance abuse marketing services in accordance with s. 397.55~~

417 ~~is exempt from this requirement.~~

418 (b) A fee for licensing in the amount of \$1,500. The fee

419 shall be deposited into the General Inspection Trust Fund. The

420 department shall waive the initial license fee for an honorably

421 discharged veteran of the United States Armed Forces, the spouse

422 or surviving spouse of such a veteran, a current member of the

423 United States Armed Forces who has served on active duty, the

424 spouse of such a member, the surviving spouse of a member of the

425 United States Armed Forces if such member died while serving on

426 active duty, or a business entity that has a majority ownership

427 held by such a veteran or spouse or surviving spouse if the

428 department receives an application, in a format prescribed by

429 the department. The application format must include the

430 applicant's signature, under penalty of perjury, and supporting

431 documentation. To qualify for the waiver:

432 1. A veteran must provide to the department a copy of his

433 or her DD Form 214, as issued by the United States Department of

434 Defense, or another acceptable form of identification as

435 specified by the Department of Veterans' Affairs;

7-01620A-19 20191788\_\_

436 2. The spouse or surviving spouse of a veteran must provide

437 to the department a copy of the veteran's DD Form 214, as issued

438 by the United States Department of Defense, or another

439 acceptable form of identification as specified by the Department

440 of Veterans' Affairs, and a copy of a valid marriage license or

441 certificate verifying that he or she was lawfully married to the

442 veteran at the time of discharge; or

443 3. A business entity must provide to the department proof

444 that a veteran or the spouse or surviving spouse of a veteran

445 holds a majority ownership in the business, a copy of the

446 veteran's DD Form 214, as issued by the United States Department

447 of Defense, or another acceptable form of identification as

448 specified by the Department of Veterans' Affairs, and, if

449 applicable, a copy of a valid marriage license or certificate

450 verifying that the spouse or surviving spouse of the veteran was

451 lawfully married to the veteran at the time of discharge.

452 (6) The department shall issue a license number to all

453 commercial telephone sellers.

454 (7) It is a violation of this part for a commercial

455 telephone seller ~~or an entity providing substance abuse~~

456 ~~marketing services~~ to:

457 (a) Fail to maintain a valid license.

458 (b) Advertise that one is licensed as a commercial seller

459 ~~or as an entity providing substance abuse marketing services~~ or

460 represent that such licensing constitutes approval or

461 endorsement by any government or governmental office or agency.

462 (c) Provide inaccurate or incomplete information to the

463 department when making a license application.

464 (d) Misrepresent that one a person is registered or that

7-01620A-19 20191788\_\_

465 ~~one such a person~~ has a valid license number.

466 Section 5. Section 501.6055, Florida Statutes, is created  
467 to read:

468 501.6055 Licensure of substance abuse marketing service  
469 providers.-

470 (1) Before doing business in this state, a substance abuse  
471 marketing service provider shall obtain a license from the  
472 department. Doing business in this state includes providing  
473 substance abuse marketing services to entities located in  
474 Florida or, with the intent to interact with a consumer  
475 interested in substance abuse services, making or receiving  
476 telephone calls at a location in Florida, or making telephone  
477 calls to a consumer located in Florida.

478 (2) An applicant for a license as a substance abuse  
479 marketing service provider must submit to the department, in  
480 such form as it prescribes, a written application for the  
481 license. The application must state the following information:

482 (a) The true name, date of birth, driver license number or  
483 other valid form of identification, and home address of the  
484 applicant, including each name under which he or she intends to  
485 do business.

486 (b) Each business or occupation engaged in by the applicant  
487 during the 3 years immediately preceding the date of the  
488 application, and the location thereof.

489 (c) The previous experience of the applicant as a substance  
490 abuse marketing service provider.

491 (d) Whether the applicant has previously been arrested for  
492 or convicted of, or is under indictment or information for, a  
493 felony and, if so, the nature of the felony. Conviction includes

7-01620A-19 20191788\_\_

494 a finding of guilt where adjudication has been withheld.

495 (e) Whether the applicant has previously been convicted of,  
496 or is under indictment or information for, racketeering or any  
497 offense involving fraud, theft, embezzlement, fraudulent  
498 conversion, or misappropriation of property. Conviction includes  
499 a finding of guilt where adjudication has been withheld.

500 (f) Whether there has ever been a judicial or  
501 administrative finding that the applicant has previously been  
502 convicted of acting as a salesperson without a license, or  
503 whether such a license has previously been refused, revoked, or  
504 suspended in any jurisdiction.

505 (g) Whether the applicant has worked for, or been  
506 affiliated with, a company that has had entered against it an  
507 injunction, a temporary restraining order, or a final judgment  
508 or order, including a stipulated judgment or order, an assurance  
509 of voluntary compliance, or any similar document, in any civil  
510 or administrative action involving racketeering, fraud, theft,  
511 embezzlement, fraudulent conversion, or misappropriation of  
512 property or the use of any untrue, deceptive, or misleading  
513 representation or the use of any unfair, unlawful, or deceptive  
514 trade practice.

515 (h) Whether the applicant has had entered against him or  
516 her an injunction, a temporary restraining order, or a final  
517 judgment or order, including a stipulated judgment or order, an  
518 assurance of voluntary compliance, or any similar document, in  
519 any civil or administrative action involving racketeering,  
520 fraud, theft, embezzlement, fraudulent conversion, or  
521 misappropriation of property or the use of any untrue,  
522 deceptive, or misleading representation or the use of any



7-01620A-19 20191788\_\_

523 unfair, unlawful, or deceptive trade practice; and whether there  
 524 is any litigation pending against the applicant.  
 525 (i) The name of any parent or affiliated entity that:  
 526 1. Will engage in a business transaction with the purchaser  
 527 relating to any sale solicited by the applicant; or  
 528 2. Accepts responsibility or is otherwise held out by the  
 529 applicant as being responsible for any statement or act of the  
 530 applicant relating to any sale solicited by the applicant.  
 531 (j) The complete street address of each location,  
 532 designating the principal location, from which the applicant  
 533 will be doing business. The street address may not be a mail  
 534 drop.  
 535 (k) A list of all telephone numbers to be used by the  
 536 applicant, with the address where each telephone using these  
 537 numbers will be located.  
 538 (l) The true name, current home address, date of birth, and  
 539 all other names by which known, or previously known, of each:  
 540 1. Principal officer, director, trustee, shareholder,  
 541 owner, or partner of the applicant, and of each other person  
 542 responsible for the management of the business of the applicant.  
 543 2. Office manager or other person principally responsible  
 544 for a location from which the applicant will do business.  
 545 3. Persons to be employed by the applicant to make or  
 546 answer telephone calls.  
 547  
 548 The application shall be accompanied by a copy of any script,  
 549 outline, or presentation the applicant will require or suggest a  
 550 person to use when making or answering telephone calls in the  
 551 conduct of business as a substance abuse marketing service

7-01620A-19 20191788\_\_

552 provider, or, if no such document is used, a statement to that  
 553 effect; literature to be provided by the applicant to a person  
 554 employed to make or answer calls on behalf of the substance  
 555 abuse marketing service provider; and literature to be provided  
 556 by the applicant to a consumer who requests assistance with  
 557 substance abuse services.  
 558 (3) When an application states information regarding an  
 559 applicant as described in paragraphs (2) (d)-(h), the applicant  
 560 must:  
 561 (a) Identify the court or administrative agency rendering  
 562 the conviction, judgment, or order against the applicant or  
 563 pending litigation.  
 564 (b) Provide the docket number of the matter; the date of  
 565 the conviction, judgment, or order; and the name of the  
 566 governmental agency, if any, that brought the action resulting  
 567 in the conviction, judgment, or order.  
 568 (4) If the applicant is other than a natural person, or if  
 569 any parent or affiliated entity is identified pursuant to  
 570 paragraph (2) (i), the applicant must, for itself and for any  
 571 such entity, identify its place of organization and:  
 572 (a) In the case of a partnership, provide a copy of any  
 573 written partnership agreement; or  
 574 (b) In the case of a corporation, provide a copy of its  
 575 articles of incorporation and bylaws.  
 576 (5) An application filed pursuant to this part must be  
 577 verified and accompanied by a fee for licensing in the amount of  
 578 \$1,500. The fee shall be deposited into the General Inspection  
 579 Trust Fund. The department shall waive the initial license fee  
 580 for an honorably discharged veteran of the United States Armed

7-01620A-19 20191788\_\_

581 Forces, the spouse or surviving spouse of such a veteran, a  
 582 current member of the United States Armed Forces who has served  
 583 on active duty, the spouse of such a member, the surviving  
 584 spouse of a member of the United States Armed Forces if such  
 585 member died while serving on active duty, or a business entity  
 586 that has a majority ownership held by such a veteran or spouse  
 587 or surviving spouse if the department receives an application,  
 588 in a format prescribed by the department. The application format  
 589 must include the applicant's signature, under penalty of  
 590 perjury, and supporting documentation. To qualify for the  
 591 waiver:

592 (a) A veteran must provide to the department a copy of his  
 593 or her DD Form 214, as issued by the United States Department of  
 594 Defense, or another acceptable form of identification as  
 595 specified by the Department of Veterans' Affairs;

596 (b) The spouse or surviving spouse of a veteran must  
 597 provide to the department a copy of the veteran's DD Form 214,  
 598 as issued by the United States Department of Defense, or another  
 599 acceptable form of identification as specified by the Department  
 600 of Veterans' Affairs, and a copy of a valid marriage license or  
 601 certificate verifying that he or she was lawfully married to the  
 602 veteran at the time of discharge; or

603 (c) A business entity must provide to the department proof  
 604 that a veteran or the spouse or surviving spouse of a veteran  
 605 holds a majority ownership in the business, a copy of the  
 606 veteran's DD Form 214, as issued by the United States Department  
 607 of Defense, or another acceptable form of identification as  
 608 specified by the Department of Veterans' Affairs, and, if  
 609 applicable, a copy of a valid marriage license or certificate

Page 21 of 72

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

7-01620A-19 20191788\_\_

610 verifying that the spouse or surviving spouse of the veteran was  
 611 lawfully married to the veteran at the time of discharge.

612 (6) The department shall issue a license number to all  
 613 substance abuse marketing service providers.

614 (7) It is a violation of this part for a substance abuse  
 615 marketing service provider to:

616 (a) Fail to maintain a valid license.

617 (b) Advertise that one is licensed as an entity providing  
 618 substance abuse marketing services or represent that such  
 619 licensing constitutes approval or endorsement by any government  
 620 or governmental office or agency.

621 (c) Provide inaccurate or incomplete information to the  
 622 department when making a license application.

623 (d) Misrepresent that one is registered or that one has a  
 624 valid license number.

625 Section 6. Subsections (1) and (3) of section 501.606,  
 626 Florida Statutes, are amended to read:

627 501.606 Disclosures required of commercial telephone  
 628 sellers and ~~entities providing~~ substance abuse marketing service  
 629 providers services.-

630 (1) With respect to any person identified pursuant to s.  
 631 501.605(2)(a), s. 501.605(2)(i), s. 501.605(2)(l), s.  
 632 501.6055(2)(a), s. 501.6055(2)(i), or s. 501.6055(2)(l) ~~or~~  
 633 501.605, an applicant for a license as a commercial telephone  
 634 seller or ~~as an entity providing~~ substance abuse marketing  
 635 service provider ~~services~~ must state in his or her application  
 636 the identity of any affiliated commercial seller, ~~or~~  
 637 salesperson, or marketing service provider who:

638 (a) Has been convicted of, or is under indictment or

Page 22 of 72

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

7-01620A-19

20191788\_\_

639 information for, racketeering or any offense involving fraud,  
640 theft, embezzlement, fraudulent conversion, or misappropriation  
641 of property. Conviction includes a finding of guilt where  
642 adjudication has been withheld;

643 (b) Is involved in pending litigation or has had entered  
644 against him or her an injunction, a temporary restraining order,  
645 or a final judgment or order, including a stipulated judgment or  
646 order, an assurance of voluntary compliance, or any similar  
647 document, in any civil or administrative action involving  
648 racketeering, fraud, theft, embezzlement, fraudulent conversion,  
649 or misappropriation of property or the use of any untrue,  
650 deceptive, or misleading representation or the use of any  
651 unfair, unlawful, or deceptive trade practice;

652 (c) Is, or ever has been, subject to any litigation,  
653 injunction, temporary restraining order, or final judgment or  
654 order, including a stipulated judgment or order, an assurance of  
655 voluntary compliance, or any similar document or any restrictive  
656 court order relating to a business activity as the result of any  
657 action brought by a governmental agency, including any action  
658 affecting any license to do business or practice an occupation  
659 or trade;

660 (d) Has at any time during the previous 7 years filed for  
661 bankruptcy, been adjudged bankrupt, or been reorganized because  
662 of insolvency; or

663 (e) Has been a principal, director, officer, or trustee of,  
664 or a general or limited partner in, or had responsibilities as a  
665 manager in, any corporation, partnership, joint venture, or  
666 other entity that filed for bankruptcy, was adjudged bankrupt,  
667 or was reorganized because of insolvency within 1 year after the

7-01620A-19

20191788\_\_

668 person held that position. The disclosures required in paragraph  
669 (d) shall be applicable insofar as they relate to the commercial  
670 telephone seller or substance abuse marketing service provider  
671 applicant, as well as any affiliated commercial seller,  
672 ~~affiliate or~~ salesperson, or marketing service provider.

673 (3) Each commercial telephone seller and substance abuse  
674 marketing service provider shall disclose to the department the  
675 name, address, and account number of each institution where  
676 banking or similar monetary transactions are done by the  
677 commercial telephone seller or substance abuse marketing service  
678 provider.

679 Section 7. Section 501.608, Florida Statutes, is amended to  
680 read:

681 501.608 License or claim affidavit of exemption;  
682 occupational license.—

683 (1) (a) The department shall issue to each approved  
684 applicant a license in such form and size as is prescribed by  
685 the department and, in the case of a commercial telephone seller  
686 who is not exempt under ~~the provisions of~~ s. 501.604, shall  
687 issue a license for each location at which the commercial  
688 telephone seller proposes to do business.

689 (b) Except for a person claiming an exemption under s.  
690 501.604(1), any commercial telephone seller claiming to be  
691 exempt from the act under s. 501.604 ~~s. 501.604(2), (3), (5),~~  
692 ~~(6), (9), (10), (11), (12), (17), (21), (22), (24), or (26)~~ must  
693 file with the department a claim notarized affidavit of  
694 exemption. The claim affidavit of exemption must be on forms  
695 prescribed by the department and must require the name of the  
696 commercial telephone seller, the name of the business, ~~and~~ the

7-01620A-19

20191788\_\_

697 business address, and all telephone numbers used by the  
 698 commercial telephone seller or its authorized agents to make  
 699 outgoing commercial telephone solicitations. At the request of  
 700 the department, the commercial telephone seller shall provide  
 701 sales scripts, contracts, and other documentation as needed to  
 702 verify the validity of the exemption before the claim affidavit  
 703 of exemption is accepted for filing. A commercial telephone  
 704 seller maintaining more than one business may file a single  
 705 claim ~~notarized affidavit~~ of exemption that clearly indicates  
 706 the location of each place of business. If a change of ownership  
 707 occurs, the commercial telephone seller must notify the  
 708 department.

709 (c) The claim affidavit of exemption may be used for the  
 710 purpose of obtaining an occupational license.

711 (d) Each license issued under this part must show the name  
 712 and address of the person to whom it is issued, as well as the  
 713 license number, if any, and date of issuance.

714 (2) Each licensee or person operating under a valid and  
 715 properly filed exemption shall prominently display his or her  
 716 license or a copy of his or her receipt of filing of the claim  
 717 affidavit of exemption at each location where he or she does  
 718 business and shall make the license or the receipt of filing of  
 719 the claim affidavit of exemption available for inspection by any  
 720 governmental agency upon request.

721 (3) Failure to obtain or display a license or a receipt of  
 722 filing of a claim ~~an affidavit~~ of exemption is sufficient  
 723 grounds for the department to issue an immediate cease and  
 724 desist order, which shall act as an immediate final order under  
 725 s. 120.569(2)(n). The order shall remain in effect until the

7-01620A-19

20191788\_\_

726 commercial telephone seller, the ~~entity providing~~ substance  
 727 abuse marketing service provider services, or a person claiming  
 728 to be exempt shows the authorities that he or she is properly  
 729 licensed or exempt. The department may order the business to  
 730 cease operations and shall order the phones to be shut off.  
 731 Failure of a commercial telephone seller or substance abuse  
 732 marketing service provider salesperson to display a license or a  
 733 receipt of filing of a claim ~~an affidavit~~ of exemption may  
 734 result in the seller or marketing service provider salesperson  
 735 being summarily ordered by the department to leave the office  
 736 until he or she can produce a license or a receipt of filing of  
 737 a claim ~~an affidavit~~ of exemption for the department.

738 (4) Any person applying for or renewing a local  
 739 occupational license to engage in business as a commercial  
 740 telephone seller or ~~as an entity providing~~ substance abuse  
 741 marketing service provider services must exhibit an active  
 742 license or a copy of the claim affidavit of exemption before the  
 743 local occupational license may be issued or reissued.

744 (5) A claim ~~An affidavit~~ of exemption has no bearing on a  
 745 person's burden of proof in any civil or criminal proceeding as  
 746 provided in s. 501.624.

747 Section 8. Subsection (3) of section 501.609, Florida  
 748 Statutes, is amended to read:

749 501.609 License renewal.—

750 (3) If any change is made to any script, outline,  
 751 presentation, sales information, or literature used by a  
 752 licensee in connection with any solicitation or any services  
 753 provided by a substance abuse marketing service provider, the  
 754 new or revised material must be submitted by the licensee to the

7-01620A-19

20191788\_\_

755 department within 10 days after ~~of~~ the change.

756 Section 9. Subsection (1) of section 501.612, Florida  
757 Statutes, is amended to read:

758 501.612 Grounds for departmental action against licensure  
759 applicants or licensees.—

760 (1) The department may enter an order directing that one or  
761 more of the actions set forth in subsection (2) be taken if the  
762 department finds that a commercial telephone seller or  
763 ~~salesperson or an entity providing~~ substance abuse marketing  
764 service provider services, or any person applying for licensure  
765 as a commercial telephone seller or ~~salesperson or an entity~~  
766 ~~providing~~ substance abuse marketing service provider services,  
767 including, but not limited to, owners, operators, officers,  
768 directors, partners, or other individuals engaged in the  
769 management activities of a business entity:

770 (a) Has, regardless of adjudication, been convicted or  
771 found guilty of, or has entered a plea of guilty or a plea of  
772 nolo contendere to, racketeering or any offense involving fraud,  
773 theft, embezzlement, fraudulent conversion, or misappropriation  
774 of property, or any other crime involving moral turpitude;

775 (b) Has, regardless of adjudication, been convicted or  
776 found guilty of, or has entered a plea of guilty or a plea of  
777 nolo contendere to, any felony;

778 (c) Has had entered against him or her or any business for  
779 which he or she has worked or been affiliated, an injunction, a  
780 temporary restraining order, or a final judgment or order,  
781 including a stipulated judgment or order, an assurance of  
782 voluntary compliance, or any similar document, in any civil or  
783 administrative action involving racketeering, fraud, theft,

Page 27 of 72

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

7-01620A-19

20191788\_\_

784 embezzlement, fraudulent conversion, or misappropriation of  
785 property or the use of any untrue or misleading representation  
786 in an attempt to sell or dispose of real or personal property or  
787 the use of any unfair, unlawful, or deceptive trade practice;

788 (d) Is subject to or has worked or been affiliated with any  
789 company which is, or ever has been, subject to any injunction,  
790 temporary restraining order, or final judgment or order,  
791 including a stipulated judgment or order, an assurance of  
792 voluntary compliance, or any similar document, or any  
793 restrictive court order relating to a business activity as the  
794 result of any action brought by a governmental agency, including  
795 any action affecting any license to do business or practice an  
796 occupation or trade;

797 (e) Has at any time during the previous 7 years filed for  
798 bankruptcy, been adjudged bankrupt, or been reorganized because  
799 of insolvency;

800 (f) Has been a principal, director, officer, or trustee of,  
801 or a general or limited partner in, or had responsibilities as a  
802 manager in, any corporation, partnership, joint venture, or  
803 other entity that filed the bankruptcy, was adjudged bankrupt,  
804 or was reorganized because of insolvency within 1 year after the  
805 person held that position;

806 (g) Has been previously convicted of or found to have been  
807 acting as a ~~salesperson or~~ commercial telephone seller or ~~an~~  
808 ~~entity providing~~ substance abuse marketing service provider  
809 ~~services~~ without a license or whose licensure has previously  
810 been refused, revoked, or suspended in any jurisdiction;

811 (h) Falsifies or willfully omits any material information  
812 asked for in any application, document, or record required to be

Page 28 of 72

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

7-01620A-19

20191788\_\_

813 submitted or retained under this part;

814 (i) Makes a material false statement in response to any  
815 request or investigation by the department or the state  
816 attorney;

817 (j) Refuses or fails, after notice, to produce any document  
818 or record or disclose any information required to be produced or  
819 disclosed under this part or the rules of the department;

820 (k) Is not of good moral character; or

821 (l) Otherwise violates or is operating in violation of any  
822 of ~~the provisions of~~ this part or of the rules adopted or orders  
823 issued thereunder.

824 Section 10. Subsections (4) and (5) of section 501.616,  
825 Florida Statutes, are amended to read:

826 501.616 Unlawful acts and practices.—

827 (4) A commercial telephone seller or salesperson or  
828 substance abuse marketing service provider must be licensed.

829 (5) A salesperson or commercial telephone seller or  
830 substance abuse marketing service provider may not otherwise  
831 violate this part.

832 Section 11. Section 501.618, Florida Statutes, is amended  
833 to read:

834 501.618 General civil remedies.—The department may bring:

835 (1) An action to obtain a declaratory judgment that an act  
836 or practice violates ~~the provisions of~~ this part.

837 (2) An action to enjoin a person who has violated, is  
838 violating, or is otherwise likely to violate ~~the provisions of~~  
839 this part.

840 (3) An action on behalf of one or more purchasers for the  
841 actual damages caused by an act or practice performed in

7-01620A-19

20191788\_\_

842 violation of ~~the provisions of~~ this part. Such an action may  
843 include, but is not limited to, an action to recover against a  
844 bond, letter of credit, or certificate of deposit as otherwise  
845 provided in this part.

846  
847 Upon motion of the enforcing authority in any action brought  
848 under this section, the court may make appropriate orders,  
849 including appointment of a general or special magistrate or  
850 receiver or sequestration of assets, to reimburse consumers  
851 found to have been damaged, to carry out a consumer transaction  
852 in accordance with the consumer's reasonable expectations, or to  
853 grant other appropriate relief. The court may assess the  
854 expenses of a general or special magistrate or receiver against  
855 a commercial telephone seller or ~~an entity providing~~ substance  
856 abuse marketing service provider ~~services~~. Any injunctive order,  
857 whether temporary or permanent, issued by the court shall be  
858 effective throughout the state unless otherwise provided in the  
859 order.

860 Section 12. Subsections (9) and (10) of section 507.01,  
861 Florida Statutes, are amended to read:

862 507.01 Definitions.—As used in this chapter, the term:

863 (9) "Mover" means a person who, for compensation, contracts  
864 for or engages in the loading, transportation or shipment, or  
865 unloading of household goods as part of a household move. The  
866 term includes, but is not limited to, owners, operators,  
867 officers, directors, partners, or other individuals engaged in  
868 the management activities of a business entity subject to  
869 regulation under this chapter. The term does not include a  
870 postal, courier, envelope, or package service that does not

7-01620A-19

20191788\_\_

871 advertise itself as a mover or moving service or a person who is  
 872 hired as a laborer to assist a shipper only in the loading and  
 873 unloading of the shipper's own household goods.

874 (10) "Moving broker" or "broker" means a person who, for  
 875 compensation, arranges for another person to load, transport or  
 876 ship, or unload household goods as part of a household move or  
 877 who, for compensation, refers a shipper to a mover by telephone,  
 878 postal or electronic mail, Internet website, or other means. The  
 879 term includes, but is not limited to, owners, operators,  
 880 officers, directors, partners, or other individuals engaged in  
 881 the management activities of a business entity subject to  
 882 regulation under this chapter.

883 Section 13. Present subsections (10) and (11) of section  
 884 507.03, Florida Statutes, are redesignated as subsection (11)  
 885 and (12), respectively, a new subsection (10) is added to that  
 886 section, and subsection (1), paragraph (a) of subsection (3),  
 887 subsections (7) and (8), and present subsection (10) are  
 888 amended, and subsection (13) is added to that section, to read:

889 507.03 Registration.—

890 (1) Each mover and moving broker must register with the  
 891 department, providing its legal business and trade name, mailing  
 892 address, and business locations; the full names, addresses, and  
 893 telephone numbers of its owners or corporate officers and  
 894 directors and the Florida agent of the corporation; a statement  
 895 whether it is a domestic or foreign corporation, its state and  
 896 date of incorporation, its charter number, and, if a foreign  
 897 corporation, the date it registered with the Department of  
 898 State; the date on which the mover or broker registered its  
 899 fictitious name if the mover or broker is operating under a

Page 31 of 72

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

7-01620A-19

20191788\_\_

900 fictitious or trade name; the name of all other corporations,  
 901 business entities, and trade names through which each owner of  
 902 the mover or broker operated, was known, or did business as a  
 903 mover or ~~moving~~ broker within the preceding 5 years; and proof  
 904 of the insurance or alternative coverages required under s.  
 905 507.04. A mover or broker must file a separate registration for  
 906 each business, trade, or fictitious name under which it is  
 907 advertising or providing services.

908 (3) (a) Registration fees shall be calculated at the rate of  
 909 \$300 per year per mover or moving broker. All amounts collected  
 910 shall be deposited by the Chief Financial Officer to the credit  
 911 of the General Inspection Trust Fund of the department for the  
 912 sole purpose of administration of this chapter. A mover may act  
 913 as a broker without registering as a broker if the mover is  
 914 advertising and providing services under a single business,  
 915 trade, or fictitious name.

916 (7) A registration is not valid for any mover or moving  
 917 broker transacting business at any place other than that  
 918 designated in the mover's or broker's application, unless the  
 919 department is first notified in writing before any change of  
 920 location. A registration issued under this chapter is not  
 921 assignable, and the mover or broker may not provide services  
 922 ~~conduct business~~ under more than one name ~~except as registered~~.  
 923 A mover or broker desiring to change its ~~registered name or~~  
 924 location or designated agent for service of process at a time  
 925 other than upon renewal of registration must notify the  
 926 department of the change.

927 (8) The department may deny, refuse to renew, or revoke the  
 928 registration of any mover or moving broker based upon a

Page 32 of 72

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

7-01620A-19 20191788\_\_

929 determination that the mover or ~~moving~~ broker, or any of the  
930 mover's or ~~moving~~ broker's directors, officers, owners, or  
931 general partners:

932 (a) Has failed to meet the requirements for registration as  
933 provided in this chapter;

934 (b) Has been convicted of a crime involving fraud, theft,  
935 larceny, fraudulent conversion, misappropriation of property,  
936 dishonest dealing, or any other act of moral turpitude, or any  
937 crime arising from conduct during a movement of household goods  
938 ~~dishonest dealing, or any other act of moral turpitude;~~

939 (c) Has not satisfied a civil fine or penalty arising out  
940 of any administrative or enforcement action brought by any  
941 governmental agency or private person based upon conduct  
942 involving fraud, dishonest dealing, or any violation of this  
943 chapter;

944 (d) Has pending against him or her any criminal,  
945 administrative, or enforcement proceedings in any jurisdiction,  
946 based upon conduct involving fraud, theft, larceny, fraudulent  
947 conversion, misappropriation of property, dishonest dealing, or  
948 any other act of moral turpitude, or any crime arising from  
949 conduct during a movement of household goods ~~dishonest dealing,~~  
950 ~~or any other act of moral turpitude; or~~

951 (e) Has had a judgment entered against him or her in any  
952 action brought by the department or the Department of Legal  
953 Affairs under this chapter or ss. 501.201-501.213, the Florida  
954 Deceptive and Unfair Trade Practices Act; or

955 (f) Has been a director, officer, owner, or general  
956 partner, or has had responsibilities as a manager, of any  
957 corporation, partnership, joint venture, or other entity that

7-01620A-19 20191788\_\_

958 has had a judgment or final order entered against it in any  
959 action brought by the department or the Department of Legal  
960 Affairs under this chapter or ss. 501.201-501.213, the Florida  
961 Deceptive and Unfair Trade Practices Act, or in any action based  
962 upon conduct involving fraud, theft, larceny, fraudulent  
963 conversion, misappropriation of property, dishonest dealing, or  
964 any other act of moral turpitude, or any crime arising from  
965 conduct during a move of household goods.

966 (10) The department shall, upon notification and subsequent  
967 written verification by a law enforcement agency, a court, a  
968 state attorney, or the Department of Law Enforcement,  
969 immediately suspend a registration or the processing of an  
970 application for a registration if the registrant, applicant, or  
971 director, officer, owner, or general partner of the registrant  
972 or applicant is formally charged with a crime involving fraud,  
973 theft, larceny, fraudulent conversion, misappropriation of  
974 property, dishonest dealing, or any other act of moral  
975 turpitude, or any crime arising from conduct during a move of  
976 household goods, until final disposition of the case or removal  
977 or resignation of the director, officer, owner, or general  
978 partner.

979 (11)-(10) ~~Each mover and moving broker shall provide~~  
980 ~~evidence to the department of the current and valid insurance or~~  
981 ~~alternative coverages required under s. 507.04 at the time of~~  
982 ~~registration and within 10 days after renewing or making any~~  
983 ~~change to the coverage.~~

984 (12)-(11) ~~At the request of the department, each moving~~  
985 ~~broker shall provide a complete list of the movers that the~~  
986 ~~moving broker has contracted or is affiliated with, advertises~~



7-01620A-19 20191788\_\_

987 on behalf of, arranges moves for, or refers shippers to,  
988 including each mover's complete name, address, telephone number,  
989 and e-mail address and the name of each mover's owner or other  
990 principal.

991 (13) Each mover and moving broker must maintain true and  
992 accurate signed estimates and contracts for moving services for  
993 at least 3 years. The records must be made available to the  
994 department for inspection and must be furnished no later than 10  
995 business days after request by the department.

996 Section 14. Subsection (1) of section 507.04, Florida  
997 Statutes, is amended to read:

998 507.04 Required insurance coverages; liability limitations;  
999 valuation coverage.—

1000 (1) LIABILITY INSURANCE.—

1001 (a)1. Except as provided in paragraph (b), each mover  
1002 operating in this state must maintain current and valid  
1003 liability insurance coverage of at least \$10,000 per shipment  
1004 for the loss or damage of household goods resulting from the  
1005 negligence of the mover or its employees or agents.

1006 2. The mover must provide the department with evidence of  
1007 liability insurance coverage before the mover is registered with  
1008 the department under s. 507.03. All insurance coverage  
1009 maintained by a mover must remain in effect throughout the  
1010 mover's registration period. A mover's failure to maintain  
1011 insurance coverage in accordance with this paragraph constitutes  
1012 an immediate threat to the public health, safety, and welfare.

1013 (b) A mover that operates two or fewer vehicles, in lieu of  
1014 maintaining the liability insurance coverage required under  
1015 paragraph (a), may, and each moving broker that is not also

7-01620A-19 20191788\_\_

1016 registered as a mover must, maintain one of the following  
1017 alternative coverages:

1018 1. A performance bond in the amount of \$25,000, for which  
1019 the surety of the bond must be a surety company authorized to  
1020 conduct business in this state; or

1021 2. A certificate of deposit in a Florida banking  
1022 institution in the amount of \$25,000.

1023  
1024 The original bond or certificate of deposit must be filed with  
1025 the department and must designate the department as the sole  
1026 beneficiary. The department must use the bond or certificate of  
1027 deposit exclusively for the payment of claims to shippers  
1028 ~~consumers~~ who are injured by the fraud, misrepresentation,  
1029 breach of contract, misfeasance, malfeasance, or financial  
1030 failure of the mover or moving broker or by a violation of this  
1031 chapter by the mover or broker. Liability for these injuries may  
1032 be determined in an administrative proceeding of the department  
1033 or through a civil action in a court of competent jurisdiction.  
1034 However, claims against the bond or certificate of deposit must  
1035 only be paid, in amounts not to exceed the determined liability  
1036 for these injuries, by order of the department in an  
1037 administrative proceeding. The bond or certificate of deposit is  
1038 subject to successive claims, but the aggregate amount of these  
1039 claims may not exceed the amount of the bond or certificate of  
1040 deposit. Claims must be submitted in writing on an affidavit  
1041 form adopted by department rule and must be received by the  
1042 department within 120 days after an alleged injury has occurred  
1043 or is discovered to have occurred or a judgment has been  
1044 entered. The proceedings shall be conducted pursuant to chapter

7-01620A-19 20191788\_\_

1045 120. For proceedings conducted pursuant to ss. 120.569 and  
 1046 120.57, the agency shall act only as a nominal party.

1047 Section 15. Subsections (1) and (3) of section 507.06,  
 1048 Florida Statutes, are amended to read:

1049 507.06 Delivery and storage of household goods.—

1050 (1) A mover must relinquish household goods to a shipper  
 1051 and must place the goods inside a shipper's dwelling or, if  
 1052 directed by the shipper, inside a storehouse or warehouse that  
 1053 is owned or rented by the shipper or the shipper's agent, unless  
 1054 the shipper has not tendered payment in the amount specified in  
 1055 a written contract or estimate signed and dated by the shipper  
 1056 that complies with the requirements of this chapter. A mover may  
 1057 not refuse to relinquish prescription medicines and goods for  
 1058 use by children, including children's furniture, clothing, or  
 1059 toys, under any circumstances.

1060 (3) A mover that lawfully fails to relinquish a shipper's  
 1061 household goods may place the goods in storage until payment is  
 1062 tendered; however, the mover must notify the shipper of the  
 1063 location where the goods are stored and the amount due within 2  
 1064 5 days after receipt of a written request for that information  
 1065 from the shipper, which request must include the address where  
 1066 the shipper may receive the notice. A mover may not require a  
 1067 prospective shipper to waive any rights or requirements under  
 1068 this section.

1069 Section 16. Subsections (10) through (13) are added to  
 1070 section 507.07, Florida Statutes, to read:

1071 507.07 Violations.—It is a violation of this chapter:

1072 (10) To place a shipper's goods in a self-service storage  
 1073 unit or self-contained storage unit owned by anyone other than

7-01620A-19 20191788\_\_

1074 the mover unless those goods are stored in the name of the  
 1075 shipper and the shipper contracts directly with the owner of the  
 1076 self-service storage unit or self-contained storage unit.

1077 (11) To operate in violation of or fail to comply with any  
 1078 requirement of this chapter.

1079 (12) To increase the cost of the move above the cost listed  
 1080 on the written estimate unless the shipper has requested that  
 1081 the mover perform additional services not listed on the original  
 1082 estimate. The mover may not increase the cost of the move if the  
 1083 mover failed to perform an onsite inspection before signing the  
 1084 estimate.

1085 (13) To require a cash payment.

1086 Section 17. Subsection (1) of section 507.11, Florida  
 1087 Statutes, is amended to read:

1088 507.11 Criminal penalties.—

1089 (1) The refusal of a mover or a mover's employee, agent, or  
 1090 contractor to comply with an order from a law enforcement  
 1091 officer to relinquish a shipper's household goods after the  
 1092 officer determines that the shipper has tendered payment of the  
 1093 amount of a written estimate or contract, or after the officer  
 1094 determines that the mover did not produce a signed estimate or  
 1095 contract that complies with the requirements of this chapter  
 1096 upon which demand is being made for payment or failed to comply  
 1097 with s. 507.06 or s. 507.07(12) or (13), is a felony of the  
 1098 third degree, punishable as provided in s. 775.082, s. 775.083,  
 1099 or s. 775.084. A mover's compliance with an order from a law  
 1100 enforcement officer to relinquish goods to a shipper is not a  
 1101 waiver or finding of fact regarding any right to seek further  
 1102 payment from the shipper.

7-01620A-19

20191788\_\_

1103 Section 18. Section 507.15, Florida Statutes, is created to  
1104 read:

1105 507.15 Shippers' bill of rights.-

1106 (1) The department shall prepare a publication that  
1107 includes a summary of the rights and remedies available to  
1108 shippers and the responsibilities of movers under this chapter.  
1109 The publication must include a notice stating:

1110 (a)1. That a mover's failure to relinquish household goods  
1111 as required by this chapter or failure to comply with s. 507.06  
1112 or s. 507.07(12) or (13) constitutes a felony of the third  
1113 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1114 775.084.

1115 2. That any other violation of this chapter constitutes a  
1116 misdeemeanor of the first degree, punishable as provided in s.  
1117 775.082 or s. 775.083.

1118 3. That any violation of this chapter constitutes a  
1119 violation of the Florida Deceptive and Unfair Trade Practices  
1120 Act.

1121 (b) The potential risks of shipping sentimental items or  
1122 family heirlooms.

1123 (c) The requirement that a mover must provide valuation  
1124 coverage.

1125 (d) The methods of contacting the department for more  
1126 information or to file a complaint.

1127  
1128 The department shall make its publication available to the  
1129 public on its website.

1130 (2) A mover may customize the color, design, and dimensions  
1131 of the front and back covers of the standard department

Page 39 of 72

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

7-01620A-19

20191788\_\_

1132 publication. If the mover customizes the publication, the  
1133 customized publication must include the content specified in  
1134 subsection (1) and the font size used must be at least 10  
1135 points, with the exception that the following must appear  
1136 prominently on the front cover in at least 12-point boldfaced  
1137 type:

1138 Your Rights and Responsibilities When You Move.

1139 Furnished by Your Mover, as Required by Florida Law.

1140 (3) Before executing a contract for a household move, a  
1141 mover must provide an electronic or hard copy of the  
1142 department's publication to a prospective shipper and obtain the  
1143 shipper's acknowledged receipt of such publication by written or  
1144 electronic signature in the contract.

1145 Section 19. Paragraph (a) of subsection (5) of section  
1146 527.0201, Florida Statutes, is amended to read:

1147 527.0201 Qualifiers; master qualifiers; examinations.-

1148 (5) In addition to all other licensing requirements, each  
1149 category I and category V licensee must, at the time of  
1150 application for licensure, identify to the department one master  
1151 qualifier who is a full-time employee at the licensed location.  
1152 This person shall be a manager, owner, or otherwise primarily  
1153 responsible for overseeing the operations of the licensed  
1154 location and must provide documentation to the department as  
1155 provided by rule. The master qualifier requirement shall be in  
1156 addition to the requirements of subsection (1).

1157 (a) In order to apply for certification as a master  
1158 qualifier, each applicant must have at least been a registered  
1159 qualifier for a minimum of 3 years of verifiable LP gas  
1160 experience as a registered qualifier or hold a professional

Page 40 of 72

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

7-01620A-19 20191788\_\_  
 1161 certification by an LP gas equipment manufacturer as adopted by  
 1162 department rule immediately preceding submission of the  
 1163 application, must be employed by a licensed category I or  
 1164 category V licensee, or an applicant for such license, and must  
 1165 pass a master qualifier competency examination. Master qualifier  
 1166 examinations shall be based on Florida's laws, rules, and  
 1167 adopted codes governing liquefied petroleum gas safety, general  
 1168 industry safety standards, and administrative procedures. The  
 1169 applicant must successfully pass the examination with a grade of  
 1170 70 percent or above. Each applicant for master qualifier  
 1171 registration must submit to the department a nonrefundable \$30  
 1172 examination fee before the examination.

1173 Section 20. Section 616.242, Florida Statutes, is amended  
 1174 to read:

1175 616.242 Safety standards for amusement rides.—

1176 (1) OWNER RESPONSIBILITY.—The owner of an amusement ride,  
 1177 and each amusement ride, must meet at all times the requirements  
 1178 of this section and any rules adopted hereunder ~~thereunder~~.

1179 (2) SCOPE.—This section applies to all amusement rides  
 1180 within this state unless exempt under subsection (11) ~~(10)~~.

1181 (3) DEFINITIONS.—As used in this section, the term:

1182 (a) "Amusement ride" means any building, structure, or  
 1183 mechanical device or combination thereof through which a patron  
 1184 moves, walks, or is carried or conveyed on, along, around, over,  
 1185 or through a fixed or restricted course or within a defined area  
 1186 for the purpose of giving its patrons amusement, pleasure,  
 1187 thrills, or excitement.

1188 (b) "Amusement ride event" means an amusement ride or rides  
 1189 operated by an owner at a specific location and date as listed

7-01620A-19 20191788\_\_  
 1190 on an annual permit application or a temporary amusement ride  
 1191 permit application.

1192 ~~(c)(b)~~ "Annual permit" means the United States Amusement  
 1193 Identification Number and the numbered and dated decal issued by  
 1194 the department, which signify that the permanent amusement ride  
 1195 has been permitted by the department.

1196 ~~(d)(e)~~ "Bungy operation" means an amusement ride which uses  
 1197 ~~utilizes~~ as a component a bungy cord which is an elastic rope  
 1198 made of rubber, latex, or other elastic type materials whether  
 1199 natural or synthetic.

1200 ~~(e) "Inspection certificate" means the document issued by~~  
 1201 ~~the department, which indicates that the amusement ride has~~  
 1202 ~~undergone a recurring inspection by the department as required~~  
 1203 ~~by this section.~~

1204 ~~(e)(d)~~ "Go-kart" means an amusement ride vehicle controlled  
 1205 or driven by patrons specifically designed for and run on a  
 1206 fixed course.

1207 (f) "Kiddie ride" means an amusement ride designed  
 1208 primarily for use by patrons up to 12 years of age.

1209 (g) "Kiddie train" means a train designed as a kiddie ride  
 1210 which is operated on a flat surface or flat track, carries no  
 1211 more than 14 patrons, and does not exceed a speed of 3 miles per  
 1212 hour.

1213 (h) "Major modification" means any change in ~~either~~ the  
 1214 structural or operational characteristics of an ~~the~~ amusement  
 1215 ride which will alter its performance from that specified in the  
 1216 manufacturer's design criteria.

1217 (i) "Manager" means a person having possession, custody, or  
 1218 managerial control of an amusement ride, whether as owner,

7-01620A-19

20191788\_\_

1219 lessee, agent, operator, attendant, or otherwise.

1220 (j) "Nondestructive testing" is the development and  
1221 application of technical methods, including, but not limited to,  
1222 radiographic, magnetic particle, ultrasonic, liquid penetrant,  
1223 electromagnetic, neutron radiographic, acoustic emission,  
1224 visual, and leak testing to examine materials or components in  
1225 ways that do not impair their future usefulness and  
1226 serviceability in order to detect, locate, measure, and evaluate  
1227 discontinuities, defects, and other imperfections; to assess  
1228 integrity, properties, and composition; and to measure  
1229 geometrical characters.

1230 (k) "Owner" means the person exercising ultimate dominion  
1231 and control over an amusement ride.

1232 (l) "Patron" means any person who is in the immediate  
1233 vicinity of an amusement ride, getting on or off, or entering or  
1234 exiting an amusement ride, or using an amusement ride. The term  
1235 does not include employees, agents, or servants of the owner  
1236 while they are engaged in the duties of their employment.

1237 (m) "Permanent amusement ride" means an amusement ride that  
1238 is not regularly relocated.

1239 (n) "Permanent facility" means a location or place from  
1240 which amusement rides are not regularly relocated and at which  
1241 such rides operate as a lasting part of the premises.

1242 (o) "Private event" means an event that is not open to the  
1243 general public and for which ~~where no~~ admission is not charged.

1244 (p) "Professional engineer" means a person who holds a  
1245 valid license as a professional engineer issued by the  
1246 Department of Business and Professional Regulation or by an  
1247 equivalent licensing body in another state.

7-01620A-19

20191788\_\_

1248 (q) "Qualified inspector" means an employee or agent of an  
1249 insurance underwriter of an amusement ride who documents to the  
1250 department in a manner established by rule of the department the  
1251 following qualifications:

1252 1. A minimum of 5 ~~years'~~ years experience in the amusement  
1253 ride field, at least 2 years of which were involved in actual  
1254 amusement ride inspection with a manufacturer, government  
1255 agency, park, carnival, or insurance underwriter;

1256 2. The completion of 32 hours per year of continuing  
1257 education at a school approved by rule of the department, which  
1258 includes inservice industry or manufacturer updates and  
1259 seminars; and

1260 3. At least 80 hours of formal education during the past 5  
1261 years from a school approved by rule of the department for  
1262 amusement ride safety. Nondestructive-testing training, as  
1263 determined by rule of the department, may be substituted for up  
1264 to one-half of the 80 hours of education.

1265 (r) "Simulator" means any amusement ride that is a self-  
1266 contained unit requiring little or no assembly and that uses a  
1267 motion picture simulation, along with a mechanical movement, to  
1268 simulate activities that provide amusement or excitement for the  
1269 patron.

1270 (s) "Temporary amusement ride" means an amusement ride that  
1271 is regularly relocated, with or without disassembly.

1272 (t) "Temporary amusement ride permit" means the United  
1273 States Amusement Identification Number and the decal issued by  
1274 the department, which signify that the temporary amusement ride  
1275 has been permitted by the department.

1276 (u) (t) "Water park" means a permanent facility with one or

7-01620A-19 20191788\_\_

1277 more amusement rides that totally or partially immerse a patron  
1278 in water.

1279 (4) ADOPTION OF STANDARDS; RULES.—

1280 (a) The department shall adopt by rule standards for  
1281 amusement rides which are the same as or similar to the  
1282 following national standards:

1283 1. ~~ASTM International American Society for Testing and~~  
1284 ~~Materials~~ Committee F-24 Standards on Amusement Rides and  
1285 Devices.

1286 2. National Electric Code Handbook, ~~Article 525.~~

1287 3. National Fire Protection Association standards ~~Code 101~~  
1288 ~~(chapters 8 4.6 and 9 4.6).~~

1289 4. ~~ASTM Standards: E543 Practice for Determining the~~  
1290 ~~Qualification of Nondestructive Testing Agencies.~~

1291 5. ~~ASNT Document Recommended Practice SNT-TC-1A Personnel~~  
1292 ~~Qualification and Certification in Nondestructive Testing.~~

1293 (b) The department may adopt rules necessary to effectuate  
1294 the statutory duties of the department in the interest of public  
1295 health, safety, and welfare and to promote patron safety in the  
1296 design, construction, assembly, disassembly, maintenance, and  
1297 operation of amusement rides in this state.

1298 (c) The Legislature finds that go-karts, amusement rides at  
1299 water parks, and bungy operations are amusement rides that,  
1300 because of their unique nature, pose safety risks to patrons  
1301 distinct from other amusement rides. Therefore, the department  
1302 shall adopt rules regulating their safe use and operation and  
1303 establish safety standards and inspection requirements in  
1304 addition to those required by this section or other rule of the  
1305 department.

7-01620A-19 20191788\_\_

1306 (d) The Legislature finds that, as a result of accidents or  
1307 other unforeseen events, circumstances may arise requiring  
1308 additional safety standards for the protection of patrons of  
1309 amusement rides, ~~and~~ Therefore the department may adopt rules  
1310 to address the circumstances that may arise following an  
1311 accident or unforeseen event.

1312 (5) PERMANENT AMUSEMENT RIDE ANNUAL PERMIT.—

1313 (a) A permanent ~~An~~ amusement ride may not be operated  
1314 without a current annual permit.

1315 (b) To apply for an annual permit, an owner must submit to  
1316 the department a written application on a form prescribed by  
1317 rule of the department, which must include the following:

1318 1. The legal name, address, and primary place of business  
1319 of the owner.

1320 2. A description, manufacturer's name, serial number, model  
1321 number and, if previously assigned, the United States Amusement  
1322 Identification Number of the amusement ride.

1323 3. A valid certificate of insurance for each amusement  
1324 ride.

1325 4. If required under subsection (7), an annual affidavit of  
1326 compliance and nondestructive testing certifying that the  
1327 amusement ride was inspected in person by the affiant and that  
1328 the amusement ride is in general conformance with the  
1329 requirements of this section and all applicable rules adopted by  
1330 the department. The affidavit must be executed by a professional  
1331 engineer or a qualified inspector ~~no earlier than 60 days~~  
1332 ~~before, but not later than, the date of the filing of the~~  
1333 ~~application with the department. The owner shall request~~  
1334 ~~inspection and permitting of the amusement ride within 60 days~~

7-01620A-19 20191788\_\_

1335 of the date of filing the application with the department. The  
 1336 department shall inspect and permit the amusement ride within 60  
 1337 days after filing the application with the department.

1338 5. ~~If required by subsection (6), an affidavit of~~  
 1339 ~~nondestructive testing dated and executed no earlier than 60~~  
 1340 ~~days before, but not later than, the date of the filing of the~~  
 1341 ~~application with the department. The owner shall request~~  
 1342 ~~inspection and permitting of the amusement ride within 60 days~~  
 1343 ~~of the date of filing the application with the department. The~~  
 1344 ~~department shall inspect and permit the amusement ride within 60~~  
 1345 ~~days after filing the application with the department.~~

1346 6. A request for inspection.

1347 5.7. ~~Upon request,~~ The owner shall, at no cost to the  
 1348 department, provide the department an electronic a copy of the  
 1349 manufacturer's current recommended operating instructions in the  
 1350 possession of the owner, the owner's operating fact sheet, and  
 1351 any written bulletins ~~in the possession of the owner~~ concerning  
 1352 the safety, operation, or maintenance of the amusement ride.

1353 (c) An annual permit application must be received by the  
 1354 department at least 15 days before the owner's planned opening  
 1355 date. If an application is received less than 15 days before the  
 1356 owner's planned opening date or less than 15 days before the  
 1357 expiration of the previous permit, the department may inspect  
 1358 the amusement ride and charge a late fee as set by rule of the  
 1359 department.

1360 (d)~~(e)~~ An annual permit must be issued by the department to  
 1361 the owner of an amusement ride when a completed application has  
 1362 been received, the amusement ride has passed the department's  
 1363 inspection, and all applicable fees, as set by rule of the

7-01620A-19 20191788\_\_

1364 department, have been paid.

1365 (e)~~(d)~~ The annual permit is valid for 1 year after ~~from~~ the  
 1366 date of issue and is not transferable.

1367 (f)~~(e)~~ The annual permit must be displayed in an accessible  
 1368 location on the amusement ride ~~in a place visible to patrons of~~  
 1369 ~~the amusement ride.~~

1370 (g)~~(f)~~ Each go-kart track at the same permanent facility is  
 1371 considered a separate amusement ride.

1372 (h)~~(g)~~ Amusement rides at water parks which operate from  
 1373 the same deck or level are considered one amusement ride.

1374 (6) TEMPORARY AMUSEMENT RIDE PERMIT.-

1375 (a) A temporary amusement ride may not be operated without  
 1376 a current permit.

1377 (b) To apply for a permit, an owner must submit to the  
 1378 department a written application on a form prescribed by rule of  
 1379 the department, which must include the following:

1380 1. The legal name, address, and primary place of business  
 1381 of the owner.

1382 2. A description, manufacturer's name, serial number, model  
 1383 number and, if previously assigned, the United States Amusement  
 1384 Identification Number of the amusement ride.

1385 3. A valid certificate of insurance for each amusement  
 1386 ride.

1387 4. If required under subsection (7), an affidavit of  
 1388 compliance and nondestructive testing certifying that the  
 1389 amusement ride was inspected in person by the affiant and that  
 1390 the amusement ride is in general conformance with the  
 1391 requirements of this section and all applicable rules adopted by  
 1392 the department. The affidavit must be executed by a professional

7-01620A-19

20191788\_\_

1393 engineer or a qualified inspector.

1394 5. The owner shall, at no cost to the department, provide  
 1395 the department an electronic copy of the manufacturer's current  
 1396 recommended operating instructions, the owner's operating fact  
 1397 sheet, and any written bulletins concerning the safety,  
 1398 operation, or maintenance of the amusement ride.

1399 (c) A temporary amusement ride permit application must be  
 1400 received by the department each time the amusement ride is  
 1401 relocated with or without assembly at least 14 days before the  
 1402 date of the ride's first intended use at the new location. If  
 1403 the permit application is received less than 14 days before the  
 1404 date of the ride's first intended use at the new location, the  
 1405 department may inspect the amusement ride and charge a late fee,  
 1406 as set by rule of the department.

1407 (d) A permit must be issued by the department to the owner  
 1408 of an amusement ride when a completed application has been  
 1409 received, the amusement ride has passed the department's  
 1410 inspection, and all applicable fees, as set by rule of the  
 1411 department, have been paid.

1412 (e) The permit is valid for 6 months after the date of  
 1413 issue or until the ride is relocated with or without disassembly  
 1414 and is not transferable.

1415 (f) The permit must be displayed in an accessible location  
 1416 on the amusement ride.

1417 (7)-(6) NONDESTRUCTIVE TESTING; ANNUAL AFFIDAVIT;  
 1418 EXEMPTIONS.-

1419 (a) Except as provided in paragraph (d), an owner may not  
 1420 operate an amusement ride unless the owner has at all times a  
 1421 current affidavit of nondestructive testing from a professional

7-01620A-19

20191788\_\_

1422 engineer or qualified inspector that the amusement ride has  
 1423 undergone nondestructive testing for metal fatigue at least  
 1424 annually. The nondestructive testing for metal fatigue must be  
 1425 conducted more often than annually, if required by any rule  
 1426 adopted under this section, by the manufacturer of the amusement  
 1427 ride, or by the professional engineer or qualified inspector  
 1428 executing the affidavit of nondestructive testing. The  
 1429 nondestructive testing for metal fatigue must consist at least  
 1430 of visual nondestructive testing as well as; ~~in addition,~~  
 1431 nonvisual nondestructive testing for metal fatigue which must be  
 1432 conducted on the components of the amusement ride as required by  
 1433 any rule adopted under this section, by the manufacturer of the  
 1434 amusement ride, or by the professional engineer or qualified  
 1435 inspector executing the affidavit of nondestructive testing.

1436 (b) Nondestructive testings must be performed by a  
 1437 technician who meets the requirements prescribed by rule of the  
 1438 department of subparagraphs (4)(a)4. and 5.

1439 (c) An affidavit of nondestructive testing must state:

1440 1. That the amusement ride was inspected in person by the  
 1441 affiant.

1442 2. That all nondestructive testing requirements are  
 1443 current.

1444 3. That the nondestructive testing was performed by a  
 1445 qualified nondestructive testing technician.

1446 4. The components of the amusement ride for which the  
 1447 manufacturer has recommended or required nondestructive testing.

1448 5. The type of nondestructive testing required or  
 1449 recommended by the manufacturer.

1450 6. The frequency of the nondestructive testing required or



7-01620A-19

20191788\_\_

1451 recommended by the manufacturer.

1452 7. The components of the amusement ride for which the  
1453 affiant has recommended or required nondestructive testing.

1454 8. The type of nondestructive testing required or  
1455 recommended by the affiant.

1456 9. The frequency of the nondestructive testing as required  
1457 or recommended by the affiant.

1458 10. That visual nondestructive testing is adequate for the  
1459 amusement ride to be in general conformance with the  
1460 requirements of this section, and all applicable rules only, if  
1461 ~~only~~ visual nondestructive testing is required or recommended by  
1462 ~~either~~ the manufacturer or the affiant.

1463 (d) Nondestructive testing is not required for fun houses,  
1464 houses of mirrors, haunted houses, mazes, wave pools, wave-  
1465 making devices, kiddie pools, slides that are fully supported by  
1466 an earthen mound, nonmotorized playground equipment that  
1467 requires a manager, or lazy-river-type nonmotorized floating  
1468 carriers propelled by water.

1469 (8)(7) DEPARTMENT INSPECTIONS.—

1470 (a) In order to obtain an annual or a temporary amusement  
1471 ride permit, an amusement ride must be inspected by the  
1472 department ~~in accordance with subsection (11) and receive an~~  
1473 ~~inspection certificate. In addition, each permanent amusement~~  
1474 ~~ride must be inspected semiannually by the department in~~  
1475 ~~accordance with subsection (11) and receive an inspection~~  
1476 ~~certificate, and each temporary amusement ride must be inspected~~  
1477 ~~by the department in accordance with subsection (11), and must~~  
1478 ~~receive an inspection certificate each time the ride is set up~~  
1479 ~~or moved to a new location in this state unless the temporary~~

Page 51 of 72

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

7-01620A-19

20191788\_\_

1480 amusement ride ~~is~~:

1481 1. Is used at a private event;

1482 2. Is a simulator, the capacity of which does not exceed 16  
1483 persons; ~~or~~

1484 3. Is a kiddie ride used at a public event, provided that  
1485 ~~not there are no~~ more than three amusement rides are at the  
1486 event, ~~none of~~ the kiddie rides at the event do not exceed  
1487 ~~exceeds~~ a capacity of 12 persons, and the kiddie ride was  
1488 inspected by the department ~~has an inspection certificate that~~  
1489 ~~was issued~~ within the preceding 6 months. The capacity of a  
1490 kiddie ride shall be determined by rule of the department,  
1491 unless the capacity of the ride has been determined and  
1492 specified by the manufacturer. Any owner of a kiddie ride  
1493 operating under this exemption is responsible for ensuring that  
1494 not no more than three amusement rides are operated at the  
1495 event; or

1496 4. Was inspected and certified by an accredited trade  
1497 organization as defined by department rule.

1498 ~~(b) To obtain a department inspection for an amusement~~  
1499 ~~ride, the owner must submit to the department on a form~~  
1500 ~~prescribed by rule of the department a written Request for~~  
1501 ~~Inspection. The owner must provide the following information to~~  
1502 ~~the department:~~

1503 1. ~~The legal name, address, and primary place of business~~  
1504 ~~of the owner.~~

1505 2. ~~A description, manufacturer's name, serial number, model~~  
1506 ~~number, and the United States Amusement Identification Number,~~  
1507 ~~if previously assigned, of the amusement ride.~~

1508 3. ~~For a temporary amusement ride, for each time the~~

Page 52 of 72

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

7-01620A-19

20191788\_\_

1509 ~~amusement ride is set up or moved to a new location, the date of~~  
 1510 ~~first intended use at the new location and the address or a~~  
 1511 ~~description of the new location.~~

1512 ~~(e) For permanent amusement rides, the request for~~  
 1513 ~~inspection must be received by the department at least 15 days~~  
 1514 ~~before the owner's planned opening date or at least 15 days~~  
 1515 ~~before the expiration of the prior inspection certificate. If~~  
 1516 ~~the request for inspection is received less than 15 days before~~  
 1517 ~~the owner's planned opening date or less than 15 days before the~~  
 1518 ~~expiration of the prior inspection certificate, the department~~  
 1519 ~~may nevertheless inspect the amusement ride and charge a late~~  
 1520 ~~fee, as set by rule of the department.~~

1521 ~~(d) For temporary amusement rides, the request for~~  
 1522 ~~inspection must be received by the department for each time the~~  
 1523 ~~amusement ride is set up or moved to a new location at least 14~~  
 1524 ~~days before the date of first intended use at the new location.~~  
 1525 ~~If the request for inspection is received less than 14 days~~  
 1526 ~~before the date of first intended use at the new location, the~~  
 1527 ~~department may nevertheless inspect the amusement ride and~~  
 1528 ~~charge a late fee, as set by rule of the department.~~

1529 ~~(b)(e)~~ Inspections will be assigned on a first come, first  
 1530 served basis, and overflow requests will be scheduled on the  
 1531 closest date to the date for which the inspection was requested.

1532 ~~(c)(f)~~ Upon failure of an amusement ride to pass any  
 1533 department inspection, the owner may request reinspection which  
 1534 shall be submitted in writing to the department on a form  
 1535 prescribed by rule of the department. The department shall  
 1536 reinspect the amusement ride as soon as practical after  
 1537 following receipt of the written request for reinspection and

7-01620A-19

20191788\_\_

1538 any applicable reinspection fees set by rule of the department.  
 1539 Inspections will be assigned on a first come, first served  
 1540 basis, and the overflow requests will be scheduled on the  
 1541 closest date to the date for which the inspection was requested.

1542 ~~(g) If the amusement ride passes inspection and the owner~~  
 1543 ~~pays the applicable fee set by rule of the department, the~~  
 1544 ~~department shall issue an inspection certificate on a form~~  
 1545 ~~prescribed by rule of the department.~~

1546 ~~(h) The inspection certificate must contain the date of~~  
 1547 ~~inspection, the site of the inspection, and the name of the~~  
 1548 ~~inspector.~~

1549 ~~(i) The inspection certificate is valid only for the site~~  
 1550 ~~stated on the inspection certificate. The inspection certificate~~  
 1551 ~~is valid for a period of not more than 6 months from the date of~~  
 1552 ~~issuance, and is not transferable.~~

1553 ~~(j) The inspection certificate must be displayed on the~~  
 1554 ~~amusement ride at a place readily visible to patrons of the~~  
 1555 ~~amusement ride.~~

1556 ~~(d)(k)~~ If the owner fails to timely cancel a scheduled  
 1557 Request for inspection, requests holiday or weekend inspections,  
 1558 or is required to have a replacement USAID plate issued by the  
 1559 department, the owner may be charged an appropriate fee to be  
 1560 set by rule of the department.

1561 ~~(9)(8)~~ FEES.—

1562 (a) The department shall by rule establish fees to cover  
 1563 the costs and expenditures associated with the fair rides  
 1564 inspection program, including all direct and indirect costs. If  
 1565 there is not sufficient general revenue appropriated by the  
 1566 Legislature, the industry shall pay for the remaining cost of

7-01620A-19 20191788\_\_

1567 the program. The fees must be deposited in the General  
1568 Inspection Trust Fund.

1569 (b) Any owner of an amusement ride who has not paid all the  
1570 fees required under this section or who has any unpaid fine  
1571 outstanding under this section may not operate any amusement  
1572 ride in this state until the fees and fines have been paid to  
1573 the department.

1574 ~~(10)~~<sup>(9)</sup> INSURANCE REQUIREMENTS.—

1575 (a) An owner may not operate an amusement ride unless the  
1576 owner has in effect at all times of operation an insurance  
1577 policy in an amount of at least \$1 million per occurrence, \$1  
1578 million in the aggregate, which insures the owner of the  
1579 amusement ride against liability for injury to persons arising  
1580 out of the use of the amusement ride.

1581 (b) The policy must be procured from an insurer that is  
1582 licensed to transact business in this state or that is approved  
1583 as a surplus lines insurer.

1584 (c) ~~The insurance requirements imposed under~~ This  
1585 subsection ~~does de~~ not apply to a governmental entity that is  
1586 covered under ~~by the provisions of~~ s. 768.28(16).

1587 ~~(11)~~<sup>(10)</sup> EXEMPTIONS.—

1588 (a) This section does not apply to:

1589 1. Permanent facilities that employ at least 1,000 full-  
1590 time employees and that maintain full-time, in-house safety  
1591 inspectors. ~~Furthermore,~~ The permanent facilities must file an  
1592 affidavit of the annual inspection with the department, ~~on a~~  
1593 form prescribed by rule of the department. ~~Additionally,~~ The  
1594 Department of Agriculture and Consumer Services may consult  
1595 annually with the permanent facilities regarding industry safety

7-01620A-19 20191788\_\_

1596 programs.

1597 2. Any playground operated by a school, local government,  
1598 or business licensed under chapter 509, if the playground is an  
1599 incidental amenity and the operating entity is not primarily  
1600 engaged in providing amusement, pleasure, thrills, or  
1601 excitement.

1602 ~~3. Museums or other institutions principally devoted to the~~  
1603 ~~exhibition of products of agriculture, industry, education,~~  
1604 ~~science, religion, or the arts.~~

1605 ~~3.4.~~ Conventions or trade shows for the sale or exhibit of  
1606 amusement rides if there are a minimum of 15 amusement rides on  
1607 display or exhibition, ~~and if any operation of such amusement~~  
1608 rides is limited to the registered attendees of the convention  
1609 or trade show.

1610 ~~4.5.~~ Skating rinks, arcades, laser or paint ball war games,  
1611 bowling alleys, miniature golf courses, mechanical bulls,  
1612 inflatable rides, trampolines, ball crawls, exercise equipment,  
1613 jet skis, paddle boats, airboats, helicopters, airplanes,  
1614 parasails, hot air or helium balloons whether tethered or  
1615 untethered, theatres, batting cages, stationary spring-mounted  
1616 fixtures, rider-propelled merry-go-rounds, games, side shows,  
1617 live animal rides, or live animal shows.

1618 ~~5.6.~~ Go-karts operated in competitive sporting events if  
1619 participation is not open to the public.

1620 ~~6.7.~~ Nonmotorized playground equipment that is not required  
1621 to have a manager.

1622 ~~7.8.~~ Coin-actuated amusement rides designed to be operated  
1623 by depositing coins, tokens, credit cards, debit cards, bills,  
1624 or other cash money and which are not required to have a

7-01620A-19

20191788\_\_

1625 manager, and which have a capacity of six persons or less.

1626 ~~8.9-~~ Facilities described in s. 549.09(1) (a) when such  
1627 facilities are operating cars, trucks, or motorcycles only.

1628 ~~9.10-~~ Battery-powered cars or other vehicles that are  
1629 designed to be operated by children 7 years of age or under and  
1630 that cannot exceed a speed of 4 miles per hour.

1631 ~~10.11-~~ Mechanically driven vehicles that pull train cars,  
1632 carts, wagons, or other similar vehicles, that are not confined  
1633 to a metal track or confined to an area but are steered by an  
1634 operator and cannot ~~do not~~ exceed a speed of 4 miles per hour.

1635 ~~11.12-~~ A water-related amusement ride operated by a  
1636 business licensed under chapter 509 if the water-related  
1637 amusement ride is an incidental amenity and the operating  
1638 business is not primarily engaged in providing amusement,  
1639 pleasure, thrills, or excitement and does not offer day rates.

1640 ~~12.13-~~ An amusement ride at a private, membership-only  
1641 facility if the amusement ride is an incidental amenity and the  
1642 facility is not open to the general public; is not primarily  
1643 engaged in providing amusement, pleasure, thrills, or  
1644 excitement; and does not offer day rates.

1645 ~~13.14-~~ A nonprofit permanent facility registered under  
1646 chapter 496 which is not open to the general public.

1647 (b) The department may, by rule, establish exemptions from  
1648 this section ~~for nonmotorized or human-powered amusement rides~~  
1649 ~~or coin-actuated amusement rides.~~

1650 ~~(12)(11)~~ INSPECTION STANDARDS.—An amusement ride must  
1651 conform to ~~and must be inspected by the department in accordance~~  
1652 ~~with~~ the following standards:

1653 (a) All mechanical, structural, and electrical components

Page 57 of 72

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

7-01620A-19

20191788\_\_

1654 that affect patron safety must be in good working order.

1655 (b) All control devices, speed-limiting devices, brakes,  
1656 and safety equipment designated by the manufacturer must be in  
1657 good working order.

1658 (c) Parts must be properly aligned, and they may not be  
1659 bent, distorted, cut, or otherwise injured to force a fit. Parts  
1660 requiring lubrication must be lubricated in the course of  
1661 assembly. Fastening and locking devices must be installed when  
1662 ~~where~~ required for safe operation.

1663 ~~(d) Before being used by the public,~~ An amusement ride must  
1664 be placed or secured with blocking, cribbing, outriggers, guys,  
1665 or other means so as to be stable under all operating  
1666 conditions.

1667 (e) Areas in which patrons may be endangered by the  
1668 operation of an amusement ride must be fenced, barricaded, or  
1669 otherwise effectively guarded against inadvertent contact.

1670 (f) Machinery used in or with an amusement ride must be  
1671 enclosed, barricaded, or otherwise effectively guarded against  
1672 inadvertent contact.

1673 (g) An amusement ride powered so as to be capable of  
1674 exceeding its maximum safe operating speed must be provided with  
1675 a maximum-speed-limiting device.

1676 (h) The interior and exterior parts of all patron-carrying  
1677 amusement rides with which a patron may come in contact must be  
1678 smooth and rounded and free from sharp, rough, or splintered  
1679 edges and corners, without ~~with no~~ projecting studs, bolts,  
1680 screws, or other projections which might cause injury.

1681 (i) Signs that advise or warn patrons of age restrictions,  
1682 size restrictions, health restrictions, weight limitations, or

Page 58 of 72

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

7-01620A-19 20191788\_\_

1683 any other special consideration or use restrictions required or  
1684 recommended for the amusement ride by the manufacturer shall be  
1685 prominently displayed at the patron entrance of each amusement  
1686 ride.

1687 (j) All amusement rides presented for inspection as ready  
1688 for operation or in operation must comply with this section and  
1689 the rules adopted hereunder.

1690 (k) Signs containing the toll-free number of the department  
1691 and informing patrons that they may contact the department with  
1692 complaints or concerns regarding the operation of amusement  
1693 rides must be posted in a manner conspicuous to the public at  
1694 each entrance of a permanent amusement ride facility and  
1695 temporary amusement ride event, unless such facility or event is  
1696 exempt under subsection (11). Specifications for such signs  
1697 shall be prescribed by rule of the department.

1698 (13) REGISTERED SAFETY TECHNICIAN.-

1699 (a) In addition to the requirements of subsections (5) and  
1700 (6), an owner applying for a permit to operate an amusement ride  
1701 must employ a registered safety technician.

1702 (b) An owner must employ one registered safety technician  
1703 for each amusement ride event.

1704 (c) A registered safety technician must certify that  
1705 amusement rides meet the requirements of subsection (12) and are  
1706 ready for operation before inspection.

1707 (d) A registered safety technician must be present during  
1708 inspection by the department and the hours of operation at each  
1709 amusement ride event.

1710 (e) A registered safety technician must demonstrate  
1711 competency by:

7-01620A-19 20191788\_\_

1712 1. Holding a valid National Association of Amusement Ride  
1713 Safety Officials (NAARSO) Level II or Level III certification,  
1714 or a valid Amusement Industry Manufacturers and Suppliers (AIMS)  
1715 International certification, or certification from another  
1716 professional organization that meets or exceeds the  
1717 certification requirements set forth in this subparagraph.

1718 2. Passing a written examination administered by the  
1719 department or its agent with a grade of at least 70 percent. The  
1720 department shall by rule specify the general areas of competency  
1721 to be covered by each examination.

1722 (f) Registration shall expire 2 years after the date of  
1723 issuance.

1724 (g) The department shall establish by rule timeframes  
1725 during which an owner may operate an amusement ride event if the  
1726 registered safety technician employed by the owner leaves  
1727 employment.

1728 (h) Application for registration shall be on a form  
1729 provided by the department. Application may be made by an  
1730 individual or by an owner, a partner, or any person employed by  
1731 the permit applicant. Upon successful completion of the  
1732 requirements in paragraph (e), the department shall issue a  
1733 registration.

1734 (i) The department may deny, refuse to renew, suspend, or  
1735 revoke a registration for:

1736 1. Violation of any provision of this chapter or any rule  
1737 or order of the department; or

1738 2. Falsification of records.

1739 (j) All examinations are confidential and exempt from s.  
1740 119.07(1).

7-01620A-19

20191788\_\_

1741 (14)(12) MAJOR MODIFICATION.—After an amusement ride has  
 1742 undergone a major modification, and ~~before~~ prior to the time it  
 1743 is placed in operation, a professional engineer licensed by the  
 1744 state in which the certification is performed must certify that  
 1745 the amusement ride is in compliance with this section and all  
 1746 rules adopted pursuant thereto. The owner of the amusement ride  
 1747 must provide a copy of the required certification and all  
 1748 evidence used by the professional engineer to prepare the  
 1749 certification to the department upon request.

1750 (15)(13) ENTRY FOR INSPECTION OR INVESTIGATION.—Upon  
 1751 presentation of identification, an authorized employee of the  
 1752 department may enter unannounced and inspect amusement rides at  
 1753 any time and in a reasonable manner and has the right to  
 1754 question any owner or manager; to inspect, investigate,  
 1755 photograph, and sample all pertinent places, areas, and devices;  
 1756 and to conduct or have conducted all appropriate tests including  
 1757 nondestructive testing. The department may impose fees for  
 1758 unannounced inspections and recover the cost of tests authorized  
 1759 by this subsection.

1760 (16)(14) REPORTING AND INVESTIGATION OF ACCIDENTS AND  
 1761 DEFECTS; IMPOUNDMENTS.—

1762 (a) Any accident of which the owner or manager has  
 1763 knowledge or, through the exercise of reasonable diligence  
 1764 should have knowledge, and for which a patron is transported to  
 1765 a hospital, as defined in chapter 395, must be reported by the  
 1766 owner or manager to the department by telephone within 4 hours  
 1767 after the occurrence of the accident and must be followed up by  
 1768 a written report to the department within 24 hours after the  
 1769 occurrence of the accident.

Page 61 of 72

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

7-01620A-19

20191788\_\_

1770 (b) Any mechanical, structural, or electrical defects  
 1771 affecting patron safety for which an amusement ride is closed to  
 1772 patron use for more than 4 hours must be reported by the owner  
 1773 or manager to the department by telephone or facsimile within 8  
 1774 hours after the closing of the ride. A written report of the  
 1775 closing of the ride, on a form prescribed by rule of the  
 1776 department, must be filed by the owner or manager with the  
 1777 department within 24 hours after the closing of the amusement  
 1778 ride.

1779 (c) The department may impound an amusement ride involved  
 1780 in an accident for which a patron is transported to a hospital  
 1781 as defined in chapter 395 or which has a mechanical, structural,  
 1782 or electrical defect affecting patron safety, and may impound  
 1783 any other amusement ride of a similar make and model, and may  
 1784 perform all necessary tests to determine the cause of the  
 1785 accident or the mechanical, structural, or electrical defect, or  
 1786 to determine the safety of the amusement ride and any other  
 1787 amusement ride of a similar make and model. The cost of  
 1788 impounding the amusement ride and performing the necessary tests  
 1789 must be borne by the owner of the amusement ride.

1790 (17)(15) INSPECTION BY OWNER, ~~OR~~ MANAGER, OR REGISTERED  
 1791 SAFETY TECHNICIAN. ~~Before opening on each day of operation and~~  
 1792 ~~before any inspection by the department,~~ The owner, ~~or~~ manager,  
 1793 or registered safety technician of an amusement ride must:

1794 (a) Implement and document procedures for performing  
 1795 documented and signed preopening inspections. The preopening  
 1796 inspection shall include, but is not limited to, ASTM  
 1797 International standards, as adopted by department rule.

1798 (b) Before opening on each day of operation and before any

Page 62 of 72

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

7-01620A-19

20191788\_\_

1799 scheduled inspection by the department, inspect each and test  
 1800 ~~the~~ amusement ride to ensure compliance with all requirements of  
 1801 this section. Each inspection must be recorded on a form  
 1802 prescribed by rule of the department and signed by the person  
 1803 who conducted the inspection and be reviewed by a registered  
 1804 safety technician if the registered safety technician did not  
 1805 conduct the inspection. In lieu of the form prescribed by rule  
 1806 of the department, the owner or manager may request approval of  
 1807 an alternative form if the alternative form includes, at a  
 1808 minimum, the information required on the form prescribed by rule  
 1809 of the department. Inspection records of the last 14 daily  
 1810 inspections must be kept on site by the owner or manager and  
 1811 made immediately available to the department upon request.

1812 (c) Implement and document procedures to be followed in the  
 1813 event of any unscheduled cessation of operation of the ride. The  
 1814 procedures shall require that when an unscheduled cessation of  
 1815 operation of the ride that is potentially due to mechanical  
 1816 failure occurs, the ride may not be operated again with patrons  
 1817 on board until an inspection or test operation of the ride has  
 1818 demonstrated that the ride is functioning properly.

1819 (18)-(16) TRAINING OF EMPLOYEES.-The owner or manager of an  
 1820 amusement ride shall:

1821 (a) Implement and document a program of training to be  
 1822 provided to all employees performing operations or maintenance.  
 1823 The training program shall conform to the specifications of ASTM  
 1824 International standards as adopted by department rule, include a  
 1825 manual containing the training subject matter, and specify the  
 1826 length of initial and refresher training as well as the  
 1827 frequency of refresher training.

Page 63 of 72

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

7-01620A-19

20191788\_\_

1828 (b) Maintain a record of employee training for each  
 1829 employee authorized to operate, assemble, disassemble,  
 1830 transport, or conduct maintenance on an amusement ride on a form  
 1831 prescribed by rule of the department. In lieu of the form  
 1832 prescribed by rule of the department, the owner or manager may  
 1833 request approval of an alternative form if the alternative form  
 1834 includes, at a minimum, the information required on the form  
 1835 prescribed by rule of the department. The training record must  
 1836 be kept on site by the owner or manager and made immediately  
 1837 available to the department upon request. Training may not be  
 1838 conducted when an amusement ride is open to the public unless  
 1839 the training is conducted under the supervision of an employee  
 1840 who is trained in the operation of that ride. The owner or  
 1841 manager shall certify that each employee is trained, as required  
 1842 by this section and any rules adopted thereunder, on the  
 1843 amusement ride for which the employee is responsible.

1844 (19) MAINTENANCE.-

1845 (a) The owner of an amusement ride shall implement a  
 1846 comprehensive program of maintenance, testing, and inspection  
 1847 based on the amusement ride manufacturer's recommendations which  
 1848 provides for the duties and responsibilities necessary to care  
 1849 for the ride. Maintenance procedures shall conform with  
 1850 specifications in ASTM F770 and ASTM F2291 as adopted by  
 1851 department rule.

1852 (b) Maintenance must be conducted in the presence of or  
 1853 approved by a registered safety technician.

1854 (c) If documentation meeting the requirements of paragraph  
 1855 (a) does not exist or is not available, maintenance procedures  
 1856 shall conform to manufacturer-originated maintenance

Page 64 of 72

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

7-01620A-19 20191788\_\_

1857 instructions and shall include, but not be limited to, the  
 1858 following:

1859 1. A description of the ride operation, including the  
 1860 function and operation of its major components.

1861 2. A description of the motions the ride is designed to  
 1862 undergo while in operation.

1863 3. Lubrication procedures, including types of lubricants  
 1864 and frequency of lubrication, and a lubrication drawing, chart,  
 1865 or other effective means of demonstrating lubrication point  
 1866 locations.

1867 4. A description, including a schedule, of all maintenance,  
 1868 testing, and inspections to be performed on the ride.

1869 5. Maintenance procedures for electrical components, as  
 1870 well as schematics of electrical power, lighting, and controls.

1871 6. Maintenance procedures and schematics for hydraulic and  
 1872 pneumatic systems on or used to control the ride, including  
 1873 component locations; location charts; fluid, pressure, line, and  
 1874 fitting specifications; and troubleshooting guidelines.

1875 7. Specifications for the use of replacement fasteners and,  
 1876 when applicable, torque requirements for fasteners.

1877 8. A checklist to be made available to each person  
 1878 performing the regularly scheduled maintenance on each ride.

1879 9. Additional requirements as prescribed by rule of the  
 1880 department.

1881 (d) Upon request, the owner shall, at no cost to the  
 1882 department, provide the department a copy of the manufacturer's  
 1883 current maintenance manual and documentation confirming a  
 1884 comprehensive maintenance program is being followed.

1885 (e) The owner shall keep a record of the assembly and

7-01620A-19 20191788\_\_

1886 disassembly of, and all maintenance and repair performed on,  
 1887 each amusement ride. When such work is performed by a party  
 1888 other than the owner, the owner shall obtain a summary of work  
 1889 performed from the party as a record. Such records shall be  
 1890 retained and available for review by the department for at least  
 1891 3 years or until the maintenance action is repeated or suspended  
 1892 according to the manufacturer.

1893 ~~(20)(17)~~ PROHIBITIONS RELATED TO BUNGY OPERATIONS.—The  
 1894 following bungee operations are prohibited:

1895 (a) A bungee operation conducted with balloons, blimps,  
 1896 helicopters, or other aircraft.

1897 (b) Sand bagging, which is the practice of holding onto any  
 1898 object, including another person, while bungee jumping, for the  
 1899 purpose of exerting more force on the bungee cord to stretch it  
 1900 further, and then releasing the object during the jump causing  
 1901 the jumper to rebound with more force than could be created by  
 1902 the jumper's weight alone.

1903 (c) Tandem or multiple bungee jumping.

1904 (d) Bungee jumping from any bridge, overpass, or any other  
 1905 structure not specifically designed as an amusement ride.

1906 (e) The practice of bungee catapulting or reverse bungee  
 1907 jumping.

1908 ~~(21)(18)~~ IMMEDIATE FINAL ORDERS.—

1909 (a) An amusement ride that fails to meet the requirements  
 1910 of this section or pass the inspections required by this  
 1911 section, or an amusement ride that is involved in an accident  
 1912 for which a patron is transported to a hospital as defined in  
 1913 chapter 395, or an amusement ride that has a mechanical,  
 1914 structural, or electrical defect that affects patron safety may



7-01620A-19

20191788\_\_

1915 be considered an immediate serious danger to public health,  
 1916 safety, and welfare and, upon issuance of an immediate final  
 1917 order prohibiting patron use of the ride, may not be operated  
 1918 for patron use until it has passed a subsequent inspection by or  
 1919 at the direction of the department.

1920 (b) An amusement ride of a similar make and model to an  
 1921 amusement ride described in paragraph (a) may be considered an  
 1922 immediate serious danger to the public health, safety, and  
 1923 welfare and, upon issuance of an immediate final order  
 1924 prohibiting patron use of the ride, may not be operated for  
 1925 patron use until it has passed a subsequent inspection by or at  
 1926 the direction of the department.

1927 (22) WITNESSES AND EVIDENCE.-

1928 (a) In any examination or investigation conducted by the  
 1929 department or by an examiner appointed by the department, the  
 1930 department may administer oaths, examine and cross-examine  
 1931 witnesses, receive oral and documentary evidence, subpoena  
 1932 witnesses, compel witness attendance and testimony, and require  
 1933 by subpoena the production of documents or other evidence which  
 1934 it deems relevant to the inquiry.

1935 (b) If any person refuses to comply with such subpoena or  
 1936 to testify as to any relevant matter, the Circuit Court of Leon  
 1937 County, or the circuit court of the county in which such  
 1938 examination or investigation is being conducted or the county in  
 1939 which such person resides pursuant to an application filed with  
 1940 the department, may issue an order requiring such person to  
 1941 comply with the subpoena and to testify. Any failure to obey  
 1942 such an order of the court may be punished by the court as a  
 1943 contempt thereof.

Page 67 of 72

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

7-01620A-19

20191788\_\_

1944 (c) Subpoenas shall be served and proof of such service  
 1945 made in the same manner as if issued by a circuit court. Witness  
 1946 fees and mileage, if claimed, shall be allowed the same as for  
 1947 testimony in a circuit court.

1948 (d) Any person willfully testifying falsely under oath as  
 1949 to any matter material to any such examination, investigation,  
 1950 or hearing shall, upon conviction thereof, be guilty of perjury  
 1951 and shall be punished accordingly.

1952 (e) If any person asks to be excused from attending or  
 1953 testifying or from producing any documents or other evidence in  
 1954 connection with any examination, hearing, or investigation being  
 1955 conducted on the ground that the testimony or evidence required  
 1956 may tend to incriminate him or her or subject him or her to a  
 1957 penalty or forfeiture and shall notwithstanding be directed to  
 1958 give such testimony or produce such evidence, he or she shall,  
 1959 if so directed by the department and the Department of Legal  
 1960 Affairs, nonetheless comply with such direction. The person  
 1961 shall not thereafter be prosecuted or subjected to any penalty  
 1962 or forfeiture for or on account of any transaction, matter, or  
 1963 thing concerning which he or she may have testified or produced  
 1964 evidence, and no testimony given or evidence produced shall be  
 1965 received against him or her in any criminal action,  
 1966 investigation, or proceeding. However, a person so testifying  
 1967 shall not be exempt from prosecution or punishment for any  
 1968 perjury committed by him or her in such testimony, and the  
 1969 testimony or evidence given or produced shall be admissible  
 1970 against him or her in any criminal action, investigation, or  
 1971 proceeding concerning such perjury; and the person shall not be  
 1972 exempt from the refusal, suspension, or revocation of any

Page 68 of 72

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

7-01620A-19 20191788\_\_

1973 license, permission, or authority conferred or to be conferred  
1974 pursuant to this chapter.

1975 (f) Any such individual may execute, acknowledge, and file  
1976 in the office of the department a statement expressly waiving  
1977 such immunity or privilege in respect to any transaction,  
1978 matter, or thing specified in such statement; and thereupon the  
1979 testimony of such individual or such evidence in relation to  
1980 such transaction, matter, or thing may be received or produced  
1981 before any judge or justice, court, tribunal, grand jury, or  
1982 otherwise; and, if so received or produced, such individual  
1983 shall not be entitled to any immunity or privileges on account  
1984 of any testimony he or she may so give or evidence so produced.

1985 (g) Any person who refuses or fails without lawful cause to  
1986 testify relative to the affairs of any person, when subpoenaed  
1987 and requested by the department to so testify, is guilty of a  
1988 misdemeanor of the second degree, punishable as provided in s.  
1989 775.083.

1990 (23)(19) ENFORCEMENT AND PENALTIES.-

1991 (a) The department may deny, suspend for a period not to  
1992 exceed 1 year, or revoke any permit ~~or inspection certificate.~~  
1993 In addition to denial, suspension, or revocation, the department  
1994 may impose an administrative fine in the Class III ~~Class II~~  
1995 category pursuant to s. 570.971 not to exceed \$10,000 ~~\$2,500~~ for  
1996 each violation, for each day the violation exists, against the  
1997 owner of the amusement ride if it finds that:

1998 1. An amusement ride has operated or is operating:

1999 a. With a mechanical, structural, or electrical defect that  
2000 affects patron safety, of which the owner, ~~or~~ manager, or  
2001 registered safety technician has knowledge, or, through the

7-01620A-19 20191788\_\_

2002 exercise of reasonable diligence, should have knowledge;

2003 b. In a manner or circumstance that presents a risk of  
2004 serious injury to patrons;

2005 c. At a speed in excess of its maximum safe operating  
2006 speed;

2007 d. In violation of this section or any rule adopted under  
2008 this section; or

2009 e. In violation of an order of the department or order of  
2010 any court; ~~or~~

2011 2. An owner, a manager, or registered safety technician in  
2012 the course of his or her duties is under the influence of drugs  
2013 or alcohol; or

2014 3. An amusement ride was presented for inspection as ready  
2015 for operation with a mechanical, structural, or electrical  
2016 defect that affects patron safety, of which the owner, manager,  
2017 or registered safety technician has knowledge or, through the  
2018 exercise of reasonable diligence, should have knowledge.

2019 (b) In addition to the penalty provided in paragraph (a),  
2020 the department may impose an administrative fine in the Class IV  
2021 category pursuant to s. 570.971 of \$10,000 or more if a  
2022 violation resulted in serious injury or death to a patron.

2023 (c)(b) The department shall, in its order suspending a  
2024 permit ~~or inspection certificate,~~ specify the period during  
2025 which the suspension is effective; but such period may not  
2026 exceed 1 year. The permit ~~or inspection certificate~~ shall remain  
2027 suspended during the period so specified, subject, however, to  
2028 any rescission or modification of the order by the department,  
2029 or modification or reversal thereof by the court, before ~~prior~~  
2030 ~~to~~ expiration of the suspension period.

7-01620A-19 20191788\_\_

2031 (d)~~(e)~~ The owner or manager of an amusement ride, if the  
 2032 permit ~~or inspection certificate~~ for the amusement ride has been  
 2033 revoked by the department, may not apply for another permit ~~or~~  
 2034 ~~inspection certificate~~ for the amusement ride within 2 years  
 2035 after the date of such revocation. If judicial review is sought  
 2036 and a stay of the revocation is obtained, the owner may not  
 2037 apply for another permit ~~or inspection certificate~~ within 2  
 2038 years after the final order of the court sustaining the  
 2039 revocation.

2040 (e)~~(d)~~ During the period of suspension or revocation of a  
 2041 permit ~~or inspection certificate~~, the owner may not engage in or  
 2042 attempt to engage in any operation of the amusement ride for  
 2043 which a permit ~~or inspection certificate~~ is required under this  
 2044 section.

2045 (f)~~(e)~~ When a suspension period imposed by the department  
 2046 has expired, an owner whose annual permit ~~or inspection~~  
 2047 ~~certificate~~ has expired may reapply for a new permit ~~or~~  
 2048 ~~inspection certificate~~ by submitting a complete application to  
 2049 the department.

2050 (g)~~(f)~~ In addition to the remedies provided in this  
 2051 section, and notwithstanding the existence of any adequate  
 2052 remedy at law, the department may bring an action to enjoin the  
 2053 violation of any provision of this section, or rules adopted  
 2054 under this section, in the circuit court of the county in which  
 2055 the violation occurs or is about to occur. Upon competent and  
 2056 substantial evidence presented by the department to the court of  
 2057 the violation or threatened violation, the court must  
 2058 immediately issue the temporary or permanent injunction sought  
 2059 by the department. The injunction must be issued without bond.

Page 71 of 72

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

7-01620A-19 20191788\_\_

2060 (h)~~(g)~~ In addition to the penalties authorized to be  
 2061 imposed for any violation of this section or any rule adopted  
 2062 under this section, the department may issue a letter of warning  
 2063 to the owner of the amusement ride specifying the violation and  
 2064 directing the owner to immediately correct the violation.

2065 (i)~~(h)~~ Any person who knowingly violates any provision of  
 2066 this section commits a misdemeanor of the second degree,  
 2067 punishable as provided in s. 775.082 or s. 775.083.

2068 Section 21. This act shall take effect July 1, 2019.  
 2069

Page 72 of 72

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Joseph Gruters, Chair  
Committee on Commerce and Tourism


**Subject:** Committee Agenda Request

**Date:** March 19, 2019

---

I respectfully request that **Senate Bill #1788**, relating to Department of Agriculture & Consumer Services, be placed on the:

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

  
\_\_\_\_\_  
Senator Travis Hutson  
Florida Senate, District 7

Date: March 5, 2019

Agency Affected: Dept. of Agriculture and Consumer Services Telephone: 850-617-7000  
Agency Contact: Emily Buckley, Legislative Affairs Director Telephone: 850-617-7700  
Respondent: Emily Koon Telephone: 850-410-2289

RE: SENATE BILL #1788 – Department of Agriculture and Consumer Services– By Rep. Hutson

IDENTICAL BILL #1267 – Department of Agriculture and Consumer Services– By Rep. Fetterhoff

The proposed bill makes the following changes to the Department of Agriculture and Consumer Services' (department) statutory responsibilities.

Consumer Services-focused:

- Clarifies the regulation of Substance Abuse Marketing Service Providers in the Florida Telemarketing Act and provides for a separate, but comparable licensure requirements to other solicitors and removes obsolete exemptions;
- Expands the definition of mover and moving broker to explicitly include owners, managers and other employees not directly involved in moving the household goods or brokering the move;
- Modifies the licenses required for movers and moving brokers and allows the department to consider additional criteria when refusing to issue or to renew a license, as well as, when it suspends an existing license;
- Revises insurance and valuation coverage requirements for household movers;
- Enhances recordkeeping requirements for movers and brokers and requires certain disclosures;
- Requires movers to be in compliance with the entire chapter prior to allowing them to withhold household goods for failure to pay and shortens the movers window to respond to an inquiry from a shipper;
- Prohibits movers from increasing costs, unless specified requirements are met, prevents movers from storing shipper's household goods in a 3<sup>rd</sup> party storage facility in the mover's name and precludes movers from demanding cash payments;
- Institutes a Consumer Bill of Rights, which establishes new provisions and reaffirms existing requirements in Chapter 507;
- Allows the department to consider more criteria when suspending mover or moving licenses and provides for automatic suspension under select circumstances;
- Modifies the criminal penalties for certain violations of Chapter 507; and
- Modifies amusement ride permitting, bolsters safety requirements and grants the department subpoena power during incident investigations.

---

**Chapter 501—Consumer Protection**  
**s. 501.059, F.S., Telephone Solicitation**

Present Situation

In civil litigation resulting from a transaction involving a violation of this section, the prevailing party shall receive reasonable attorney's fees and cost from the non-prevailing party in accordance with the process outlined in the statute; however, if the department or Department of Legal Affairs brings the action, the court may award reasonable attorney's fees and cost if there was a complete absence of justifiable issue of either law or fact or if the court finds bad faith on the part of the losing party.

Effect of the Proposed Changes

The revisions to s. 501.059, F.S., allow consumers to bring a civil action in a court of competent jurisdiction against a person who has made or caused to made more than on telephonic sales call to the consumer within a 12-month period which would violate any portion of this section, establish per violation liability limits and specifically authorize the court to enjoin defendants from further violations of this section.

#### **Chapter 501—Consumer Protection**

**s. 501.603, F.S., Definitions; s. 501.604, F.S., Exemptions; s. 501.605, F.S., Licensure of commercial telephone sellers; s. 501.6055 F.S. Licensure of Substance Abuse Marketing Service Providers; s. 501.606, F.S., Disclosures Required of Commercial Telephone Sellers; s. 501.608, F.S., License or Affidavit of Exemption, Occupational License; s. 501.609, F.S., License Renewal; s. 501.612. F.S., Grounds for Departmental Action Against Licensure Applicants or Licensees; s. 501.616, F.S., Unlawful Acts or Practices; and s. 501.618, F.S., General Civil Remedies**

##### Present Situation

Chapter 501 Part IV contains the Florida Telemarketing Act, which regulates telephonic solicitation, as well as, calls received by substance abuse marketing service providers. While Substance Abuse Marketing Service Provider is not explicitly defined in the definitions section, the activities performed by these individuals and entities require them to be licensed. These providers are explicitly mentioned in the licensing provision statutes. Currently, s. 397.55 F.S. prohibits deceptive practices by individuals and entities marketing substance abuse services. The provisions in s. 397.55 F.S. and the Florida Telemarketing Act currently protect consumers of substance abuse marketing services and curtail deceptive practices.

##### Effect of Proposed Changes

The proposed revisions to s. 501.603, F.S., define Substance Abuse Marketing Service Providers in the Florida Telemarketing Act. The proposed revisions to s. 501.604, F.S., remove obsolete exemptions from the statute. The proposed revisions split the licensure of general commercial telephone sellers and Substance Abuse Marketing Service Providers into two statutes creating s. 501.6055, F.S. The revisions to this statute make conforming changes to sections 501.605, F.S., 501.606, F.S., 501.608, F.S., 501.609, F.S., 501.612, F.S., 501.616, F.S., and 501.618, F.S., for consistency with this new structure. The licensing requirements for Substance Abuse Marketing Service Providers will remain nearly identical, except for minor editorial changes and for slight modifications to disclosure requirements regarding previous legal or administrative actions taken against the applicant. The revisions will provide for enhanced clarity and potentially increased compliance.

---

#### **Chapter 507—Household Moving Services**

**s. 507.01, F.S., Definitions**

##### Present Situation

Section 507.01 F.S. defines Mover and Moving Broker for the purposes of the household moving chapter. These current definitions do not explicitly state that the terms apply to individuals who own the moving or moving brokering company. Similarly, the current definition is silent regarding individuals who are employed by the business, but do not move household goods. For the purposes of this chapter, the term Mover does not apply to postal, courier, envelope, or package services that do not advertise themselves as a moving service.

##### Effect of the Proposed Changes

The proposed revisions to s. 507.01, F.S., explicitly include owners and employees who are not directly involved in moving or arranging moves in the respective definitions. The proposed revisions also expand the types of services not currently included in the definitions of mover or moving broker to individuals hired by private citizens to move between private residences and storage facilities.

## **Chapter 507—Household Moving Services**

### **s. 507.03, F.S., Registration**

#### Present Situation

Each mover and moving broker must register with the department and provide information including but not limited to, its legal business and trade names, registration dates for trade or fictitious names, and every name through which each owner of the moving or brokering company operated, was known, or did business as a mover or broker within the preceding 5 years. Many moving industry professionals are licensed as both movers and brokers. The department may deny, refuse to renew, or revoke the registration of any mover, moving broker, or any of the entities directors, officers, owners or general partners for issues, including failing to meet registration requirements, having certain criminal convictions, failing to satisfy civil fines or penalties brought by government agencies and private persons or facing pending criminal, administrative, or enforcement proceedings. Each moving and moving broker must provide evidence of insurance that conforms to the requirements in s. 507.04 F.S. to be eligible for licensure.

#### Effect of the Proposed Changes

The proposed modifications to s. 507.03, F.S., require movers and brokers to file separate registrations for each trade or fictitious name that they advertise or provide services under. The proposed modification to the statute enable movers that are also moving brokers to register only as a mover if the act as both a mover and moving broker under a single business, trade or fictitious name. the proposed modifications expand the considerations for not issuing or renewing a license, revise insurance and proof of insurance requirements. The proposed modifications require movers or moving brokers must keep true and accurate signed estimates and contracts for at least 3 years and these records be available to the department no later than 10 working-days after a departmental request. The revisions will require the department to, upon notification and written verification by specified entities, immediately suspend a registration or the processing of an application if the registrant, applicant, director or officer is formally charged with specific types of crimes until final disposition of the case or removal or resignation of that applicant, officer or director occurs.

When businesses operate under multiple names, the separate applications will enhance enforcement efforts and will help to curtail fraudulent activities. These proposed modifications will reduce regulatory costs without materially affecting the department's ability to enforce the chapter because only individuals that operate under one name will be eligible. Neither of these licensing changes are expected to impact General Inspection Trust Fund revenues significantly. The modifications will no longer require those operating solely as brokers to carry the insurance required under s. 507.04(1)(2) F.S. because these entities merely coordinate or arrange the move and do not handle the shipper's household goods for their household move. The statute will also become more prescriptive on when entities must provide proof of insurance during the licensure process.

## **Chapter 507—Household Moving Services**

### **s. 507.04, F.S., Required Insurance Coverages; Liability Limitations; Valuation Coverage**

#### Present Situation

s. 507.04(2)(b), F.S., requires moving brokers to maintain either a \$25,000 performance bond issued by a surety company authorized to do business in the state or a \$25,000 certificate of deposit with a Florida banking institution. The sole beneficiary of either instrument must be the department for the sole purpose of satisfying claims to consumers for violations of this chapter by movers or moving brokers. A mover may

offer valuation coverage that at least meets the minimum requirements. The terms of the valuation coverage include, but are not limited to, the rate and the cost. Additionally, these terms must be disclosed before any moving or assessorial services are provided.

#### Effect of the Proposed Changes

The proposed revisions to s. 507.04, F.S., only require movers and moving brokers that hold a moving licensee to carry the insurance described above and will make editorial changes. The proposed revisions establish a time frame and procedure for which claims for alleged injury are to be submitted to the department.

### **Chapter 507—Household Moving Services** **s. 507.06, F.S., Delivery and Storage of Household Goods**

#### Present Situation

If the shipper fails to render the payment specified in the written contract or estimate signed and dated by the shipper, section 507.06, F.S., authorizes movers to hold certain household goods. Movers must notify the shipper where the goods are held and the amount due within five days of a written request from the shipper.

#### Effect of the Proposed Changes

The proposed revisions to s. 507.06, F.S., include all the chapter's requirements by reference before a mover can withhold household goods for failure to pay. The proposed revisions revise the window for a mover to respond to a written request from the shipper for failure to relinquish the goods from five to two days.

### **Chapter 507—Household Moving Services** **s. 507.07, F.S., Violations**

#### Present Situation

s. 507.07, F.S., establishes what constitutes a violation of this chapter. Movers, at the request of the shipper, can place household goods in storage; however, they may rent the storage unit from a third party and store the goods in the mover's name. If the moving company fails to make payments to the storage facility, the unit may be auctioned in accordance with the Florida Statutes, thereby, creating a challenging legal environment because the facility is owed payment and the goods now may be auctioned by the facility. The auction winner now owns the contents and the shipper may be unaware of the situation. Contracts for service contain all services to be rendered and all costs associated with the prescribed services. Section 507.05(6) F.S. requires movers to accept two of three of the following forms of payment: cash, a cashier's check, a money order, or a travel's check and either a credit card or a valid personal check.

#### Effect of the Proposed Changes

The proposed revisions to s. 507.07, F.S., prevent movers from contracting with third party storage facilities in the mover's name. they explicitly state that failure to comply with any requirement under this chapter is a violation. The proposed revisions prohibit cost increases, unless the shipper has requested additional services not in the contract and the mover performed an onsite pre-move inspection prior to signing the contract. The proposed revisions also preclude movers from requiring only a cash payment.

### **Chapter 507—Household Moving Services** **s. 507.11, F.S., Criminal Penalties**

#### Present Situation



A moving company's or their employees, agent, or contractor's failure to relinquish a shipper's household goods after a law enforcement officer determines that the shipper has rendered payment is a third-degree felony. Other violations of this chapter are punishable by civil or administrative remedies prescribed in s. 507.09 F.S.

#### Effect of the Proposed Changes

The proposed revisions make failure to comply with s. 507.06, F.S., s. 507.07 (12) and (13), F.S., third degree felonies. S. 507.06, F.S., prescribes the legal process for movers to withhold household goods and delineates the shipper's rights during the dispute process. The proposed revisions to s. 507.07(12), F.S., would prohibit movers from increasing costs, unless the shipper asks them to perform additional service not listed on the original estimate and the mover performed an onsite inspection prior to beginning the move. Proposed revisions to s. 507.07(13), F.S., make it third degree felony for movers to require cash payments.

### **Chapter 507—Household Moving Services s. 507.15, F.S., (New) Consumer Bill of Rights**

#### Present Situation

The proposed Consumer Bill of Rights requires movers to provide notice to shippers of some existing protections listed in Chapter 507 and expands protections as described below.

#### Effect of the Proposed Changes

The proposed modifications would create a new statute that requires the department to summarize shipper's rights and mover's responsibilities in a publication that must include certain components and directs movers to furnish a copy of this report to shippers, as well as, to obtain the shippers signature that the shipper received the publication. movers, on the front of the estimate and contract, must display a statement on the potential penalties for failing to relinquish the shipper's household goods and that they should contact the Florida Department of Agriculture and Consumer Services if they require assistance. Movers must also provide method for contacting the department.

---

### **Chapter 527— Sale of Liquefied Petroleum Gas s. 507.0201, F.S., Qualifiers; Master Qualifiers; Examinations**

#### Present Situation

Each category I or V licensee lawfully operating in the state must employ at least one Master Qualifier. Master Qualifiers are responsible for overseeing operations of the licensed location and must provide documentation to the department as prescribed by rule. Master Qualifier applicants must have been registered as a Qualifier for 3 years immediately preceding submission, must be employed by a Category I or V licensee and must pass the Master Qualifier examination.

#### Effect of the Proposed Changes

The proposed modifications to s. 507.0210, F.S., allow three years of verifiable experience or professional certification by an LP Gas equipment manufacturer to be used to meet the eligibility requirements.

**Chapter 616—Public Fairs and Expositions**  
**s. 616.242, F.S., Safety Standards for Amusement Rides**

Present Situation

Section 616.242 F.S. establishes the permitting process, prescribes minimum safety requirements for temporary and permanent amusement rides, enumerates penalties for violations, requires operators to report injuries to the department within a specific period, and grants the department rulemaking authority.

Effect of the Proposed Changes

The proposed revisions to the statute would split temporary and permanent amusement ride permitting into two subsections Permanent Amusement Ride Annual Permit and Temporary Amusement Ride Permit and define amusement ride event and temporary amusement ride permit. The proposed revisions require operators to provide electronic copies of certain required documents. The proposed revisions allow the department by rule to create requirements a technician must meet to perform nondestructive testing. The proposed revisions broaden the department’s authority to exempt types of rides by rule. The proposed revisions require owners or operators to display the department’s contact information. The proposed revisions require each operator at each facility to employ a registered safety technician and establishes minimum qualifications for safety technicians. The proposed revisions increase daily preopening inspection requirements. The proposed revisions direct owners or operators to supply the department with a copy of the engineer’s report and all evidence used in the report when a ride has undergone major modifications. The proposed revisions require owners or operators to document procedures to be followed in the event of any unscheduled cessation of ride operation and to test that the ride is operating properly before reopening. The proposed revisions establish maintenance program guidelines and document training procedures that conform to ASTM International standards for all ride operation and maintenance employees. And the proposed revisions grant the department subpoena power and expand the types of acts that warrant penalties under the statute.

IV. ESTIMATED FISCAL IMPACTS ON STATE AGENCIES:

The proposed bill has no fiscal impact on the department.

	(FY 19-20) Amount/FTE	(FY 20-21) Amount/FT E	(FY 21-22) Amount/FT E
<b>A. Revenues</b>			
1. Recurring			
2. Non-Recurring			
Total Revenue Loss			
<b>B. Expenditures</b>			
2. Non-Recurring			
<b>Total department Net Loss/Gain</b>			

V. ESTIMATED FISCAL IMPACTS ON LOCAL GOVERNMENTS:

VI. ESTIMATED IMPACTS ON PRIVATE SECTOR:

VII. LEGAL ISSUES

A. Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations?

B. Does the proposed legislation raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, impairment of contracts)?

C. Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties?

D. Other:

VIII. COMMENTS:

**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 1414

INTRODUCER: Commerce and Tourism Committee and Senator Gruters

SUBJECT: Public Records/Trade Secrets Held by an Agency

DATE: March 25, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Fav/CS
2.			GO	
3.			RC	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1414 creates a public record exemption for trade secrets in records held by Florida agencies or entities that are subject to Florida public record laws (agencies). The bill defines a “trade secret” and excludes from the definition certain information related to a contract or agreement, or addendum thereto, with an agency. Additionally, the bill provides a uniform process for submission to and notification of a trade secret to an agency.

The bill provides a public necessity statement as required by the Florida Constitution. This exemption will be repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill will take effect as law concurrent with SB 1416, or similar legislation, if adopted in the same legislative session or an extension thereof.

## II. Present Situation:

### Public Record Law

The Florida Constitution provides that the public has the right to inspect or copy government records generated by the legislative, executive, and judicial branches of government.<sup>1</sup> The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, section 24(a) of the Florida Constitution by a two-thirds vote of the members present and voting in each house of the Legislature.<sup>2</sup> The law must specifically state the public necessity justifying the exemption<sup>3</sup> and must be no broader than necessary to accomplish its stated purpose.

Chapter 119, F.S., the “Public Records Act,”<sup>4</sup> provides further public policy regarding access to government records. Section 119.07(1)(a), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. The Open Government Sunset Review Act<sup>5</sup> provides that a public record exemption may be created or maintained only if it serves an identifiable public purpose that is limited in scope to meet one of the following purposes:<sup>6</sup>

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, the administration of which would be significantly impaired without the exemption;
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual’s safety; or
- Protect trade or business secrets, the disclosure of which would injure the affected party in the marketplace.

The Open Government Sunset Review Act also requires the automatic repeal of a public record exemption on October 2<sup>nd</sup> of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>7</sup> The Legislature must consider specific questions during the review for possible reenactment.<sup>8</sup>

The Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’<sup>9</sup> Records designated as ‘confidential and exempt’ may be released only under circumstances defined by

---

<sup>1</sup> FLA. CONST., art. I, s. 24(a). The Public Record Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public record exemptions for the Legislature are primarily located in s. 11.0431(2)-(3), F.S.

<sup>2</sup> FLA. CONST., art. I, s. 24(c). This portion of a public record exemption is referred to as the “public necessity statement.”

<sup>3</sup> *Id.*

<sup>4</sup> Public record laws are found throughout the Florida Statutes.

<sup>5</sup> Section 119.15, F.S.

<sup>6</sup> Section 119.15(6), F.S.

<sup>7</sup> Section 119.15(3), F.S.

<sup>8</sup> Section 119.15(6)(a), F.S., requires the Legislature to consider the following questions as part of the review process: 1) What specific records or meetings are affected by the exemption? 2) What specific parties does the exemption affect? 3) What is the public purpose of the exemption? 4) Can the information contained in the records or meetings be readily obtained by alternative means? If so, how? 5) Is the record or meeting protected by another exemption? 6) Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>9</sup> If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

the Legislature. Records designated as ‘exempt’ may be released at a records custodian’s discretion under certain circumstances.<sup>10</sup>

### Trade Secrets

Florida law contains a variety of provisions that make trade secret information exempt or confidential and exempt<sup>11</sup> from public record requirements. Some exemptions only protect trade secrets, while others protect “proprietary business information” and define that term to specifically include trade secrets.

The following are examples of public record exemptions for trade secrets:

- Section 119.071(1)(f), F.S., exempts data processing software obtained by an agency under a licensing agreement that prohibits its disclosure where the software is a trade secret;
- Section 125.0104(9)(d), F.S., exempts trade secrets held by a county tourism promotion agency;
- Section 288.1226(8), F.S., exempts trade secrets relating to projects conducted by the Florida Tourism Industry Marketing Corporation;
- Section 331.326, F.S., makes trade secrets held by Space Florida confidential and exempt;
- Section 334.049(4), F.S., makes certain trade secret information obtained by the Department of State as a result of research and development projects confidential and exempt;
- Section 381.83, F.S., makes trade secret information obtained by the Department of Health confidential and exempt;
- Sections 403.7046(2),(3)(b), and 403.73, F.S., make trade secret information reported to the Department of Environmental Protection pursuant to specified regulations confidential and exempt;
- Section 440.108(2), F.S., makes trade secrets contained in records held by the Department of Financial Services relating to workers’ compensation employer compliance investigations confidential and exempt;
- Section 499.012(3)(c), F.S., makes trade secret information provided to the Department of Business and Professional Regulation in a prescription drug permit application confidential and exempt;
- Section 502.222, F.S., makes trade secret information of a dairy industry business held by the Department of Agriculture and Consumer Services (DACS) confidential and exempt;
- Section 526.311(2), F.S., makes trade secrets contained in investigative records related to the sale of liquid fuel and brake fuel obtained by DACS confidential and exempt;

---

<sup>10</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

<sup>11</sup> There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Attorney General Opinion 85-62 (August 1, 1985).

- Section 560.129(2), F.S., makes information obtained by the Office of Financial Regulation in the course of an investigation of a money service business that is a trade secret confidential and exempt;
- Section 570.48(3), F.S., makes records containing trade secrets held by DACS' Division of Fruit and Vegetables confidential and exempt;
- Section 601.10(8)(b), F.S., makes any information held by the Department of Citrus that contains trade secrets confidential and exempt;
- Section 601.76, F.S., makes formulas containing trade secrets that are submitted to DACS confidential and exempt;
- Section 626.884(2), F.S., makes information contained in insurance administrators' records obtained by the Office of Insurance Regulation confidential and exempt; and
- Section 815.04(3) and (6), F.S., makes trade secret information that is held by an agency and exists internal or external to a computer, computer system, computer network, or electronic device confidential and exempt.

While some of these exemptions do not define the term "trade secret," a majority of them rely on one of two different statutory definitions. Some of the exemptions define the term in accordance with Florida's criminal statutes, which define the term as follows:

"Trade secret" means the whole or any portion or phase of any formula, pattern, device, combination of devices, or compilation of information which is for use, or is used, in the operation of a business and which provides the business an advantage, or an opportunity to obtain an advantage, over those who do not know or use it. The term includes any scientific, technical, or commercial information, including financial information, and includes any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof. Irrespective of novelty, invention, patentability, the state of the prior art, and the level of skill in the business, art, or field to which the subject matter pertains, a trade secret is considered to be:

1. Secret;
2. Of value;
3. For use or in use by the business; and
4. Of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it

when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.<sup>12</sup>

Other exemptions define the term in accordance with the Uniform Trade Secrets Act,<sup>13</sup> which defines the term as follows:

---

<sup>12</sup> Section 812.081(1)(c), F.S.

<sup>13</sup> Sections 688.001 through 688.009, F.S.

“Trade secret” means information, including a formula, pattern, compilation, program, device, method, technique, or process that:

- (a) 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
- (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.<sup>14</sup>

In addition, some exemptions provide a specific process that an agency<sup>15</sup> must use to protect exempted trade secret information. For instance, some exemptions require the party that submits information claimed to be a trade secret to designate the information as protected, while other exemptions require the agency to determine whether information claimed to be a trade secret constitutes a trade secret.<sup>16</sup>

### Senate Bill 1416

Senate Bill 1416 (2019 Regular Session), to which this bill is linked, repeals most public record exemptions for trade secrets in current law, all associated processes for designating a trade secret, and most references to trade secrets contained in definitions for proprietary business information.

### III. Effect of Proposed Changes:

**Section 1** creates s. 688.01, F.S., which provides a public record exemption for trade secrets in records held by most Florida agencies that are subject to public record requirements.

Similar to the Florida Uniform Trade Secrets Act, the bill defines “trade secret” as information that is 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.

However, the bill excludes from its definition of trade secrets the following information related to any contract or agreement, or addendum thereto, with a Florida agency:

- The parties to the contract or agreement, or an addendum thereto;
- The amount of money paid, any payment structure or plan, expenditures, incentives, bonuses, fees, or penalties;
- The nature or type of commodities or services purchased; and

<sup>14</sup> Section 688.002(4), F.S.

<sup>15</sup> The term “agency” is defined to mean any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency. Section 119.011(2), F.S.

<sup>16</sup> See s. 381.83, F.S.



- Applicable contract unit prices and deliverables.

A person who desires to protect their trade secret information from disclosure as a public record must submit a notice of trade secret (notice) to the agency at the time he or she submits the documents that include trade secret information. This notice must include the submitter's contact information, which must be updated as needed by the submitter. A failure to submit this notice with the record constitutes a waiver of any claim that the record contains a trade secret.

The submitter must also mark the documents that contain a trade secret with "trade secret" on each page and specific portion that contains a trade secret. Additionally, the submitter must provide a written verification made under penalty of perjury that he or she believes the information to be a trade secret based on a reading of s. 688.01, F.S., and that the information has been properly treated as a trade secret prior to its submission to the agency.

The bill authorizes an agency to disclose a trade secret, with the notice of trade secret, to an employee of another agency or governmental entity whose use of the trade secret is within the scope of his or her lawful duties and responsibilities.

An agency employee who, while acting in good faith during the performance of his or her duties, releases a record that contains a trade secret is not criminally or civilly liable for the release.

The bill specifies that the public record exemption does not apply to research institutes created or established in Florida law, divisions of sponsored research at state universities, or technology transfer centers at Florida College System institutions.

The bill provides for repeal of the exemption on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

**Sections 2 and 3** make technical, conforming changes.

**Section 4** provides a public necessity statement, which specifies that the public record exemption created by the bill is necessary to protect trade secret information provided to an agency by an individual or business because disclosure of such information to competitors of those businesses would be detrimental to the business. In addition, the exemption is necessary to protect trade secret information created by an agency in furtherance of the agency's duties and responsibilities, and disclosure of such information would be detrimental to the effective and efficient operation of the agency.

**Section 5** provides an effective date that is contingent upon, and concurrent with, adoption of SB 1416 (2019 Regular Session) or similar legislation in the 2019 Regular Session, or an extension thereof.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:*****Vote Requirement***

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill creates a new public record exemption; thus, it requires a two-thirds vote for final passage.

***Public Necessity Statement***

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill creates a new public record exemption; thus, it includes a public necessity statement.

***Breadth of Exemption***

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption for trade secrets held by an agency. As such, the exemption does not appear to conflict with the constitutional requirement that it be no broader than necessary to accomplish its purpose.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

None.

C. Government Sector Impact:

Agencies may incur costs related to training and implementation of the new processes required to implement this policy. Specifically, agencies may incur costs associated with redaction of exempt information prior to release of a record.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 688.01, F.S., and substantially amends ss. 688.001, 688.006, and 119.07 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 March 25, 2019:**

The CS requires a person who submits information to an agency that includes trade secret information to mark as “trade secret” both the page *and* specific portion of the record.

- B. Amendments:

None.



205312

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2019	.	
	.	
	.	
	.	

---

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

**Senate Amendment**

Delete line 48

and insert:

(b) Each page of a record and specific portion of a record

By Senator Gruters

23-01685A-19

20191414\_\_

1 A bill to be entitled  
 2 An act relating to public records; creating s. 688.01,  
 3 F.S.; providing definitions; providing an exemption  
 4 from public records requirements for trade secrets  
 5 held by an agency; providing notice requirements for  
 6 trade secrets submitted to an agency; providing an  
 7 exception to the exemption; providing that an agency  
 8 employee is not liable for the release of records in  
 9 compliance with the act; providing applicability;  
 10 providing for future legislative review and repeal of  
 11 the exemption; amending ss. 688.001 and 688.006, F.S.;  
 12 conforming cross-references; providing a statement of  
 13 public necessity; providing a contingent effective  
 14 date.

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

18 Section 1. Section 688.01, Florida Statutes, is created to  
 19 read:

20 688.01 Trade secret exemption from inspecting or copying  
 21 public records.-

22 (1) DEFINITIONS.-As used in this section, the term:

23 (a) "Agency" has the same meaning as in s. 119.011.

24 (b) "Trade secret" has the same meaning as in s. 688.002,

25 except that the term does not include any of the following

26 information related to any contract or agreement, or any

27 addendum thereto, with an agency:

28 1. The parties to the contract or agreement, or an addendum  
 29 thereto.

Page 1 of 5

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

23-01685A-19

20191414\_\_

30 2. The amount of money paid, any payment structure or plan,  
 31 expenditures, incentives, bonuses, fees, or penalties.

32 3. The nature or type of commodities or services purchased.

33 4. Applicable contract unit prices and deliverables.

34 (2) PUBLIC RECORDS EXEMPTION.-A trade secret held by an  
 35 agency is confidential and exempt from s. 119.07(1) and s.  
 36 24(a), Art. I of the State Constitution.

37 (3) SUBMISSION OF TRADE SECRET TO AN AGENCY.-

38 (a) If a person who submits records to an agency claims  
 39 that the submission contains a trade secret, the person shall  
 40 submit to the agency a notice of trade secret when the records  
 41 are submitted to the agency. Failure to submit such notice  
 42 constitutes a waiver of any claim by such person that the  
 43 records contain a trade secret. The notice must provide the  
 44 name, telephone number, and mailing address of the person  
 45 claiming the records contain a trade secret. The person is  
 46 responsible for updating his or her contact information with the  
 47 agency.

48 (b) Each page of a record or specific portion of a record  
 49 that contains a trade secret must be clearly marked with the  
 50 words "trade secret."

51 (c) In submitting a notice of trade secret to the agency,  
 52 the submitting party shall verify to the agency through a  
 53 written declaration in the manner provided in s. 92.525 the  
 54 following:

55  
 56 ...(I have/my company has)... read the definition of a  
 57 trade secret in section 688.01, Florida Statutes, and ...(I  
 58 believe/my company believes)... the information contained in

Page 2 of 5

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

23-01685A-19 20191414\_\_

59 this record is a trade secret as defined in section 688.01,  
60 Florida Statutes.

61 ...(I have/my company has)... taken measures to prevent the  
62 disclosure of the record or specific portion of a record claimed  
63 to be a trade secret to anyone other than those who have been  
64 selected to have access for limited purposes, and ...(I  
65 intend/my company intends)... to continue to take such measures.

66 The record or specific portion of a record claimed to be a  
67 trade secret is not, and has not been, reasonably obtainable by  
68 other persons through legitimate means without ...(my/our)...  
69 consent.

70 The record or specific portion of a record claimed to be a  
71 trade secret is not publicly available elsewhere.

72  
73 (4) AGENCY ACCESS.—An agency may disclose a trade secret,  
74 together with the notice of trade secret, to an officer or  
75 employee of another agency or governmental entity whose use of  
76 the trade secret is within the scope of his or her lawful duties  
77 and responsibilities.

78 (5) LIABILITY.—An agency employee who, while acting in good  
79 faith and in the performance of his or her duties, releases a  
80 record containing a trade secret pursuant to this act is not  
81 liable, civilly or criminally, for such release.

82 (6) APPLICABILITY.—This section does not apply to research  
83 institutes created or established in law, divisions of sponsored  
84 research at state universities, or technology transfer centers  
85 at Florida College System institutions.

86 (7) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject  
87 to the Open Government Sunset Review Act in accordance with s.

23-01685A-19 20191414\_\_

88 119.15 and shall stand repealed on October 2, 2024, unless  
89 reviewed and saved from repeal through reenactment by the  
90 Legislature.

91 Section 2. Section 688.001, Florida Statutes, is amended to  
92 read:

93 688.001 Short title.—Sections 688.001-688.01 Sections  
94 ~~688.001-688.009~~ may be cited as the "Uniform Trade Secrets Act."

95 Section 3. Section 688.006, Florida Statutes, is amended to  
96 read:

97 688.006 Preservation of secrecy.—In an action under ss.  
98 688.001-688.01 ss. ~~688.001-688.009~~, a court shall preserve the  
99 secrecy of an alleged trade secret by reasonable means, which  
100 may include granting protective orders in connection with  
101 discovery proceedings, holding in camera hearings, sealing the  
102 records of the action, and ordering any person involved in the  
103 litigation not to disclose an alleged trade secret without prior  
104 court approval.

105 Section 4. The Legislature finds that it is a public  
106 necessity that trade secrets held by an agency be made  
107 confidential and exempt from s. 119.07(1), Florida Statutes, and  
108 s. 24(a), Article I of the State Constitution. The Legislature  
109 recognizes that an agency may create trade secret information in  
110 furtherance of the agency's duties and responsibilities and that  
111 disclosure of such information would be detrimental to the  
112 effective and efficient operation of the agency. If such trade  
113 secret information were made available to the public, the agency  
114 could suffer great economic harm. In addition, the Legislature  
115 recognizes that in many instances, individuals and businesses  
116 provide trade secret information for regulatory or other

23-01685A-19

20191414\_\_

117 purposes to an agency and that disclosure of such information to  
118 competitors of those businesses would be detrimental to the  
119 businesses. Without the public records exemption, those entities  
120 would hesitate to cooperate with an agency, which would impair  
121 the effective and efficient administration of governmental  
122 functions. As such, the Legislature's intent is to protect trade  
123 secret information of a confidential nature which includes a  
124 formula, pattern, compilation, program, device, method,  
125 technique, or process used from which the owner derives  
126 independent economic value, actual or potential, from the  
127 information not being generally known to, and not being readily  
128 ascertainable by proper means by, other persons who can obtain  
129 economic value from its disclosure or use. Therefore, the  
130 Legislature finds that the need to protect trade secrets is  
131 sufficiently compelling to override this state's public policy  
132 of open government and that the protection of such information  
133 cannot be accomplished without this exemption.

134 Section 5. This act shall take effect on the same date that  
135 SB \_\_ or similar legislation takes effect, if such legislation  
136 is adopted in the same legislative session or an extension  
137 thereof and becomes a law.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/25/19

Meeting Date

SB 1414

Bill Number (if applicable)

Topic PUBLIC RECORDS / TRADE SECRETS

Amendment Barcode (if applicable)

Name NANCY STEPHENS

Job Title

Address 1625 SUMMIT LAKE DRIVE

Phone 850 402 2954

Street

Tallahassee

City

FL

State

32307

Zip

Email nancy@nstephens.com

Speaking: For [ ] Against [x] Information [ ]

Waive Speaking: [ ] In Support [ ] Against [ ] (The Chair will read this information into the record.)

Representing MANUFACTURERS ASSOCIATION OF FLORIDA

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

It is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this time. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This is part of the public record for this meeting.



**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 1416

INTRODUCER: Commerce and Tourism Committee and Senator Gruters

SUBJECT: Public Records

DATE: March 25, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Fav/CS
2.			GO	
3.			RC	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1416 repeals most public record exemptions for trade secrets in current law, all associated processes for designating a trade secret, and most references to trade secrets contained in definitions for proprietary business information. This bill, in conjunction with linked bill SB 1414 (2019 Regular Session), replaces the deleted policy with a uniform public record exemption for trade secrets that applies to most agencies that are subject to public record requirements. The bill includes provisions that:

- Specify that an agency contract or agreement, or an addendum thereto, is a public record, except that confidential or exempt information contained in those records may be redacted prior to the records' release;
- Explicitly make specific information in an agency contract public record, including the parties, amount of money paid, commodities or services purchased, and unit prices or deliverables, as outlined in the contract.
- Repeal the Department of the Lottery's authorization to determine by rule whether information relating to the operation of the lottery is confidential and exempt from public record laws; and
- Repeal s. 815.045, F.S., which is a public necessity statement for a trade secret exemption that was inadvertently codified in the Florida Statutes.

However, the bill expressly exempts contracts, agreements, or addenda thereto entered into by research institutes created or established in law, divisions of sponsored research at state

universities, and technology transfer centers at Florida College System Institutions from disclosure as required by this bill.

The bill takes effect upon becoming law if SB 1414 or similar legislation is adopted in the same legislative session, or an extension thereof, and also becomes law.

## II. Present Situation:

### Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy government records generated by the legislative, executive, and judicial branches of government.<sup>1</sup> The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the Florida Constitution by a two-thirds vote of the members present and voting in each house of the Legislature.<sup>2</sup> The law must specifically state the public necessity justifying the exemption<sup>3</sup> and must be no broader than necessary to accomplish its stated purpose.

Chapter 119, F.S., the “Public Records Act,”<sup>4</sup> provides further public policy regarding access to government records. Section 119.07(1)(a), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. The Open Government Sunset Review Act<sup>5</sup> provides that a public record exemption may be created or maintained only if it serves an identifiable public purpose that is limited in scope to meet one of the following purposes:<sup>6</sup>

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, the administration of which would be significantly impaired without the exemption;
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual’s safety; or
- Protect trade or business secrets, the disclosure of which would injure the affected party in the marketplace.

The Open Government Sunset Review Act also requires the automatic repeal of a public record exemption on October 2<sup>nd</sup> of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>7</sup> The Legislature must consider specific questions during its review for possible reenactment.<sup>8</sup>

---

<sup>1</sup> FLA. CONST., art. I, s. 24(a). The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are primarily located in s. 11.0431(2)-(3), F.S.

<sup>2</sup> FLA. CONST., art. I, s. 24(c). This portion of a public record exemption is referred to as the “public necessity statement.”

<sup>3</sup> *Id.*

<sup>4</sup> Public records laws are found throughout the Florida Statutes.

<sup>5</sup> Section 119.15, F.S.

<sup>6</sup> Section 119.15(6), F.S.

<sup>7</sup> Section 119.15(3), F.S.

<sup>8</sup> Section 119.15(6)(a), F.S., requires the Legislature to consider the following questions as part of the review process: 1) What specific records or meetings are affected by the exemption? 2) What specific parties does the exemption affect? 3) What is the public purpose of the exemption? 4) Can the information contained in the records or meetings be readily obtained

The Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’<sup>9</sup> Records designated as ‘confidential and exempt’ may be released only under circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at a records custodian’s discretion under certain circumstances.<sup>10</sup>

### Trade Secrets

Florida law contains a variety of provisions that make trade secret information exempt or confidential and exempt<sup>11</sup> from public record requirements. Some exemptions only protect trade secrets, while others protect “proprietary business information” and define that term to specifically include trade secrets.

The following are examples of public record exemptions for trade secrets:

- Section 119.071(1)(f), F.S., exempts data processing software obtained by an agency under a licensing agreement that prohibits its disclosure where the software is a trade secret;
- Section 125.0104(9)(d), F.S., exempts trade secrets held by a county tourism promotion agency;
- Section 288.1226(8), F.S., exempts trade secrets relating to projects conducted by the Florida Tourism Industry Marketing Corporation;
- Section 331.326, F.S., makes trade secrets held by Space Florida confidential and exempt;
- Section 334.049(4), F.S., makes certain trade secret information obtained by the Department of State as a result of research and development projects confidential and exempt;
- Section 381.83, F.S., makes trade secret information obtained by the Department of Health confidential and exempt;
- Sections 403.7046(2), (3)(b), and 403.73, F.S., make trade secret information reported to the Department of Environmental Protection pursuant to specified regulations confidential and exempt;
- Section 440.108(2), F.S., makes trade secrets contained in records held by the Department of Financial Services relating to workers’ compensation employer compliance investigations confidential and exempt;

---

by alternative means? If so, how? 5) Is the record or meeting protected by another exemption? 6) Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>9</sup> If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

<sup>10</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

<sup>11</sup> There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied* 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Attorney General Opinion 85-62 (August 1, 1985).

- Section 499.012(3)(c), F.S., makes trade secret information provided to the Department of Business and Professional Regulation in a prescription drug permit application confidential and exempt;
- Section 502.222, F.S., makes trade secret information of a dairy industry business held by the Department of Agriculture and Consumer Services (DACS) confidential and exempt;
- Section 526.311(2), F.S., makes trade secrets contained in investigative records related to the sale of liquid fuel and brake fuel obtained by DACS confidential and exempt;
- Section 560.129(2), F.S., makes information obtained by the Office of Financial Regulation in the course of an investigation of a money service business that is a trade secret confidential and exempt;
- Section 570.48(3), F.S., makes records containing trade secrets held by DACS' Division of Fruit and Vegetables confidential and exempt;
- Section 601.10(8)(b), F.S., makes any information held by the Department of Citrus that contains trade secrets confidential and exempt;
- Section 601.76, F.S., makes formulas containing trade secrets that are submitted to DACS confidential and exempt;
- Section 626.884(2), F.S., makes information contained in insurance administrators' records obtained by the Office of Insurance Regulation (OIR) confidential and exempt; and
- Section 815.04(3) and (6), F.S., makes trade secret information that is held by an agency and exists internal or external to a computer, computer system, computer network, or electronic device confidential and exempt.

While some of these exemptions do not define the term "trade secret," a majority of them rely on one of two different statutory definitions. Some of the exemptions define the term in accordance with Florida's criminal statutes, which uses the following definition:

"Trade secret" means the whole or any portion or phase of any formula, pattern, device, combination of devices, or compilation of information which is for use, or is used, in the operation of a business and which provides the business an advantage, or an opportunity to obtain an advantage, over those who do not know or use it. The term includes any scientific, technical, or commercial information, including financial information, and includes any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof. Irrespective of novelty, invention, patentability, the state of the prior art, and the level of skill in the business, art, or field to which the subject matter pertains, a trade secret is considered to be:

1. Secret;
2. Of value;
3. For use or in use by the business; and
4. Of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it

when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.<sup>12</sup>

Other exemptions define the term in accordance with the Uniform Trade Secrets Act,<sup>13</sup> which defines the term as follows:

“Trade secret” means information, including a formula, pattern, compilation, program, device, method, technique, or process that:

- (a) 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
- (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.<sup>14</sup>

In addition, some exemptions provide a specific process that an agency<sup>15</sup> must use to protect exempted trade secrets. For instance, some exemptions require the party that submits information claimed to be a trade secret to designate the information as protected, while other exemptions require the agency to determine whether information claimed to be a trade secret constitutes a trade secret.<sup>16</sup>

### ***SEPRO Corporation v. Department of Environmental Protection***

Section 815.045, F.S., contains the statement of public necessity<sup>17</sup> for a public record exemption for “data, programs or supporting documentation which is a trade secret as defined in s. 812.081, F.S., which resides or exists internal or external to a computer, computer system, or computer network.” In *SEPRO Corporation v. Department of Environmental Protection*,<sup>18</sup> the public

<sup>12</sup> Section 812.081(1)(c), F.S.

<sup>13</sup> Sections 688.001 through 688.009, F.S.

<sup>14</sup> Section 688.002(4), F.S.

<sup>15</sup> The term “agency” is defined to mean any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency. Section 119.011(2), F.S.

<sup>16</sup> See s. 381.83, F.S.

<sup>17</sup> Section 815.045, F.S., which begins “[t]he Legislature finds that it is a public necessity that trade secret information as defined in s. 812.081, and as provided for in s. 815.04(3), be expressly made confidential and exempt” is the required public necessity statement for s. 812.081, F.S., and it was inadvertently codified in the Florida Statutes. Public necessity statements are codified in the Laws of Florida.

<sup>18</sup> SEPRO contracted with the Department of Environmental Protection to assist in the eradication of hydrilla from certain lakes. A public record request was made by another party for information relating to SEPRO and its processes for treating hydrilla. Upon discovering the request, SEPRO’s counsel informed the department that certain documents should be protected as trade secrets. The department advised that it intended to release the documents as the documents were not timely marked as confidential prior to receipt of the public record request. The department did not release the documents as suit was filed to prevent disclosure. The circuit court found that certain documents could be disclosed and others could not. SEPRO appealed and the district court affirmed, finding that the documents that the corporation failed to mark as confidential prior to the public record request could be disclosed and held that the trade secret exemption applied to electronic mail sent to the department. Noting that it is a felony to release trade secret information under s. 815.04(3), F.S., the court stated:

necessity statement was interpreted by a district court to be a public record exemption. This interpretation resulted in an extension of protection to certain information that had been filed with an agency.

### **Department of the Lottery**

Article X, s. 15 of the Florida Constitution authorizes the state lottery. Although the Constitution initially prohibited lotteries, it was amended in 1986 to allow lotteries to be operated only by the state.

Chapter 24, F.S., was enacted by ch. 87-65, L.O.F., to implement the constitutional provision. Section 24.102, F.S., outlines the purpose and intent of the chapter, which is to enable the people of the state to benefit from significant additional moneys for education and to play the best lottery games available. This section also specifies it is the intent of the Legislature that:

- The net proceeds of lottery games be used to support improvements in public education without serving as a substitute for existing public education resources;
- The lottery be operated by a state department that functions as much as possible in the manner of an entrepreneurial business enterprise;
- The lottery games be operated by a self-supporting, revenue-producing department; and
- The department be accountable to the Legislature and the people of the state through a system of audits and reports and through compliance with financial disclosure, open meetings, and public records laws.<sup>19</sup>

Chapter 24, F.S., establishes the Department of the Lottery (department) to operate the state lottery with the purpose of maximizing revenues in a manner consonant with the dignity of the state and the welfare of its citizens.<sup>20</sup> Section 24.105, F.S., authorizes the department to adopt rules governing the establishment and operation of the state lottery. The department is specifically authorized to determine by rule which information relating to the operation of the lottery is confidential and exempt from public record requirements. Such information includes trade secrets; security measures, systems, or procedures; security reports; information concerning bids or other contractual data, the disclosure of which would impair the efforts of the department to contract for goods or services on favorable terms; employee personnel information unrelated to compensation, duties, qualifications, or responsibilities; and information obtained by the Division of Security pursuant to its investigations which is otherwise confidential. To be deemed confidential, the information must be necessary to the security and integrity of the lottery. This statutory authorization was created prior to the constitutional amendment, which provides that *only* the Legislature may create a public record exemption.

---

Due to the legal uncertainty as to whether a public employee would be protected from a felony conviction if otherwise complying with chapter 119, and with s. 24(a), Art. I of the State Constitution, *it is imperative that a public records exemption be created.* Currently, s. 812.081, F.S., provides a definition for “trade secret” and makes it a felony of the third degree for any person to intentionally deprive or withhold from the owner the control of a trade secret, or to intentionally appropriate, use, steal, embezzle or copy the trade secret . . . The original placement (of the exemption) . . . evinces a contemporaneous view that the exemption . . . applies to more than computer data, programs or supporting documentation . . . (*emphasis added*).

<sup>19</sup> Section 24.102(2), F.S.

<sup>20</sup> Section 24.104, F.S.

**SB 1414**

Senate Bill 1414 (2019 Regular Session), to which this bill is linked, creates a uniform public record exemption for trade secrets that applies to most agencies that are subject to public record requirements. The bill defines the term “trade secret” and creates a process for an individual or entity to follow when submitting a trade secret to an agency.

**III. Effect of Proposed Changes:**

The bill repeals most public record exemptions for trade secrets in current law, all associated processes for designating a trade secret, and most references to trade secrets contained in definitions for proprietary business information. The bill will not take effect until and unless SB 1414 (2019 Regular Session) is enacted.

For purposes of this bill, “agency” is defined to include any state, county, district, authority, or municipal officer; department, division, board, bureau, commission, or other separate unit of government created or established by law, including the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel; and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

The bill specifies that any contract or agreement, or an addendum thereto, to which an agency is a party is a public record, except that confidential or exempt information contained therein may be redacted prior to release of the contract or agreement, or an addendum thereto, if a statutory exemption is identified. In addition, the following information related to any contract or agreement, or an addendum thereto, with an agency is not confidential or exempt:

- Parties to the contract or agreement, or to an addendum thereto;
- Money paid under a contract, or any payment structure or plan, expenditures, incentives, bonuses, fees, or penalties;
- The type of commodities or services purchased pursuant to the contract; and
- Unit prices and deliverables specified in the contract.

However, research institutes created or established in law, divisions of sponsored research at state universities, and technology transfer centers at Florida College System Institutions are not subject to disclosure of contract information as described in this section.

The bill makes changes to several provisions that govern trade secrets or related processes, including by not limited to, the following:

- Repealing the provision authorizing the Department of the Lottery to determine by rule information relating to the operation of the lottery that is confidential and exempt from public record requirements;
- Repealing s. 815.045, F.S., which is the public necessity statement for a trade secret exemption that was inadvertently codified in the Florida Statutes; and
- Specifying that trade secrets held by the H. Lee Moffitt Cancer Center and Research Institute and the Florida Institute for Human and Machine Cognition, Inc., and divisions of sponsored research at state universities are confidential and exempt if they meet the definition of “trade secret” in SB 1414.

**Section 1** creates s. 119.07135, F.S., providing that certain information related to agency contracts is not confidential or exempt from public records requirements. However, this section exempts contracts or agreements, or any addenda thereto that are entered into by research institutes that are created or established in law, divisions of sponsored research at state universities, and technology transfer centers at Florida College System institutions from this section.

**Section 2** amends s. 24.105, F.S., deleting provisions relating to exemptions from public records requirements for certain information held by the Department of the Lottery.

**Section 3** amends s. 73.0155, F.S., deleting provisions relating to public records exemptions for trade secrets held by governmental condemning authorities.

**Section 4** amends s. 119.071, F.S., deleting a provision declaring that certain data processing software exempt from public records requirements is considered a trade secret; removing the scheduled repeal of the public record exemption.

**Section 5** amends s. 119.0713, F.S., deleting a provision exempting trade secrets held by local government agencies from public records requirements.

**Section 6** amends s. 125.0104, F.S., deleting a provision exempting trade secrets held by county tourism development agencies from public records requirements.

**Section 7** amends s. 163.01, F.S., deleting a provision exempting trade secrets held by public agencies that are electric utilities from public records requirements.

**Section 8** amends s. 202.195, F.S., deleting a provision exempting trade secrets obtained from a telecommunications company or franchised cable company for certain purposes from public records requirements.

**Section 9** amends s. 215.4401, F.S., deleting provisions relating to confidentiality of trade secrets held by the State Board of Administration.

**Section 10** amends s. 252.88, F.S., deleting provisions exempting certain information from public records requirements under the Florida Emergency Planning and Community Right-to-Know Act.

**Section 11** repeals s. 252.943, F.S., relating to a public record exemption under the Florida Accidental Release Prevention and Risk Management Planning Act.

**Section 12** amends s. 287.0943, F.S., deleting provisions relating to confidentiality of certain information relating to applications for certification of minority business enterprises.

**Section 13** amends s. 288.047, F.S., deleting provisions exempting potential trade secrets from public records requirements.



**Section 14** amends s. 288.075, F.S., deleting provisions relating to a public records exemption for trade secrets held by economic development agencies.

**Section 15** amends s. 288.1226, F.S., deleting provisions relating to a public records exemption for trade secrets held by the Florida Tourism Industry Marketing Corporation.

**Section 16** amends s. 288.776, F.S., deleting provisions relating to a public record exemption for trade secrets held by the Florida Export Finance Corporation.

**Section 17** amends s. 288.9520, F.S., deleting provisions relating to a public record exemption for trade secrets and potential trade secrets held by Enterprise Florida, Inc., and related entities.

**Section 18** amends s. 288.9607, F.S., deleting provisions relating to a public record exemption for trade secrets held by the Florida Development Finance Corporation.

**Section 19** amends s. 288.9626, F.S., deleting provisions relating to a public record exemption for trade secrets and potential trade secrets held by the Florida Opportunity Fund; conforming provisions to changes made by the act.

**Section 20** amends s. 288.9627, F.S., deleting provisions relating to a public records exemption for trade secrets and potential trade secrets held by the Institute for Commercialization of Florida Technology; conforming provisions to changes made by the act.

**Section 21** amends s. 331.326, F.S., deleting provisions relating to a public records exemption for trade secrets held by Space Florida.

**Section 22** amends s. 334.049, F.S., deleting provisions relating to a public records exemption for trade secrets held by the Department of State.

**Sections 23 and 24** amend ss. 350.121 and 364.183, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Florida Public Service Commission.

**Section 25** amends 365.174, F.S., deleting provisions relating to public record exemptions for trade secrets held by the E911 Board and the Technology Program within the Department of Management Services.

**Sections 26, 27, and 28** amend ss. 366.093, 367.156, and 368.108, F.S., deleting provisions relating to public records exemptions for trade secrets held by the Florida Public Service Commission.

**Section 29** repeals s. 381.83, F.S., relating to confidentiality of certain information containing trade secrets obtained by the Department of Health.

**Section 30** amends s. 403.7046, F.S., revising provisions relating to a public record exemption for trade secrets contained in certain reports to the Department of Environmental Protection.

**Section 31** repeals s. 403.73, F.S., relating to confidentiality of certain information containing trade secrets obtained by the Department of Environmental Protection.

**Section 32** amends s. 408.061, F.S., deleting a requirement that certain trade secret information submitted to the Agency for Healthcare Administration be clearly designated as such.

**Section 33** amends s. 408.185, F.S., deleting provisions relating to public record exemptions for certain trade secrets held by the Office of the Attorney General.

**Section 34** amends s. 408.910, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Florida Health Choices Program.

**Section 35** amends s. 409.91196, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Agency for Healthcare Administration.

**Section 36** amends s. 440.108, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Financial Services.

**Section 37** amends s. 494.00125, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Office of Financial Regulation

**Section 38** amends s. 497.172, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Financial Services or the Board of Funeral, Cemetery, and Consumer Services.

**Sections 39, 40, 41, and 42** amend ss. 499.012, 499.0121, 499.05, and 499.051, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Business and Professional Regulation.

**Section 43** repeals s. 499.931, F.S., relating to maintenance of information held by the Department of Business and Professional Regulation that is deemed to be a trade secret.

**Section 44** amends s. 501.171, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Legal Affairs.

**Section 45** repeals s. 502.222, F.S., relating to trade secrets of a dairy business held by the DACS.

**Sections 46 and 47** amend ss. 517.2015 and 520.9965, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Office of Financial Regulation.

**Section 48** amends s. 526.311, F.S., deleting provisions relating to public record exemptions for trade secrets held by the DACS.

**Section 49** amends s. 548.062, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Florida State Boxing Commission.

**Section 50** amends s. 556.113, F.S., deleting provisions relating to public record exemptions for trade secrets held by Sunshine State One-Call of Florida, Inc.

**Section 51** amends s. 559.5558, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Office of Financial Regulation.

**Section 52** amends s. 559.9285, F.S., revising provisions specifying that certain information provided to the DACS does not constitute a trade secret.

**Section 53** amends s. 560.129, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Office of Financial Regulation.

**Section 54** amends s. 570.48, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Division of Fruit and Vegetables.

**Sections 55 and 56** amend ss. 570.544 and 573.123, F.S., deleting provisions relating to public record exemptions for trade secrets held by the DACS' Division of Consumer Services.

**Section 57** repeals s. 581.199, F.S., relating to a prohibition on the use of trade secret information obtained under specified provisions for personal use or gain.

**Sections 58, 59, and 60** amend ss. 601.10, 601.15, and 601.152, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Citrus.

**Section 61** amends s. 601.76, F.S., relating to a public record exemption for certain formulas filed with the DACS.

**Sections 62 and 63** amend ss. 607.0505 and 617.0503, F.S., deleting provisions relating to public record exemptions for certain information that might reveal trade secrets held by the Department of Legal Affairs.

**Section 64** amends s. 624.4212, F.S., deleting provisions relating to public record exemptions for trade secrets held by the OIR.

**Section 65** repeals s. 624.4213, F.S., relating to trade secret documents submitted to the Department of Financial Services or the OIR.

**Sections 66 and 67** amend ss. 626.84195 and 626.884, F.S., deleting provisions relating to public record exemptions for trade secrets held by the OIR.

**Section 68** amends s. 626.9936, F.S., revising provisions relating to a public record exemption for trade secrets held by the OIR.

**Sections 69 and 70** amend ss. 627.0628 and 627.3518, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Financial Services or the OIR.

**Section 71** amends s. 655.057, F.S., revising provisions relating to a public record exemption for trade secrets held by the Office of Financial Regulation.

**Section 72** repeals s. 655.0591, F.S., relating to trade secret documents held by the Office of Financial Regulation.

**Section 73** amends s. 663.533, F.S., revising a cross-reference.

**Section 74** repeals s. 721.071, F.S., relating to trade secret documents filed with the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation.

**Section 75** amends s. 815.04, F.S., deleting a public record exemption for certain trade secret information relating to offenses against intellectual property.

**Section 76** repeals s. 815.045, F.S., relating to trade secret information.

**Section 77** amends s. 1004.43, F.S., revising provisions relating to public record exemptions for trade secrets and potential trade secrets held by the H. Lee Moffitt Cancer Center and Research Institute.

**Section 78** amends s. 1004.78, F.S., deleting provisions relating to public record exemptions for trade secrets and potential trade secrets held by the technology transfers centers at Florida College System institutions.

**Section 79** amends s. 601.80, F.S., correcting a cross-reference.

**Sections 80, 81, and 82** amend ss. 663.533, 721.13, and 921.0022, F.S., conforming provisions to changes made by the act.

**Section 83** provides an effective date of upon becoming a law if SB 1414 or similar legislation is adopted in the same legislative session or an extension thereof and becomes law.

#### **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.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may require agencies to train staff and institute new procedures to implement this policy.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill substantially amends the following sections of the Florida Statutes: 24.105, 73.0155, 119.071, 119.0713, 125.0104, 163.01, 202.195, 215.4401, 252.88, 287.0943, 288.047, 288.075, 288.1226, 288.776, 288.9520, 288.9607, 288.9626, 288.9627, 331.326, 334.049, 350.121, 364.183, 365.174, 366.093, 367.156, 368.108, 403.7046, 408.061, 408.185, 408.910, 409.91196, 440.108, 494.00125, 497.172, 499.012, 499.0121, 499.05, 499.051, 499.931, 501.171, 517.2015, 520.9965, 526.311, 548.062, 556.113, 559.5558, 559.9285, 560.129, 570.48, 570.544, 573.123, 601.10, 601.15, 601.152, 601.76, 607.0505, 617.0503, 624.4212, 626.84195, 626.884, 626.9936, 627.0628, 627.3518, 655.057, 655.0591, 663.533, 815.04, 1004.43, 1004.78, 601.80, 721.13, and 921.0022.

This bill creates s. 119.07135, and repeals ss. 252.943, 381.83, 403.73, 815.045, 721.071, 624.4213, 581.199, 502.222 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 March 25, 2019:**

- Maintains current law regarding confidentiality of trade secrets contained in records held by and discussed at meetings of hospitals regulated by ch. 395, F.S.;
- Deletes language that would have allowed the OIR to aggregate trade secret information and issue it in public reports; and
- Clarifies that trade secrets contained in contracts, agreements, or addenda thereto to which research institutes created or established by law, divisions of sponsored research at state universities, and technology transfer centers at Florida College System Institutions are party are exempt from disclosure.

- B. **Amendments:**

None.



526826

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2019	.	
	.	
	.	
	.	

---

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 119.07135, Florida Statutes, is created  
to read:

119.07135 Agency contracts; public records.-

(1) Any contract or agreement, or an addendum thereto, to  
which an agency or an entity subject to this chapter is a party,  
is a public record, except that confidential or exempt



526826

11 information contained therein may be redacted before release of  
12 the contract or agreement, or an addendum thereto, if the  
13 specific statutory exemption is identified.

14 (2) Notwithstanding any other provision of law, the  
15 following information related to any contract or agreement, or  
16 an addendum thereto, with an agency or an entity subject to this  
17 chapter is not confidential or exempt from s. 119.07(1) and s.  
18 24(a), Art. I of the State Constitution:

19 (a) The parties to the contract or agreement, or an  
20 addendum thereto, if the contract or agreement, or the addendum  
21 thereto, includes a provision requiring the agency or an entity  
22 subject to this chapter to expend funds.

23 (b) The amount of money paid, any payment structure or  
24 plan, expenditures, incentives, bonuses, fees, or penalties.

25 (c) The nature or type of the commodities or services  
26 purchased.

27 (d) Applicable contract unit prices and deliverables.

28 (3) This section does not apply to research institutes  
29 created or established in law, divisions of sponsored research  
30 at state universities, or technology transfer centers at Florida  
31 College System institutions.

32 Section 2. Subsection (12) of section 24.105, Florida  
33 Statutes, is amended to read:

34 24.105 Powers and duties of department.—The department  
35 shall:

36 ~~(12) (a) Determine by rule information relating to the~~  
37 ~~operation of the lottery which is confidential and exempt from~~  
38 ~~the provisions of s. 119.07(1) and s. 24(a), Art. I of the State~~  
39 ~~Constitution. Such information includes trade secrets; security~~





526826

40 ~~measures, systems, or procedures; security reports; information~~  
41 ~~concerning bids or other contractual data, the disclosure of~~  
42 ~~which would impair the efforts of the department to contract for~~  
43 ~~goods or services on favorable terms; employee personnel~~  
44 ~~information unrelated to compensation, duties, qualifications,~~  
45 ~~or responsibilities; and information obtained by the Division of~~  
46 ~~Security pursuant to its investigations which is otherwise~~  
47 ~~confidential. To be deemed confidential, the information must be~~  
48 ~~necessary to the security and integrity of the lottery.~~  
49 ~~Confidential information may be released to other governmental~~  
50 ~~entities as needed in connection with the performance of their~~  
51 ~~duties. The receiving governmental entity shall retain the~~  
52 ~~confidentiality of such information as provided for in this~~  
53 ~~subsection.~~

54       (a) ~~(b)~~ Maintain the confidentiality of the street address  
55 and the telephone number of a winner, in that such information  
56 is confidential and exempt from the provisions of s. 119.07(1)  
57 and s. 24(a), Art. I of the State Constitution, unless the  
58 winner consents to the release of such information or as  
59 provided for in s. 24.115(4) or s. 409.2577.

60       (b) ~~(c)~~ Any information made confidential and exempt from  
61 the provisions of s. 119.07(1) under this subsection shall be  
62 disclosed to the Auditor General, to the Office of Program  
63 Policy Analysis and Government Accountability, or to the  
64 independent auditor selected under s. 24.123 upon such person's  
65 request therefor. If the President of the Senate or the Speaker  
66 of the House of Representatives certifies that information made  
67 confidential under this subsection is necessary for effecting  
68 legislative changes, the requested information shall be



526826

69 disclosed to him or her, and he or she may disclose such  
70 information to members of the Legislature and legislative staff  
71 as necessary to effect such purpose.

72 Section 3. Paragraph (e) of subsection (1) of section  
73 73.0155, Florida Statutes, is amended to read:

74 73.0155 Confidentiality; business information provided to a  
75 governmental condemning authority.-

76 (1) The following business information provided by the  
77 owner of a business to a governmental condemning authority as  
78 part of an offer of business damages under s. 73.015 is  
79 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
80 of the State Constitution if the owner requests in writing that  
81 the business information be held confidential and exempt:

82 (e) Materials that relate to methods of manufacture or  
83 production ~~or, potential trade secrets, patentable material, or~~  
84 ~~actual trade secrets as defined in s. 688.002.~~

85 Section 4. Paragraph (f) of subsection (1) of section  
86 119.071, Florida Statutes, is amended to read:

87 119.071 General exemptions from inspection or copying of  
88 public records.-

89 (1) AGENCY ADMINISTRATION.-

90 (f) ~~Data processing software obtained by an agency under a~~  
91 ~~licensing agreement that prohibits its disclosure and which~~  
92 ~~software is a trade secret, as defined in s. 812.081, and~~  
93 Agency-produced data processing software that is sensitive is  
94 ~~are~~ exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
95 Constitution. The designation of agency-produced software as  
96 sensitive does not prohibit an agency head from sharing or  
97 exchanging such software with another public agency. ~~This~~



526826

98 ~~paragraph is subject to the Open Government Sunset Review Act in~~  
99 ~~accordance with s. 119.15 and shall stand repealed on October 2,~~  
100 ~~2021, unless reviewed and saved from repeal through reenactment~~  
101 ~~by the Legislature.~~

102 Section 5. Paragraph (a) of subsection (4) of section  
103 119.0713, Florida Statutes, is amended to read:

104 119.0713 Local government agency exemptions from inspection  
105 or copying of public records.—

106 (4) (a) Proprietary confidential business information means  
107 information, regardless of form or characteristics, which is  
108 held by an electric utility that is subject to this chapter, is  
109 intended to be and is treated by the entity that provided the  
110 information to the electric utility as private in that the  
111 disclosure of the information would cause harm to the entity  
112 providing the information or its business operations, and has  
113 not been disclosed unless disclosed pursuant to a statutory  
114 provision, an order of a court or administrative body, or a  
115 private agreement that provides that the information will not be  
116 released to the public. Proprietary confidential business  
117 information includes:

118 1. ~~Trade secrets, as defined in s. 688.002.~~

119 2. Internal auditing controls and reports of internal  
120 auditors.

121 2.3. Security measures, systems, or procedures.

122 3.4. Information concerning bids or other contractual data,  
123 the disclosure of which would impair the efforts of the electric  
124 utility to contract for goods or services on favorable terms.

125 4.5. Information relating to competitive interests, the  
126 disclosure of which would impair the competitive business of the



526826

127 provider of the information.

128 Section 6. Paragraph (d) of subsection (9) of section  
129 125.0104, Florida Statutes, is amended to read:

130 125.0104 Tourist development tax; procedure for levying;  
131 authorized uses; referendum; enforcement.—

132 (9) COUNTY TOURISM PROMOTION AGENCIES.—In addition to any  
133 other powers and duties provided for agencies created for the  
134 purpose of tourism promotion by a county levying the tourist  
135 development tax, such agencies are authorized and empowered to:

136 (d) Undertake marketing research and advertising research  
137 studies and provide reservations services and convention and  
138 meetings booking services consistent with the authorized uses of  
139 revenue as set forth in subsection (5).

140 1. Information given to a county tourism promotion agency  
141 which, if released, would reveal the identity of persons or  
142 entities who provide data or other information as a response to  
143 a sales promotion effort, an advertisement, or a research  
144 project or whose names, addresses, meeting or convention plan  
145 information or accommodations or other visitation needs become  
146 booking or reservation list data, is exempt from s. 119.07(1)  
147 and s. 24(a), Art. I of the State Constitution.

148 2. ~~The following information,~~ When held by a county tourism  
149 promotion agency, booking business records, as defined in s.  
150 255.047, are is exempt from s. 119.07(1) and s. 24(a), Art. I of  
151 the State Constitution.÷

152 a. ~~Booking business records, as defined in s. 255.047.~~

153 b. ~~Trade secrets and commercial or financial information~~  
154 ~~gathered from a person and privileged or confidential, as~~  
155 ~~defined and interpreted under 5 U.S.C. s. 552(b)(4), or any~~



526826

156 ~~amendments thereto.~~

157 ~~3. A trade secret, as defined in s. 812.081, held by a~~  
158 ~~county tourism promotion agency is exempt from s. 119.07(1) and~~  
159 ~~s. 24(a), Art. I of the State Constitution. This subparagraph is~~  
160 ~~subject to the Open Government Sunset Review Act in accordance~~  
161 ~~with s. 119.15 and shall stand repealed on October 2, 2021,~~  
162 ~~unless reviewed and saved from repeal through reenactment by the~~  
163 ~~Legislature.~~

164 Section 7. Paragraph (m) of subsection (15) of section  
165 163.01, Florida Statutes, is amended to read:

166 163.01 Florida Interlocal Cooperation Act of 1969.—

167 (15) Notwithstanding any other provision of this section or  
168 of any other law except s. 361.14, any public agency of this  
169 state which is an electric utility, or any separate legal entity  
170 created pursuant to the provisions of this section, the  
171 membership of which consists only of electric utilities, and  
172 which exercises or proposes to exercise the powers granted by  
173 part II of chapter 361, the Joint Power Act, may exercise any or  
174 all of the following powers:

175 (m) In the event that any public agency or any such legal  
176 entity, or both, should receive, in connection with its joint  
177 ownership or right to the services, output, capacity, or energy  
178 of an electric project, as defined in paragraph (3)(d), any  
179 material which is designated by the person supplying such  
180 material as proprietary confidential business information or  
181 which a court of competent jurisdiction has designated as  
182 confidential or secret shall be kept confidential and shall be  
183 exempt from the provisions of s. 119.07(1). As used in this  
184 paragraph, "proprietary confidential business information"



526826

185 ~~includes, but is not limited to, trade secrets;~~ internal  
186 auditing controls and reports of internal auditors; security  
187 measures, systems, or procedures; ~~information concerning bids or~~  
188 ~~other contractual data, the disclosure of which would impair the~~  
189 ~~efforts of the utility to contract for services on favorable~~  
190 ~~terms;~~ employee personnel information unrelated to compensation,  
191 duties, qualifications, or responsibilities; and formulas,  
192 patterns, devices, combinations of devices, ~~contract costs,~~ or  
193 other information the disclosure of which would injure the  
194 affected entity in the marketplace.

195 Section 8. Subsection (2) of section 202.195, Florida  
196 Statutes, is amended to read:

197 202.195 Proprietary confidential business information;  
198 public records exemption.—

199 (2) For the purposes of this exemption, "proprietary  
200 confidential business information" includes maps, plans, billing  
201 and payment records, ~~trade secrets,~~ or other information  
202 relating to the provision of or facilities for communications  
203 service:

204 (a) That is intended to be and is treated by the company as  
205 confidential;

206 (b) The disclosure of which would be reasonably likely to  
207 be used by a competitor to harm the business interests of the  
208 company; and

209 (c) That is not otherwise readily ascertainable or publicly  
210 available by proper means by other persons from another source  
211 in the same configuration as requested by the local governmental  
212 entity.

213



526826

214 Proprietary confidential business information does not include  
215 schematics indicating the location of facilities for a specific  
216 site that are provided in the normal course of the local  
217 governmental entity's permitting process.

218 Section 9. Paragraphs (a), (c), and (d) of subsection (3)  
219 of section 215.4401, Florida Statutes, are amended to read:

220 215.4401 Board of Administration; public record  
221 exemptions.—

222 (3)(a) As used in this subsection, the term:

223 1. "Alternative investment" means an investment by the  
224 State Board of Administration in a private equity fund, venture  
225 fund, hedge fund, or distress fund or a direct investment in a  
226 portfolio company through an investment manager.

227 2. "Alternative investment vehicle" means the limited  
228 partnership, limited liability company, or similar legal  
229 structure or investment manager through which the State Board of  
230 Administration invests in a portfolio company.

231 3. "Portfolio company" means a corporation or other issuer,  
232 any of whose securities are owned by an alternative investment  
233 vehicle or the State Board of Administration and any subsidiary  
234 of such corporation or other issuer.

235 4. "Portfolio positions" means individual investments in  
236 portfolio companies which are made by the alternative investment  
237 vehicles, including information or specific investment terms  
238 associated with any portfolio company investment.

239 5. "Proprietor" means an alternative investment vehicle, a  
240 portfolio company in which the alternative investment vehicle is  
241 invested, or an outside consultant, including the respective  
242 authorized officers, employees, agents, or successors in



526826

243 interest, which controls or owns information provided to the  
244 State Board of Administration.

245 6. "Proprietary confidential business information" means  
246 information that has been designated by the proprietor when  
247 provided to the State Board of Administration as information  
248 that is owned or controlled by a proprietor; that is intended to  
249 be and is treated by the proprietor as private, the disclosure  
250 of which would harm the business operations of the proprietor  
251 and has not been intentionally disclosed by the proprietor  
252 unless pursuant to a private agreement that provides that the  
253 information will not be released to the public except as  
254 required by law or legal process, or pursuant to law or an order  
255 of a court or administrative body; and that concerns:

256 ~~a. Trade secrets as defined in s. 688.002.~~

257 ~~b.~~ Information provided to the State Board of  
258 Administration regarding a prospective investment in a private  
259 equity fund, venture fund, hedge fund, distress fund, or  
260 portfolio company which is proprietary to the provider of the  
261 information.

262 ~~b.e.~~ Financial statements and auditor reports of an  
263 alternative investment vehicle.

264 ~~c.d.~~ Meeting materials of an alternative investment vehicle  
265 relating to financial, operating, or marketing information of  
266 the alternative investment vehicle.

267 ~~d.e.~~ Information regarding the portfolio positions in which  
268 the alternative investment vehicles invest.

269 ~~e.f.~~ Capital call and distribution notices to investors of  
270 an alternative investment vehicle.

271 ~~f.g.~~ Alternative investment agreements and related records.





526826

272 ~~g.h.~~ Information concerning investors, other than the State  
273 Board of Administration, in an alternative investment vehicle.

274 7. "Proprietary confidential business information" does not  
275 include:

276 a. The name, address, and vintage year of an alternative  
277 investment vehicle and the identity of the principals involved  
278 in the management of the alternative investment vehicle.

279 b. The dollar amount of the commitment made by the State  
280 Board of Administration to each alternative investment vehicle  
281 since inception.

282 c. The dollar amount and date of cash contributions made by  
283 the State Board of Administration to each alternative investment  
284 vehicle since inception.

285 d. The dollar amount, on a fiscal-year-end basis, of cash  
286 distributions received by the State Board of Administration from  
287 each alternative investment vehicle.

288 e. The dollar amount, on a fiscal-year-end basis, of cash  
289 distributions received by the State Board of Administration plus  
290 the remaining value of alternative-vehicle assets that are  
291 attributable to the State Board of Administration's investment  
292 in each alternative investment vehicle.

293 f. The net internal rate of return of each alternative  
294 investment vehicle since inception.

295 g. The investment multiple of each alternative investment  
296 vehicle since inception.

297 h. The dollar amount of the total management fees and costs  
298 paid on an annual fiscal-year-end basis by the State Board of  
299 Administration to each alternative investment vehicle.

300 i. The dollar amount of cash profit received by the State



526826

301 Board of Administration from each alternative investment vehicle  
302 on a fiscal-year-end basis.

303 j. A description of any compensation, fees, or expenses,  
304 including the amount or value, paid or agreed to be paid by a  
305 proprietor to any person to solicit the board to make an  
306 alternative investment or investment through an alternative  
307 investment vehicle. This does not apply to an executive officer,  
308 general partner, managing member, or other employee of the  
309 proprietor, who is paid by the proprietor to solicit the board  
310 to make such investments.

311 (c)1. Notwithstanding the provisions of paragraph (b), a  
312 request to inspect or copy a record under s. 119.07(1) that  
313 contains proprietary confidential business information shall be  
314 granted if the proprietor of the information fails, within a  
315 reasonable period of time after the request is received by the  
316 State Board of Administration, to verify the following to the  
317 State Board of Administration through a written declaration in  
318 the manner provided by s. 92.525:

319 a. That the requested record contains proprietary  
320 confidential business information and the specific location of  
321 such information within the record;

322 ~~b. If the proprietary confidential business information is~~  
323 ~~a trade secret, a verification that it is a trade secret as~~  
324 ~~defined in s. 688.002;~~

325 ~~e.~~ That the proprietary confidential business information  
326 is intended to be and is treated by the proprietor as private,  
327 is the subject of efforts of the proprietor to maintain its  
328 privacy, and is not readily ascertainable or publicly available  
329 from any other source; and



526826

330        ~~c.d.~~ That the disclosure of the proprietary confidential  
331 business information to the public would harm the business  
332 operations of the proprietor.

333            2. The State Board of Administration shall maintain a list  
334 and a description of the records covered by any verified,  
335 written declaration made under this paragraph.

336            (d) Any person may petition a court of competent  
337 jurisdiction for an order for the public release of those  
338 portions of any record made confidential and exempt by paragraph  
339 (b). Any action under this paragraph must be brought in Leon  
340 County, Florida, and the petition or other initial pleading  
341 shall be served on the State Board of Administration and, if  
342 determinable upon diligent inquiry, on the proprietor of the  
343 information sought to be released. In any order for the public  
344 release of a record under this paragraph, the court shall make a  
345 finding ~~that the record or portion thereof is not a trade secret~~  
346 ~~as defined in s. 688.002,~~ that a compelling public interest is  
347 served by the release of the record or portions thereof which  
348 exceed the public necessity for maintaining the confidentiality  
349 of such record~~,~~ and that the release of the record will not  
350 cause damage to or adversely affect the interests of the  
351 proprietor of the released information, other private persons or  
352 business entities, the State Board of Administration, or any  
353 trust fund, the assets of which are invested by the State Board  
354 of Administration.

355            Section 10. Subsection (1) of section 252.88, Florida  
356 Statutes, is amended to read:

357            252.88 Public records.—

358            (1) Whenever EPCRA authorizes an employer to exclude trade



526826

359 secret information from its submittals, the employer shall  
360 furnish the information so excluded to the commission upon  
361 request. ~~Such information shall be confidential and exempt from~~  
362 ~~the provisions of s. 119.07(1). The commission shall not~~  
363 ~~disclose such information except pursuant to a final~~  
364 ~~determination under s. 322 of EPCRA by the Administrator of the~~  
365 ~~Environmental Protection Agency that such information is not~~  
366 ~~entitled to trade secret protection, or pursuant to an order of~~  
367 ~~court.~~

368 Section 11. Section 252.943, Florida Statutes, is repealed.

369 Section 12. Paragraph (h) of subsection (2) of section  
370 287.0943, Florida Statutes, is amended to read:

371 287.0943 Certification of minority business enterprises.-

372 (2)

373 (h) The certification procedures should allow an applicant  
374 seeking certification to designate on the application form the  
375 information the applicant considers to be proprietary,  
376 confidential business information. As used in this paragraph,  
377 "proprietary, confidential business information" includes, ~~but~~  
378 ~~is not limited to,~~ any information that would be exempt from  
379 public inspection pursuant to the provisions of chapter 119;  
380 ~~trade secrets;~~ internal auditing controls and reports; ~~contract~~  
381 ~~costs;~~ or other information the disclosure of which would injure  
382 the affected party in the marketplace or otherwise violate s.  
383 286.041. The executor in receipt of the application shall issue  
384 written and final notice of any information for which  
385 noninspection is requested but not provided for by law.

386 Section 13. Subsection (7) of section 288.047, Florida  
387 Statutes, is amended to read:



526826

388 288.047 Quick-response training for economic development.-

389 (7) In providing instruction pursuant to this section,  
390 materials that relate to methods of manufacture or production,  
391 ~~potential trade secrets~~, business transactions, or proprietary  
392 information received, produced, ascertained, or discovered by  
393 employees of the respective departments, district school boards,  
394 community college district boards of trustees, or other  
395 personnel employed for the purposes of this section is  
396 confidential and exempt from the provisions of s. 119.07(1). The  
397 state may seek copyright protection for instructional materials  
398 and ancillary written documents developed wholly or partially  
399 with state funds as a result of instruction provided pursuant to  
400 this section, except for materials that are confidential and  
401 exempt from the provisions of s. 119.07(1).

402 Section 14. Paragraph (c) of subsection (1) and subsection  
403 (3) of section 288.075, Florida Statutes, are amended, and  
404 present subsections (4) through (7) of that section are  
405 renumbered as subsections (3) through (6), respectively, to  
406 read:

407 288.075 Confidentiality of records.-

408 (1) DEFINITIONS.-As used in this section, the term:

409 ~~(c) "Trade secret" has the same meaning as in s. 688.002.~~

410 ~~(3) TRADE SECRETS.-Trade secrets held by an economic~~  
411 ~~development agency are confidential and exempt from s. 119.07(1)~~  
412 ~~and s. 24(a), Art. I of the State Constitution.~~

413 Section 15. Subsection (9) of section 288.1226, Florida  
414 Statutes, is amended to read:

415 288.1226 Florida Tourism Industry Marketing Corporation;  
416 use of property; board of directors; duties; audit.-



526826

417           (9) PUBLIC RECORDS EXEMPTION.—The identity of any person  
418 who responds to a marketing project or advertising research  
419 project conducted by the corporation in the performance of its  
420 duties on behalf of Enterprise Florida, Inc., is ~~or trade~~  
421 ~~secrets as defined by s. 812.081 obtained pursuant to such~~  
422 ~~activities, are exempt from s. 119.07(1) and s. 24(a), Art. I of~~  
423 ~~the State Constitution. This subsection is subject to the Open~~  
424 ~~Government Sunset Review Act in accordance with s. 119.15 and~~  
425 ~~shall stand repealed on October 2, 2021, unless reviewed and~~  
426 ~~saved from repeal through reenactment by the Legislature.~~

427           Section 16. Paragraph (d) of subsection (3) of section  
428 288.776, Florida Statutes, is amended to read:

429           288.776 Board of directors; powers and duties.—

430           (3) The board shall:

431           (d) Adopt policies, including criteria, establishing which  
432 exporters and export transactions shall be eligible for  
433 insurance, coinsurance, loan guarantees, and direct, guaranteed,  
434 or collateralized loans which may be extended by the  
435 corporation. Pursuant to this subsection, the board shall  
436 include the following criteria:

437           1. Any individual signing any corporation loan application  
438 and loan or guarantee agreement shall have an equity in the  
439 business applying for financial assistance.

440           2. Each program shall exclusively support the export of  
441 goods and services by small and medium-sized businesses which  
442 are domiciled in this state. Priority shall be given to goods  
443 which have value added in this state.

444           3. Financial assistance shall only be extended when at  
445 least one of the following circumstances exists:



526826

446           a. The assistance is required to secure the participation  
447 of small and medium-sized export businesses in federal, state,  
448 or private financing programs.

449           b. No conventional source of lender support is available  
450 for the business from public or private financing sources.

451  
452 Personal financial records, ~~trade secrets~~, or proprietary  
453 information of applicants shall be confidential and exempt from  
454 the provisions of s. 119.07(1).

455           Section 17. Section 288.9520, Florida Statutes, is amended  
456 to read:

457           288.9520 Public records exemption.—Materials that relate to  
458 methods of manufacture or production, ~~potential trade secrets~~,  
459 potentially patentable material, ~~actual trade secrets~~, business  
460 transactions, financial and proprietary information, and  
461 agreements or proposals to receive funding that are received,  
462 generated, ascertained, or discovered by Enterprise Florida,  
463 Inc., including its affiliates or subsidiaries and partnership  
464 participants, such as private enterprises, educational  
465 institutions, and other organizations, are confidential and  
466 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I  
467 of the State Constitution, except that a recipient of Enterprise  
468 Florida, Inc., research funds shall make available, upon  
469 request, the title and description of the research project, the  
470 name of the researcher, and the amount and source of funding  
471 provided for the project.

472           Section 18. Subsection (5) of section 288.9607, Florida  
473 Statutes, is amended to read:

474           288.9607 Guaranty of bond issues.—



526826

475 (5) Personal financial records, ~~trade secrets~~, or  
476 proprietary information of applicants delivered to or obtained  
477 by the corporation shall be confidential and exempt from the  
478 provisions of s. 119.07(1).

479 Section 19. Paragraph (f) of subsection (1), paragraph (a)  
480 of subsection (2), paragraph (a) of subsection (3), and  
481 paragraphs (b) and (c) of subsection (4) of section 288.9626,  
482 Florida Statutes, are amended to read:

483 288.9626 Exemptions from public records and public meetings  
484 requirements for the Florida Opportunity Fund.—

485 (1) DEFINITIONS.—As used in this section, the term:

486 (f)1. "Proprietary confidential business information" means  
487 information that has been designated by the proprietor when  
488 provided to the Florida Opportunity Fund as information that is  
489 owned or controlled by a proprietor; that is intended to be and  
490 is treated by the proprietor as private, the disclosure of which  
491 would harm the business operations of the proprietor and has not  
492 been intentionally disclosed by the proprietor unless pursuant  
493 to a private agreement that provides that the information will  
494 not be released to the public except as required by law or legal  
495 process, or pursuant to law or an order of a court or  
496 administrative body; and that concerns:

497 a. ~~Trade secrets as defined in s. 688.002.~~

498 ~~b.~~ Information provided to the Florida Opportunity Fund  
499 regarding an existing or prospective alternative investment in a  
500 private equity fund, venture capital fund, angel fund, or  
501 portfolio company that is proprietary to the provider of the  
502 information.

503 ~~b.c.~~ Financial statements and auditor reports of an





526826

504 alternative investment vehicle or portfolio company, unless  
505 publicly released by the alternative investment vehicle or  
506 portfolio company.

507 ~~c.d.~~ Meeting materials of an alternative investment vehicle  
508 or portfolio company relating to financial, operating, or  
509 marketing information of the alternative investment vehicle or  
510 portfolio company.

511 ~~d.e.~~ Information regarding the portfolio positions in which  
512 the alternative investment vehicles or Florida Opportunity Fund  
513 invest.

514 ~~e.f.~~ Capital call and distribution notices to investors or  
515 the Florida Opportunity Fund of an alternative investment  
516 vehicle.

517 ~~f.g.~~ Alternative investment agreements and related records.

518 ~~g.h.~~ Information concerning investors, other than the  
519 Florida Opportunity Fund, in an alternative investment vehicle  
520 or portfolio company.

521 2. "Proprietary confidential business information" does not  
522 include:

523 a. The name, address, and vintage year of an alternative  
524 investment vehicle or Florida Opportunity Fund and the identity  
525 of the principals involved in the management of the alternative  
526 investment vehicle or Florida Opportunity Fund.

527 b. The dollar amount of the commitment made by the Florida  
528 Opportunity Fund to each alternative investment vehicle since  
529 inception, if any.

530 c. The dollar amount and date of cash contributions made by  
531 the Florida Opportunity Fund to each alternative investment  
532 vehicle since inception, if any.



526826

533           d. The dollar amount, on a fiscal-year-end basis, of cash  
534 or other fungible distributions received by the Florida  
535 Opportunity Fund from each alternative investment vehicle.

536           e. The dollar amount, on a fiscal-year-end basis, of cash  
537 or other fungible distributions received by the Florida  
538 Opportunity Fund plus the remaining value of alternative-vehicle  
539 assets that are attributable to the Florida Opportunity Fund's  
540 investment in each alternative investment vehicle.

541           f. The net internal rate of return of each alternative  
542 investment vehicle since inception.

543           g. The investment multiple of each alternative investment  
544 vehicle since inception.

545           h. The dollar amount of the total management fees and costs  
546 paid on an annual fiscal-year-end basis by the Florida  
547 Opportunity Fund to each alternative investment vehicle.

548           i. The dollar amount of cash profit received by the Florida  
549 Opportunity Fund from each alternative investment vehicle on a  
550 fiscal-year-end basis.

551           (2) PUBLIC RECORDS EXEMPTION.—

552           (a) The following records held by the Florida Opportunity  
553 Fund are confidential and exempt from s. 119.07(1) and s. 24(a),  
554 Art. I of the State Constitution:

555           1. Materials that relate to methods of manufacture or  
556 production, ~~potential trade secrets,~~ or patentable material  
557 received, generated, ascertained, or discovered during the  
558 course of research or through research projects and that are  
559 provided by a proprietor.

560           2. Information that would identify an investor or potential  
561 investor who desires to remain anonymous in projects reviewed by



526826

562 the Florida Opportunity Fund.

563 3. Proprietary confidential business information regarding  
564 alternative investments for 7 years after the termination of the  
565 alternative investment.

566 (3) PUBLIC MEETINGS EXEMPTION.—

567 (a) That portion of a meeting of the board of directors of  
568 the Florida Opportunity Fund at which information is discussed  
569 which is confidential and exempt under subsection (2) or s.  
570 688.01 is exempt from s. 286.011 and s. 24(b), Art. I of the  
571 State Constitution.

572 (4) REQUEST TO INSPECT OR COPY A RECORD.—

573 (b) Notwithstanding the provisions of paragraph (2)(a), a  
574 request to inspect or copy a public record that contains  
575 proprietary confidential business information shall be granted  
576 if the proprietor of the information fails, within a reasonable  
577 period of time after the request is received by the Florida  
578 Opportunity Fund, to verify the following to the Florida  
579 Opportunity Fund through a written declaration in the manner  
580 provided by s. 92.525:

581 1. That the requested record contains proprietary  
582 confidential business information and the specific location of  
583 such information within the record;

584 ~~2. If the proprietary confidential business information is~~  
585 ~~a trade secret, a verification that it is a trade secret as~~  
586 ~~defined in s. 688.002;~~

587 ~~3.~~ That the proprietary confidential business information  
588 is intended to be and is treated by the proprietor as private,  
589 is the subject of efforts of the proprietor to maintain its  
590 privacy, and is not readily ascertainable or publicly available



526826

591 from any other source; and

592 ~~3.4.~~ That the disclosure of the proprietary confidential  
593 business information to the public would harm the business  
594 operations of the proprietor.

595 (c)1. Any person may petition a court of competent  
596 jurisdiction for an order for the public release of those  
597 portions of any record made confidential and exempt by  
598 subsection (2).

599 2. Any action under this subsection must be brought in  
600 Orange County, and the petition or other initial pleading shall  
601 be served on the Florida Opportunity Fund and, if determinable  
602 upon diligent inquiry, on the proprietor of the information  
603 sought to be released.

604 3. In any order for the public release of a record under  
605 this subsection, the court shall make a finding that:

606 a. ~~The record or portion thereof is not a trade secret as~~  
607 ~~defined in s. 688.002;~~

608 ~~b.~~ A compelling public interest is served by the release of  
609 the record or portions thereof which exceed the public necessity  
610 for maintaining the confidentiality of such record; and

611 ~~b.e.~~ The release of the record will not cause damage to or  
612 adversely affect the interests of the proprietor of the released  
613 information, other private persons or business entities, or the  
614 Florida Opportunity Fund.

615 Section 20. Paragraph (b) of subsection (1), paragraph (a)  
616 of subsection (2), paragraph (a) of subsection (3), and  
617 paragraphs (b) and (c) of subsection (4) of section 288.9627,  
618 Florida Statutes, are amended to read:

619 288.9627 Exemptions from public records and public meetings



526826

620 requirements for the Institute for Commercialization of Florida  
621 Technology.—

622 (1) DEFINITIONS.—As used in this section, the term:

623 (b)1. “Proprietary confidential business information” means  
624 information that has been designated by the proprietor when  
625 provided to the institute as information that is owned or  
626 controlled by a proprietor; that is intended to be and is  
627 treated by the proprietor as private, the disclosure of which  
628 would harm the business operations of the proprietor and has not  
629 been intentionally disclosed by the proprietor unless pursuant  
630 to a private agreement that provides that the information will  
631 not be released to the public except as required by law or legal  
632 process, or pursuant to law or an order of a court or  
633 administrative body; and that concerns:

634 ~~a. Trade secrets as defined in s. 688.002.~~

635 ~~b.~~ Financial statements and internal or external auditor  
636 reports of a proprietor corporation, partnership, or person  
637 requesting confidentiality under this statute, unless publicly  
638 released by the proprietor.

639 ~~b.e.~~ Meeting materials related to financial, operating,  
640 investment, or marketing information of the proprietor  
641 corporation, partnership, or person.

642 ~~c.d.~~ Information concerning private investors in the  
643 proprietor corporation, partnership, or person.

644 2. “Proprietary confidential business information” does not  
645 include:

646 a. The identity and primary address of the proprietor’s  
647 principals.

648 b. The dollar amount and date of the financial commitment



526826

649 or contribution made by the institute.

650 c. The dollar amount, on a fiscal-year-end basis, of cash  
651 repayments or other fungible distributions received by the  
652 institute from each proprietor.

653 d. The dollar amount, if any, of the total management fees  
654 and costs paid on an annual fiscal-year-end basis by the  
655 institute.

656 (2) PUBLIC RECORDS EXEMPTION.—

657 (a) The following records held by the institute are  
658 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
659 of the State Constitution:

660 1. Materials that relate to methods of manufacture or  
661 production, ~~potential trade secrets~~, or patentable material  
662 received, generated, ascertained, or discovered during the  
663 course of research or through research projects conducted by  
664 universities and other publicly supported organizations in this  
665 state and that are provided to the institute by a proprietor.

666 2. Information that would identify an investor or potential  
667 investor who desires to remain anonymous in projects reviewed by  
668 the institute for assistance.

669 3. Any information received from a person from another  
670 state or nation or the Federal Government which is otherwise  
671 confidential or exempt pursuant to the laws of that state or  
672 nation or pursuant to federal law.

673 4. Proprietary confidential business information for 7  
674 years after the termination of the institute's financial  
675 commitment to the company.

676 (3) PUBLIC MEETINGS EXEMPTION.—

677 (a) That portion of a meeting of the institute's board of



526826

678 directors at which information is discussed which is  
679 confidential and exempt under subsection (2) or s. 688.01 is  
680 exempt from s. 286.011 and s. 24(b), Art. I of the State  
681 Constitution.

682 (4) REQUEST TO INSPECT OR COPY A RECORD.—

683 (b) Notwithstanding the provisions of paragraph (2)(a), a  
684 request to inspect or copy a public record that contains  
685 proprietary confidential business information shall be granted  
686 if the proprietor of the information fails, within a reasonable  
687 period of time after the request is received by the institute,  
688 to verify the following to the institute through a written  
689 declaration in the manner provided by s. 92.525:

690 1. That the requested record contains proprietary  
691 confidential business information and the specific location of  
692 such information within the record;

693 ~~2. If the proprietary confidential business information is~~  
694 ~~a trade secret, a verification that it is a trade secret as~~  
695 ~~defined in s. 688.002;~~

696 ~~3.~~ That the proprietary confidential business information  
697 is intended to be and is treated by the proprietor as private,  
698 is the subject of efforts of the proprietor to maintain its  
699 privacy, and is not readily ascertainable or publicly available  
700 from any other source; and

701 ~~3.4.~~ That the disclosure of the proprietary confidential  
702 business information to the public would harm the business  
703 operations of the proprietor.

704 (c)1. Any person may petition a court of competent  
705 jurisdiction for an order for the public release of those  
706 portions of any record made confidential and exempt by



526826

707 subsection (2).

708         2. Any action under this subsection must be brought in Palm  
709 Beach County or Alachua County, and the petition or other  
710 initial pleading shall be served on the institute and, if  
711 determinable upon diligent inquiry, on the proprietor of the  
712 information sought to be released.

713         3. In any order for the public release of a record under  
714 this subsection, the court shall make a finding that:

715         a. ~~The record or portion thereof is not a trade secret as~~  
716 ~~defined in s. 688.002;~~

717         ~~b.~~ A compelling public interest is served by the release of  
718 the record or portions thereof which exceed the public necessity  
719 for maintaining the confidentiality of such record; and

720         ~~b.e.~~ The release of the record will not cause damage to or  
721 adversely affect the interests of the proprietor of the released  
722 information, other private persons or business entities, or the  
723 institute.

724         Section 21. Section 331.326, Florida Statutes, is amended  
725 to read:

726         331.326 Information relating to trade secrets  
727 confidential.—The records of Space Florida regarding matters  
728 encompassed by this act are public records subject to chapter  
729 119. ~~Any information held by Space Florida which is a trade~~  
730 ~~secret, as defined in s. 812.081, including trade secrets of~~  
731 ~~Space Florida, any spaceport user, or the space industry~~  
732 ~~business, is confidential and exempt from s. 119.07(1) and s.~~  
733 ~~24(a), Art. I of the State Constitution and may not be~~  
734 ~~disclosed. If Space Florida determines that any information~~  
735 ~~requested by the public will reveal a trade secret, it shall, in~~





526826

736 ~~writing, inform the person making the request of that~~  
737 ~~determination. The determination is a final order as defined in~~  
738 ~~s. 120.52. Any meeting or portion of a meeting of Space~~  
739 ~~Florida's board is exempt from s. 286.011 and s. 24(b), Art. I~~  
740 ~~of the State Constitution when the board is discussing trade~~  
741 ~~secrets as defined in s. 688.01. Any public record generated~~  
742 ~~during the closed portions of the meetings, such as minutes,~~  
743 ~~tape recordings, and notes, is confidential and exempt from s.~~  
744 ~~119.07(1) and s. 24(a), Art. I of the State Constitution. This~~  
745 ~~section is subject to the Open Government Sunset Review Act in~~  
746 ~~accordance with s. 119.15 and shall stand repealed on October 2,~~  
747 ~~2021, unless reviewed and saved from repeal through reenactment~~  
748 ~~by the Legislature.~~

749 Section 22. Present subsection (4) of section 334.049,  
750 Florida Statutes, is amended, and present subsection (5) of that  
751 section is renumbered as subsection (4), to read:

752 334.049 Patents, copyrights, trademarks; notice to  
753 Department of State; ~~confidentiality of trade secrets.~~

754 ~~(4) Any information obtained by the department as a result~~  
755 ~~of research and development projects and revealing a method of~~  
756 ~~process, production, or manufacture which is a trade secret as~~  
757 ~~defined in s. 688.002, is confidential and exempt from the~~  
758 ~~provisions of s. 119.07(1).~~

759 Section 23. Section 350.121, Florida Statutes, is amended  
760 to read:

761 350.121 Commission inquiries; confidentiality of business  
762 material.—If the commission undertakes an inquiry, any records,  
763 documents, papers, maps, books, tapes, photographs, files, sound  
764 recordings, or other business material, regardless of form or



526826

765 characteristics, obtained by the commission incident to the  
766 inquiry are considered confidential and exempt from s. 119.07(1)  
767 while the inquiry is pending. If at the conclusion of an inquiry  
768 the commission undertakes a formal proceeding, any matter  
769 determined by the commission or by a judicial or administrative  
770 body, federal or state, to be ~~trade secrets or~~ proprietary  
771 confidential business information coming into its possession  
772 pursuant to such inquiry shall be considered confidential and  
773 exempt from s. 119.07(1). Such material may be used in any  
774 administrative or judicial proceeding so long as the  
775 confidential or proprietary nature of the material is  
776 maintained.

777 Section 24. Subsection (3) of section 364.183, Florida  
778 Statutes, is amended to read:

779 364.183 Access to company records.—

780 (3) The term "proprietary confidential business  
781 information" means information, regardless of form or  
782 characteristics, which is owned or controlled by the person or  
783 company, is intended to be and is treated by the person or  
784 company as private in that the disclosure of the information  
785 would cause harm to the ratepayers or the person's or company's  
786 business operations, and has not been disclosed unless disclosed  
787 pursuant to a statutory provision, an order of a court or  
788 administrative body, or private agreement that provides that the  
789 information will not be released to the public. The term  
790 includes, ~~but is not limited to:~~

791 (a) ~~Trade secrets.~~

792 ~~(b)~~ Internal auditing controls and reports of internal  
793 auditors.



526826

794            (b)~~(e)~~ Security measures, systems, or procedures.

795            (c)~~(d)~~ Information concerning bids or other contractual  
796 data, the disclosure of which would impair the efforts of the  
797 company or its affiliates to contract for goods or services on  
798 favorable terms.

799            (d)~~(e)~~ Information relating to competitive interests, the  
800 disclosure of which would impair the competitive business of the  
801 provider of information.

802            (e)~~(f)~~ Employee personnel information unrelated to  
803 compensation, duties, qualifications, or responsibilities.

804            Section 25. Subsection (3) of section 365.174, Florida  
805 Statutes, is amended to read:

806            365.174 Proprietary confidential business information.—

807            (3) As used in this section, the term “proprietary  
808 confidential business information” means customer lists,  
809 customer numbers, individual or aggregate customer data by  
810 location, usage and capacity data, network facilities used to  
811 serve subscribers, technology descriptions, or technical  
812 information, ~~or trade secrets, including trade secrets as~~  
813 ~~defined in s. 812.081,~~ and the actual or developmental costs of  
814 E911 systems that are developed, produced, or received  
815 internally by a provider or by a provider’s employees,  
816 directors, officers, or agents.

817            Section 26. Subsection (3) of section 366.093, Florida  
818 Statutes, is amended to read:

819            366.093 Public utility records; confidentiality.—

820            (3) Proprietary confidential business information means  
821 information, regardless of form or characteristics, which is  
822 owned or controlled by the person or company, is intended to be



526826

823 and is treated by the person or company as private in that the  
824 disclosure of the information would cause harm to the ratepayers  
825 or the person's or company's business operations, and has not  
826 been disclosed unless disclosed pursuant to a statutory  
827 provision, an order of a court or administrative body, or  
828 private agreement that provides that the information will not be  
829 released to the public. Proprietary confidential business  
830 information includes, ~~but is not limited to:~~

831 (a) ~~Trade secrets.~~

832 ~~(b)~~ Internal auditing controls and reports of internal  
833 auditors.

834 ~~(b)(e)~~ Security measures, systems, or procedures.

835 ~~(c)(d)~~ Information concerning bids or other contractual  
836 data, the disclosure of which would impair the efforts of the  
837 public utility or its affiliates to contract for goods or  
838 services on favorable terms.

839 ~~(d)(e)~~ Information relating to competitive interests, the  
840 disclosure of which would impair the competitive business of the  
841 provider of the information.

842 ~~(e)(f)~~ Employee personnel information unrelated to  
843 compensation, duties, qualifications, or responsibilities.

844 Section 27. Subsection (3) of section 367.156, Florida  
845 Statutes, is amended to read:

846 367.156 Public utility records; confidentiality.—

847 (3) Proprietary confidential business information means  
848 information, regardless of form or characteristics, which is  
849 owned or controlled by the person or company, is intended to be  
850 and is treated by the person or company as private in that the  
851 disclosure of the information would cause harm to the ratepayers



526826

852 or the person's or company's business operations, and has not  
853 been disclosed unless disclosed pursuant to a statutory  
854 provision, an order of a court or administrative body, or a  
855 private agreement that provides that the information will not be  
856 released to the public. Proprietary business information  
857 includes, ~~but is not limited to:~~

858 (a) ~~Trade secrets.~~

859 ~~(b)~~ Internal auditing controls and reports of internal  
860 auditors.

861 ~~(b)~~(e) Security measures, systems, or procedures.

862 ~~(c)~~(d) Information concerning bids or other contractual  
863 data, the disclosure of which would impair the efforts of the  
864 utility or its affiliates to contract for goods or services on  
865 favorable terms.

866 ~~(d)~~(e) Information relating to competitive interests, the  
867 disclosure of which would impair the competitive businesses of  
868 the provider of the information.

869 ~~(e)~~(f) Employee personnel information unrelated to  
870 compensation, duties, qualifications, or responsibilities.

871 Section 28. Subsection (3) of section 368.108, Florida  
872 Statutes, is amended to read:

873 368.108 Confidentiality; discovery.—

874 (3) "Proprietary confidential business information" means  
875 information, regardless of form or characteristics, which is  
876 owned or controlled by the person or company, is intended to be  
877 and is treated by the person or company as private in that the  
878 disclosure of the information would cause harm to the ratepayers  
879 or the person's or company's business operations, and has not  
880 been disclosed unless disclosed pursuant to a statutory



526826

881 provision, an order of a court or administrative body, or a  
882 private agreement that provides that the information will not be  
883 released to the public. "Proprietary confidential business  
884 information" includes, ~~but is not limited to:~~

885 (a) ~~Trade secrets.~~

886 ~~(b)~~ Internal auditing controls and reports of internal  
887 auditors.

888 ~~(b)~~ ~~(e)~~ Security measures, systems, or procedures.

889 ~~(c)~~ ~~(d)~~ Information concerning bids or other contractual  
890 data, the disclosure of which would impair the efforts of the  
891 natural gas transmission company or its affiliates to contract  
892 for goods or services on favorable terms.

893 ~~(d)~~ ~~(e)~~ Information relating to competitive interests, the  
894 disclosure of which would impair the competitive business of the  
895 provider of the information.

896 ~~(e)~~ ~~(f)~~ Employee personnel information unrelated to  
897 compensation, duties, qualifications, or responsibilities.

898 Section 29. Section 381.83, Florida Statutes, is repealed.

899 Section 30. Subsection (2) and paragraph (b) of subsection  
900 (3) of section 403.7046, Florida Statutes, are amended to read:

901 403.7046 Regulation of recovered materials.—

902 (2) Notwithstanding s. 688.01, information reported  
903 pursuant to this section or any rule adopted pursuant to this  
904 section which, if disclosed, would reveal a trade secret, as  
905 defined in s. 688.01, may be provided by the department ~~s.~~  
906 ~~812.081, is confidential and exempt from s. 119.07(1) and s.~~  
907 ~~24(a), Art. I of the State Constitution. For reporting or~~  
908 ~~information purposes, however, the department may provide this~~  
909 ~~information~~ in such form that the names of the persons reporting



526826

910 such information and the specific information reported are not  
911 revealed. ~~This subsection is subject to the Open Government~~  
912 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~  
913 ~~repealed on October 2, 2021, unless reviewed and saved from~~  
914 ~~repeal through reenactment by the Legislature.~~

915 (3) Except as otherwise provided in this section or  
916 pursuant to a special act in effect on or before January 1,  
917 1993, a local government may not require a commercial  
918 establishment that generates source-separated recovered  
919 materials to sell or otherwise convey its recovered materials to  
920 the local government or to a facility designated by the local  
921 government, nor may the local government restrict such a  
922 generator's right to sell or otherwise convey such recovered  
923 materials to any properly certified recovered materials dealer  
924 who has satisfied the requirements of this section. A local  
925 government may not enact any ordinance that prevents such a  
926 dealer from entering into a contract with a commercial  
927 establishment to purchase, collect, transport, process, or  
928 receive source-separated recovered materials.

929 (b)~~1~~. Before engaging in business within the jurisdiction  
930 of the local government, a recovered materials dealer or  
931 pyrolysis facility must provide the local government with a copy  
932 of the certification provided for in this section. In addition,  
933 the local government may establish a registration process  
934 whereby a recovered materials dealer or pyrolysis facility must  
935 register with the local government before engaging in business  
936 within the jurisdiction of the local government. Such  
937 registration process is limited to requiring the dealer or  
938 pyrolysis facility to register its name, including the owner or



526826

939 operator of the dealer or pyrolysis facility, and, if the dealer  
940 or pyrolysis facility is a business entity, its general or  
941 limited partners, its corporate officers and directors, its  
942 permanent place of business, evidence of its certification under  
943 this section, and a certification that the recovered materials  
944 or post-use polymers will be processed at a recovered materials  
945 processing facility or pyrolysis facility satisfying the  
946 requirements of this section. The local government may not use  
947 the information provided in the registration application to  
948 compete unfairly with the recovered materials dealer until 90  
949 days after receipt of the application. All counties, and  
950 municipalities whose population exceeds 35,000 according to the  
951 population estimates determined pursuant to s. 186.901, may  
952 establish a reporting process that must be limited to the  
953 regulations, reporting format, and reporting frequency  
954 established by the department pursuant to this section, which  
955 must, at a minimum, include requiring the dealer or pyrolysis  
956 facility to identify the types and approximate amount of  
957 recovered materials or post-use polymers collected, recycled, or  
958 reused during the reporting period; the approximate percentage  
959 of recovered materials or post-use polymers reused, stored, or  
960 delivered to a recovered materials processing facility or  
961 pyrolysis facility or disposed of in a solid waste disposal  
962 facility; and the locations where any recovered materials or  
963 post-use polymers were disposed of as solid waste. The local  
964 government may charge the dealer or pyrolysis facility a  
965 registration fee commensurate with and no greater than the cost  
966 incurred by the local government in operating its registration  
967 program. Registration program costs are limited to those costs





526826

968 associated with the activities described in this paragraph  
969 ~~subparagraph~~. Any reporting or registration process established  
970 by a local government with regard to recovered materials or  
971 post-use polymers is governed by this section and department  
972 rules adopted pursuant thereto.

973 ~~2. Information reported under this subsection which, if~~  
974 ~~disclosed, would reveal a trade secret, as defined in s.~~  
975 ~~812.081, is confidential and exempt from s. 119.07(1) and s.~~  
976 ~~24(a), Art. I of the State Constitution. This subparagraph is~~  
977 ~~subject to the Open Government Sunset Review Act in accordance~~  
978 ~~with s. 119.15 and shall stand repealed on October 2, 2021,~~  
979 ~~unless reviewed and saved from repeal through reenactment by the~~  
980 ~~Legislature.~~

981 Section 31. Section 403.73, Florida Statutes, is repealed.

982 Section 32. Paragraph (c) of subsection (1) of section  
983 408.061, Florida Statutes, is amended to read:

984 408.061 Data collection; uniform systems of financial  
985 reporting; information relating to physician charges;  
986 confidential information; immunity.-

987 (1) The agency shall require the submission by health care  
988 facilities, health care providers, and health insurers of data  
989 necessary to carry out the agency's duties and to facilitate  
990 transparency in health care pricing data and quality measures.  
991 Specifications for data to be collected under this section shall  
992 be developed by the agency and applicable contract vendors, with  
993 the assistance of technical advisory panels including  
994 representatives of affected entities, consumers, purchasers, and  
995 such other interested parties as may be determined by the  
996 agency.



526826

997 (c) Data to be submitted by health insurers may include,  
998 but are not limited to: claims, payments to health care  
999 facilities and health care providers as specified by rule,  
1000 premium, administration, and financial information. Data  
1001 submitted shall be certified by the chief financial officer, an  
1002 appropriate and duly authorized representative, or an employee  
1003 of the insurer that the information submitted is true and  
1004 accurate. ~~Information that is considered a trade secret under s.~~  
1005 ~~812.081 shall be clearly designated.~~

1006 Section 33. Present subsection (1) of section 408.185,  
1007 Florida Statutes, is amended, and present subsections (2)  
1008 through (5) of that section are renumbered as subsections (1)  
1009 through (4), respectively, to read:

1010 408.185 Information submitted for review of antitrust  
1011 issues; confidentiality.—The following information held by the  
1012 Office of the Attorney General, which is submitted by a member  
1013 of the health care community pursuant to a request for an  
1014 antitrust no-action letter shall be confidential and exempt from  
1015 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
1016 Constitution for 1 year after the date of submission.

1017 ~~(1) Documents that reveal trade secrets as defined in s.~~  
1018 ~~688.002.~~

1019 Section 34. Paragraph (a) of subsection (14) of section  
1020 408.910, Florida Statutes, is amended to read:

1021 408.910 Florida Health Choices Program.—

1022 (14) EXEMPTION FROM PUBLIC RECORDS REQUIREMENTS.—

1023 (a) *Definitions.*—For purposes of this subsection, the term:

1024 1. "Buyer's representative" means a participating insurance  
1025 agent as described in paragraph (4)(g).



526826

1026           2. "Enrollee" means an employer who is eligible to enroll  
1027 in the program pursuant to paragraph (4) (a).

1028           3. "Participant" means an individual who is eligible to  
1029 participate in the program pursuant to paragraph (4) (b).

1030           4. "Proprietary confidential business information" means  
1031 information, regardless of form or characteristics, that is  
1032 owned or controlled by a vendor requesting confidentiality under  
1033 this section; that is intended to be and is treated by the  
1034 vendor as private in that the disclosure of the information  
1035 would cause harm to the business operations of the vendor; that  
1036 has not been disclosed unless disclosed pursuant to a statutory  
1037 provision, an order of a court or administrative body, or a  
1038 private agreement providing that the information may be released  
1039 to the public; and that is information concerning:

1040           a. Business plans.

1041           b. Internal auditing controls and reports of internal  
1042 auditors.

1043           c. Reports of external auditors for privately held  
1044 companies.

1045           d. Client and customer lists.

1046           e. Potentially patentable material.

1047           ~~f. A trade secret as defined in s. 688.002.~~

1048           5. "Vendor" means a participating insurer or other provider  
1049 of services as described in paragraph (4) (d).

1050           Section 35. Section 409.91196, Florida Statutes, is amended  
1051 to read:

1052           409.91196 Supplemental rebate agreements; public records  
1053 and public meetings exemption.—

1054           (1) The rebate amount, percent of rebate, manufacturer's



526826

1055 pricing, and supplemental rebate, ~~and other trade secrets as~~  
1056 ~~defined in s. 688.002 that the agency has identified for use in~~  
1057 ~~negotiations,~~ held by the Agency for Health Care Administration  
1058 under s. 409.912(5)(a)7. are confidential and exempt from s.  
1059 119.07(1) and s. 24(a), Art. I of the State Constitution.

1060 (2) That portion of a meeting of the Medicaid  
1061 Pharmaceutical and Therapeutics Committee at which the rebate  
1062 amount, percent of rebate, manufacturer's pricing, or  
1063 supplemental rebate, or confidential and exempt ~~other~~ trade  
1064 secrets as provided for in s. 688.01 ~~defined in s. 688.002~~ that  
1065 the agency has identified for use in negotiations, are discussed  
1066 is exempt from s. 286.011 and s. 24(b), Art. I of the State  
1067 Constitution. A record shall be made of each exempt portion of a  
1068 meeting. Such record must include the times of commencement and  
1069 termination, all discussions and proceedings, the names of all  
1070 persons present at any time, and the names of all persons  
1071 speaking. No exempt portion of a meeting may be held off the  
1072 record.

1073 Section 36. Subsection (2) of section 440.108, Florida  
1074 Statutes, is amended to read:

1075 440.108 Investigatory records relating to workers'  
1076 compensation employer compliance; confidentiality.—

1077 (2) After an investigation is completed or ceases to be  
1078 active, information in records relating to the investigation  
1079 remains confidential and exempt from the provisions of s.  
1080 119.07(1) and s. 24(a), Art. I of the State Constitution if  
1081 disclosure of that information would:

1082 (a) Jeopardize the integrity of another active  
1083 investigation;



526826

1084           (b) ~~Reveal a trade secret, as defined in s. 688.002;~~  
1085           ~~(e)~~ Reveal business or personal financial information;  
1086           (c) ~~(d)~~ Reveal personal identifying information regarding  
1087 the identity of a confidential source;  
1088           (d) ~~(e)~~ Defame or cause unwarranted damage to the good name  
1089 or reputation of an individual or jeopardize the safety of an  
1090 individual; or  
1091           (e) ~~(f)~~ Reveal investigative techniques or procedures.  
1092           Section 37. Paragraph (c) of subsection (1) of section  
1093 494.00125, Florida Statutes, is amended to read:  
1094           494.00125 Public records exemptions.—  
1095           (1) INVESTIGATIONS OR EXAMINATIONS.—  
1096           (c) Except as necessary for the office to enforce the  
1097 provisions of this chapter, a consumer complaint and other  
1098 information relative to an investigation or examination shall  
1099 remain confidential and exempt from s. 119.07(1) after the  
1100 investigation or examination is completed or ceases to be active  
1101 to the extent disclosure would:  
1102           1. Jeopardize the integrity of another active investigation  
1103 or examination.  
1104           2. Reveal the name, address, telephone number, social  
1105 security number, or any other identifying number or information  
1106 of any complainant, customer, or account holder.  
1107           3. Disclose the identity of a confidential source.  
1108           4. Disclose investigative techniques or procedures.  
1109           ~~5. Reveal a trade secret as defined in s. 688.002.~~  
1110           Section 38. Subsection (4) of section 497.172, Florida  
1111 Statutes, is amended to read:  
1112           497.172 Public records exemptions; public meetings



526826

1113 exemptions.-

1114 ~~(4) TRADE SECRETS.—Trade secrets, as defined in s. 688.002,~~  
1115 ~~held by the department or board, are confidential and exempt~~  
1116 ~~from s. 119.07(1) and s. 24(a), Art. I of the State~~  
1117 ~~Constitution.~~

1118 Section 39. Paragraph (c) of subsection (3) of section  
1119 499.012, Florida Statutes, is amended to read:

1120 499.012 Permit application requirements.—

1121 (3)

1122 ~~(c) Information submitted by an applicant on an application~~  
1123 ~~required pursuant to this subsection which is a trade secret, as~~  
1124 ~~defined in s. 812.081, shall be maintained by the department as~~  
1125 ~~trade secret information pursuant to s. 499.051(7).~~

1126 Section 40. Subsection (7) of section 499.0121, Florida  
1127 Statutes, is amended to read:

1128 499.0121 Storage and handling of prescription drugs;  
1129 recordkeeping.—The department shall adopt rules to implement  
1130 this section as necessary to protect the public health, safety,  
1131 and welfare. Such rules shall include, but not be limited to,  
1132 requirements for the storage and handling of prescription drugs  
1133 and for the establishment and maintenance of prescription drug  
1134 distribution records.

1135 (7) PRESCRIPTION DRUG PURCHASE LIST.—

1136 ~~(a)~~ Each wholesale distributor, except for a manufacturer,  
1137 shall annually provide the department with a written list of all  
1138 wholesale distributors and manufacturers from whom the wholesale  
1139 distributor purchases prescription drugs. A wholesale  
1140 distributor, except a manufacturer, shall notify the department  
1141 not later than 10 days after any change to either list.



526826

1142           ~~(b) Such portions of the information required pursuant to~~  
1143 ~~this subsection which are a trade secret, as defined in s.~~  
1144 ~~812.081, shall be maintained by the department as trade secret~~  
1145 ~~information is required to be maintained under s. 499.051. This~~  
1146 ~~paragraph is subject to the Open Government Sunset Review Act in~~  
1147 ~~accordance with s. 119.15 and shall stand repealed on October 2,~~  
1148 ~~2021, unless reviewed and saved from repeal through reenactment~~  
1149 ~~by the Legislature.~~

1150           Section 41. Paragraph (g) of subsection (1) of section  
1151 499.05, Florida Statutes, is amended to read:

1152           499.05 Rules.—

1153           (1) The department shall adopt rules to implement and  
1154 enforce this chapter with respect to:

1155           (g) Inspections and investigations conducted under s.  
1156 499.051 or s. 499.93, ~~and the identification of information~~  
1157 ~~claimed to be a trade secret and exempt from the public records~~  
1158 ~~law as provided in s. 499.051(7).~~

1159           Section 42. Subsection (7) of section 499.051, Florida  
1160 Statutes, is amended to read:

1161           499.051 Inspections and investigations.—

1162           (7) (a) The complaint and all information obtained pursuant  
1163 to the investigation by the department are confidential and  
1164 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
1165 Constitution until the investigation and the enforcement action  
1166 are completed.

1167           ~~(b) Information that constitutes a trade secret, as defined~~  
1168 ~~in s. 812.081, contained in the complaint or obtained by the~~  
1169 ~~department pursuant to the investigation must remain~~  
1170 ~~confidential and exempt from s. 119.07(1) and s. 24(a), Art. I~~



526826

1171 ~~of the State Constitution as long as the information is held by~~  
1172 ~~the department. This paragraph is subject to the Open Government~~  
1173 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~  
1174 ~~repealed on October 2, 2021, unless reviewed and saved from~~  
1175 ~~repeal through reenactment by the Legislature.~~

1176       ~~(e)~~ This subsection does not prohibit the department from  
1177 using such information for regulatory or enforcement proceedings  
1178 under this chapter or from providing such information to any law  
1179 enforcement agency or any other regulatory agency. However, the  
1180 receiving agency shall keep such records confidential and exempt  
1181 as provided in this subsection.

1182       Section 43. Section 499.931, Florida Statutes, is repealed.

1183       Section 44. Paragraph (d) of subsection (11) of section  
1184 501.171, Florida Statutes, is amended to read:

1185       501.171 Security of confidential personal information.—

1186       (11) PUBLIC RECORDS EXEMPTION.—

1187       (d) For purposes of this subsection, the term "proprietary  
1188 information" means information that:

1189           1. Is owned or controlled by the covered entity.

1190           2. Is intended to be private and is treated by the covered  
1191 entity as private because disclosure would harm the covered  
1192 entity or its business operations.

1193           3. Has not been disclosed except as required by law or a  
1194 private agreement that provides that the information will not be  
1195 released to the public.

1196           4. Is not publicly available or otherwise readily  
1197 ascertainable through proper means from another source in the  
1198 same configuration as received by the department.

1199           5. Includes÷





526826

1200           ~~a. Trade secrets as defined in s. 688.002.~~  
1201           ~~b.~~ competitive interests, the disclosure of which would  
1202 impair the competitive business of the covered entity who is the  
1203 subject of the information.

1204           Section 45. Section 502.222, Florida Statutes, is repealed.

1205           Section 46. Paragraph (b) of subsection (1) of section  
1206 517.2015, Florida Statutes, is amended to read:

1207           517.2015 Confidentiality of information relating to  
1208 investigations and examinations.—

1209           (1)

1210           (b) Except as necessary for the office to enforce the  
1211 provisions of this chapter, a consumer complaint and other  
1212 information relative to an investigation or examination shall  
1213 remain confidential and exempt from s. 119.07(1) after the  
1214 investigation or examination is completed or ceases to be active  
1215 to the extent disclosure would:

1216           1. Jeopardize the integrity of another active investigation  
1217 or examination.

1218           2. Reveal the name, address, telephone number, social  
1219 security number, or any other identifying number or information  
1220 of any complainant, customer, or account holder.

1221           3. Disclose the identity of a confidential source.

1222           4. Disclose investigative techniques or procedures.

1223           ~~5. Reveal a trade secret as defined in s. 688.002.~~

1224           Section 47. Paragraph (b) of subsection (1) of section  
1225 520.9965, Florida Statutes, is amended to read:

1226           520.9965 Confidentiality of information relating to  
1227 investigations and examinations.—

1228           (1)



526826

1229 (b) Except as necessary for the office to enforce the  
1230 provisions of this chapter, a consumer complaint and other  
1231 information relative to an investigation or examination shall  
1232 remain confidential and exempt from s. 119.07(1) after the  
1233 investigation or examination is completed or ceases to be active  
1234 to the extent disclosure would:

1235 1. Jeopardize the integrity of another active investigation  
1236 or examination.

1237 2. Reveal the name, address, telephone number, social  
1238 security number, or any other identifying number or information  
1239 of any complainant, customer, or account holder.

1240 3. Disclose the identity of a confidential source.

1241 4. Disclose investigative techniques or procedures.

1242 ~~5. Reveal a trade secret as defined in s. 688.002.~~

1243 Section 48. Subsection (2) of section 526.311, Florida  
1244 Statutes, is amended to read:

1245 526.311 Enforcement; civil penalties; injunctive relief.—

1246 (2) The Department of Agriculture and Consumer Services  
1247 shall investigate any complaints regarding violations of this  
1248 act and may request in writing the production of documents and  
1249 records as part of its investigation of a complaint. If the  
1250 person upon whom such request was made fails to produce the  
1251 documents or records within 30 days after the date of the  
1252 request, the department, through the department's office of  
1253 general counsel, may issue and serve a subpoena to compel the  
1254 production of such documents and records. If any person shall  
1255 refuse to comply with a subpoena issued under this section, the  
1256 department may petition a court of competent jurisdiction to  
1257 enforce the subpoena and assess such sanctions as the court may



526826

1258 direct. Refiners shall afford the department reasonable access  
1259 to the refiners' posted terminal price. Any records, documents,  
1260 papers, maps, books, tapes, photographs, files, sound  
1261 recordings, or other business material, regardless of form or  
1262 characteristics, obtained by the department are confidential and  
1263 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I  
1264 of the State Constitution while the investigation is pending. At  
1265 the conclusion of an investigation, any matter determined by the  
1266 department or by a judicial or administrative body, federal or  
1267 state, to be ~~a trade secret or~~ proprietary confidential business  
1268 information held by the department pursuant to such  
1269 investigation shall be considered confidential and exempt from  
1270 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
1271 Constitution. Such materials may be used in any administrative  
1272 or judicial proceeding so long as the confidential or  
1273 proprietary nature of the material is maintained.

1274 Section 49. Paragraph (e) of subsection (1) of section  
1275 548.062, Florida Statutes, is amended to read:

1276 548.062 Public records exemption.—

1277 (1) As used in this section, the term "proprietary  
1278 confidential business information" means information that:

1279 (e) Concerns any of the following:

- 1280 1. The number of ticket sales for a match;
- 1281 2. The amount of gross receipts after a match;
- 1282 3. ~~A trade secret, as defined in s. 688.002;~~
- 1283 ~~4.~~ Business plans;
- 1284 ~~4.5.~~ Internal auditing controls and reports of internal  
1285 auditors; or
- 1286 ~~5.6.~~ Reports of external auditors.



526826

1287 Section 50. Paragraph (a) of subsection (1) of section  
1288 556.113, Florida Statutes, is amended to read:

1289 556.113 Sunshine State One-Call of Florida, Inc.; public  
1290 records exemption.—

1291 (1) As used in this section, the term "proprietary  
1292 confidential business information" means information provided  
1293 by:

1294 (a) A member operator which is a map, plan, facility  
1295 location diagram, internal damage investigation report or  
1296 analysis, or dispatch methodology, ~~or trade secret as defined in~~  
1297 ~~s. 688.002~~, or which describes the exact location of a utility  
1298 underground facility or the protection, repair, or restoration  
1299 thereof, and:

1300 1. Is intended to be and is treated by the member operator  
1301 as confidential;

1302 2. The disclosure of which would likely be used by a  
1303 competitor to harm the business interests of the member operator  
1304 or could be used for the purpose of inflicting damage on  
1305 underground facilities; and

1306 3. Is not otherwise readily ascertainable or publicly  
1307 available by proper means by other persons from another source  
1308 in the same configuration as provided to Sunshine State One-Call  
1309 of Florida, Inc.

1310 Section 51. Paragraph (b) of subsection (2) of section  
1311 559.5558, Florida Statutes, is amended to read:

1312 559.5558 Public records exemption; investigations and  
1313 examinations.—

1314 (2)

1315 (b) Information made confidential and exempt pursuant to



526826

1316 this section is no longer confidential and exempt once the  
1317 investigation or examination is completed or ceases to be active  
1318 unless disclosure of the information would:

1319 1. Jeopardize the integrity of another active investigation  
1320 or examination.

1321 2. Reveal the personal identifying information of a  
1322 consumer, unless the consumer is also the complainant. A  
1323 complainant's personal identifying information is subject to  
1324 disclosure after the investigation or examination is completed  
1325 or ceases to be active. However, a complainant's personal  
1326 financial and health information remains confidential and  
1327 exempt.

1328 3. Reveal the identity of a confidential source.

1329 4. Reveal investigative or examination techniques or  
1330 procedures.

1331 ~~5. Reveal trade secrets, as defined in s. 688.002.~~

1332 Section 52. Paragraph (c) of subsection (3) of section  
1333 559.9285, Florida Statutes, is amended to read:

1334 559.9285 Certification of business activities.—

1335 (3) The department shall specify by rule the form of each  
1336 certification under this section which shall include the  
1337 following information:

1338 (c) The legal name, any trade names or fictitious names,  
1339 mailing address, physical address, telephone number or numbers,  
1340 facsimile number or numbers, and all Internet and electronic  
1341 contact information of every other commercial entity with which  
1342 the certifying party engages in business or commerce that is  
1343 related in any way to the certifying party's business or  
1344 commerce with any terrorist state. The information disclosed



526826

1345 pursuant to this paragraph does not constitute customer lists  
1346 or, customer names, ~~or trade secrets~~ protected under s.  
1347 570.544(8) or trade secrets protected under s. 688.01.

1348 Section 53. Subsection (2) of section 560.129, Florida  
1349 Statutes, is amended to read:

1350 560.129 Confidentiality.—

1351 (2) All information obtained by the office in the course of  
1352 its investigation or examination ~~which is a trade secret, as~~  
1353 ~~defined in s. 688.002, or~~ which is personal financial  
1354 information shall remain confidential and exempt from s.  
1355 119.07(1) and s. 24(a), Art. I of the State Constitution. If any  
1356 administrative, civil, or criminal proceeding against a money  
1357 services business, its authorized vendor, or an affiliated party  
1358 is initiated and the office seeks to use matter that a licensee  
1359 believes to be ~~a trade secret or~~ personal financial information,  
1360 such records shall be subject to an in camera review by the  
1361 administrative law judge, if the matter is before the Division  
1362 of Administrative Hearings, or a judge of any court of this  
1363 state, any other state, or the United States, as appropriate,  
1364 for the purpose of determining if the matter is ~~a trade secret~~  
1365 ~~or is~~ personal financial information. ~~If it is determined that~~  
1366 ~~the matter is a trade secret, the matter shall remain~~  
1367 ~~confidential.~~ If it is determined that the matter is personal  
1368 financial information, the matter shall remain confidential  
1369 unless the administrative law judge or judge determines that, in  
1370 the interests of justice, the matter should become public.

1371 Section 54. Subsection (3) of section 570.48, Florida  
1372 Statutes, is amended to read:

1373 570.48 Division of Fruit and Vegetables; powers and duties;



526826

1374 records.—The duties of the Division of Fruit and Vegetables  
1375 include, but are not limited to:

1376 (3) Maintaining the records of the division. The records of  
1377 the division are public records; ~~however, trade secrets as~~  
1378 ~~defined in s. 812.081 are confidential and exempt from s.~~  
1379 ~~119.07(1) and s. 24(a), Art. I of the State Constitution. This~~  
1380 ~~subsection is subject to the Open Government Sunset Review Act~~  
1381 ~~in accordance with s. 119.15 and shall stand repealed on October~~  
1382 ~~2, 2021, unless reviewed and saved from repeal through~~  
1383 ~~reenactment by the Legislature. This Section 688.01 may not be~~  
1384 ~~construed to prohibit:~~

1385 ~~(a) A disclosure necessary to enforcement procedures.~~

1386 ~~(b) The department from releasing information to other~~  
1387 ~~governmental agencies. Other governmental agencies that receive~~  
1388 ~~confidential information from the department under this~~  
1389 ~~subsection shall maintain the confidentiality of that~~  
1390 ~~information.~~

1391 ~~(c) the department or other agencies from compiling and~~  
1392 ~~publishing appropriate data regarding procedures, yield,~~  
1393 ~~recovery, quality, and related matters, provided such released~~  
1394 ~~data do not reveal by whom the activity to which the data relate~~  
1395 ~~was conducted.~~

1396 Section 55. Subsection (8) of section 570.544, Florida  
1397 Statutes, is amended to read:

1398 570.544 Division of Consumer Services; director; powers;  
1399 processing of complaints; records.—

1400 (8) The records of the Division of Consumer Services are  
1401 public records. However, customer lists and, ~~customer names, and~~  
1402 ~~trade secrets~~ are confidential and exempt from the provisions of



526826

1403 s. 119.07(1). Disclosure necessary to enforcement procedures  
1404 does not violate this prohibition.

1405 Section 56. Present subsection (2) of section 573.123,  
1406 Florida Statutes, is amended, and present subsections (3) and  
1407 (4) of that subsection are renumbered as subsections (2) and  
1408 (3), respectively, to read:

1409 573.123 Maintenance and production of records.—

1410 ~~(2) Information that, if disclosed, would reveal a trade~~  
1411 ~~secret, as defined in s. 812.081, of any person subject to a~~  
1412 ~~marketing order is confidential and exempt from s. 119.07(1) and~~  
1413 ~~s. 24(a), Art. I of the State Constitution and may not be~~  
1414 ~~disclosed except to an attorney who provides legal advice to the~~  
1415 ~~division about enforcing a marketing order or by court order. A~~  
1416 ~~person who receives confidential information under this~~  
1417 ~~subsection shall maintain the confidentiality of that~~  
1418 ~~information. This subsection is subject to the Open Government~~  
1419 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~  
1420 ~~repealed on October 2, 2021, unless reviewed and saved from~~  
1421 ~~repeal through reenactment by the Legislature.~~

1422 Section 57. Section 581.199, Florida Statutes, is repealed.

1423 Section 58. Present paragraph (b) of subsection (8) of  
1424 section 601.10, Florida Statutes, is amended, and present  
1425 paragraph (c) of that subsection is redesignated as paragraph  
1426 (b), to read:

1427 601.10 Powers of the Department of Citrus.—The department  
1428 shall have and shall exercise such general and specific powers  
1429 as are delegated to it by this chapter and other statutes of the  
1430 state, which powers shall include, but are not limited to, the  
1431 following:





526826

1432 (8)  
1433 ~~(b) Any information provided to the department which~~  
1434 ~~constitutes a trade secret as defined in s. 812.081 is~~  
1435 ~~confidential and exempt from s. 119.07(1) and s. 24(a), Art. I~~  
1436 ~~of the State Constitution. This paragraph is subject to the Open~~  
1437 ~~Government Sunset Review Act in accordance with s. 119.15 and~~  
1438 ~~shall stand repealed on October 2, 2021, unless reviewed and~~  
1439 ~~saved from repeal through reenactment by the Legislature.~~

1440 Section 59. Paragraph (d) of subsection (7) of section  
1441 601.15, Florida Statutes, is amended to read:

1442 601.15 Advertising campaign; methods of conducting;  
1443 assessments; emergency reserve fund; citrus research.—

1444 (7) All assessments levied and collected under this chapter  
1445 shall be paid into the State Treasury on or before the 15th day  
1446 of each month. Such moneys shall be accounted for in a special  
1447 fund to be designated as the Florida Citrus Advertising Trust  
1448 Fund, and all moneys in such fund are appropriated to the  
1449 department for the following purposes:

1450 (d)1. The pro rata portion of moneys allocated to each type  
1451 of citrus product in noncommodity programs shall be used by the  
1452 department to encourage substantial increases in the  
1453 effectiveness, frequency, and volume of noncommodity  
1454 advertising, merchandising, publicity, and sales promotion of  
1455 such citrus products through rebates and incentive payments to  
1456 handlers and trade customers for these activities. The  
1457 department shall adopt rules providing for the use of such  
1458 moneys. The rules shall establish alternate incentive programs,  
1459 including at least one incentive program for product sold under  
1460 advertised brands, one incentive program for product sold under



526826

1461 private label brands, and one incentive program for product sold  
1462 in bulk. For each incentive program, the rules must establish  
1463 eligibility and performance requirements and must provide  
1464 appropriate limitations on amounts payable to a handler or trade  
1465 customer for a particular season. Such limitations may relate to  
1466 the amount of citrus assessments levied and collected on the  
1467 citrus product handled by such handler or trade customer during  
1468 a 12-month representative period.

1469         2. The department may require from participants in  
1470 noncommodity advertising and promotional programs commercial  
1471 information necessary to determine eligibility for and  
1472 performance in such programs. ~~Any information required which~~  
1473 ~~constitutes a trade secret as defined in s. 812.081 is~~  
1474 ~~confidential and exempt from s. 119.07(1) and s. 24(a), Art. I~~  
1475 ~~of the State Constitution. This subparagraph is subject to the~~  
1476 ~~Open Government Sunset Review Act in accordance with s. 119.15~~  
1477 ~~and shall stand repealed on October 2, 2021, unless reviewed and~~  
1478 ~~saved from repeal through reenactment by the Legislature.~~

1479         Section 60. Paragraph (c) of subsection (8) of section  
1480 601.152, Florida Statutes, is amended to read:

1481             601.152 Special marketing orders.—

1482             (8)

1483             (c)~~1~~. Every handler shall, at such times as the department  
1484 may require, file with the department a return, not under oath,  
1485 on forms to be prescribed and furnished by the department,  
1486 certified as true and correct, stating the quantity of the type,  
1487 variety, and form of citrus fruit or citrus product specified in  
1488 the marketing order first handled in the primary channels of  
1489 trade in the state by such handler during the period of time



526826

1490 specified in the marketing order. Such returns must contain any  
1491 further information deemed by the department to be reasonably  
1492 necessary to properly administer or enforce this section or any  
1493 marketing order implemented under this section.

1494 ~~2. Information that, if disclosed, would reveal a trade~~  
1495 ~~secret, as defined in s. 812.081, of any person subject to a~~  
1496 ~~marketing order is confidential and exempt from s. 119.07(1) and~~  
1497 ~~s. 24(a), Art. I of the State Constitution. This subparagraph is~~  
1498 ~~subject to the Open Government Sunset Review Act in accordance~~  
1499 ~~with s. 119.15 and shall stand repealed on October 2, 2021,~~  
1500 ~~unless reviewed and saved from repeal through reenactment by the~~  
1501 ~~Legislature.~~

1502 Section 61. Section 601.76, Florida Statutes, is amended to  
1503 read:

1504 601.76 Manufacturer to furnish formula and other  
1505 information.—Any formula required to be filed with the  
1506 Department of Agriculture ~~shall be deemed a trade secret as~~  
1507 ~~defined in s. 812.081, is confidential and exempt from s.~~  
1508 ~~119.07(1) and s. 24(a), Art. I of the State Constitution, and~~  
1509 ~~may be divulged only to the Department of Agriculture or to its~~  
1510 ~~duly authorized representatives or upon court order when~~  
1511 ~~necessary in the enforcement of this law. A person who receives~~  
1512 ~~such a formula from the Department of Agriculture under this~~  
1513 ~~section shall maintain the confidentiality of the formula. This~~  
1514 ~~section is subject to the Open Government Sunset Review Act in~~  
1515 ~~accordance with s. 119.15 and shall stand repealed on October 2,~~  
1516 ~~2021, unless reviewed and saved from repeal through reenactment~~  
1517 ~~by the Legislature.~~

1518 Section 62. Subsection (6) of section 607.0505, Florida



526826

1519 Statutes, is amended to read:

1520 607.0505 Registered agent; duties.—

1521 (6) Information provided to, and records and transcriptions  
1522 of testimony obtained by, the Department of Legal Affairs  
1523 pursuant to this section are confidential and exempt from the  
1524 provisions of s. 119.07(1) while the investigation is active.  
1525 For purposes of this section, an investigation shall be  
1526 considered "active" while such investigation is being conducted  
1527 with a reasonable, good faith belief that it may lead to the  
1528 filing of an administrative, civil, or criminal proceeding. An  
1529 investigation does not cease to be active so long as the  
1530 department is proceeding with reasonable dispatch and there is a  
1531 good faith belief that action may be initiated by the department  
1532 or other administrative or law enforcement agency. Except for  
1533 active criminal intelligence or criminal investigative  
1534 information, as defined in s. 119.011, and information which, if  
1535 disclosed, ~~would reveal a trade secret, as defined in s.~~  
1536 ~~688.002, or~~ would jeopardize the safety of an individual, all  
1537 information, records, and transcriptions become public record  
1538 when the investigation is completed or ceases to be active. The  
1539 department shall not disclose confidential information, records,  
1540 or transcriptions of testimony except pursuant to the  
1541 authorization by the Attorney General in any of the following  
1542 circumstances:

1543 (a) To a law enforcement agency participating in or  
1544 conducting a civil investigation under chapter 895, or  
1545 participating in or conducting a criminal investigation.

1546 (b) In the course of filing, participating in, or  
1547 conducting a judicial proceeding instituted pursuant to this



526826

1548 section or chapter 895.

1549 (c) In the course of filing, participating in, or  
1550 conducting a judicial proceeding to enforce an order or judgment  
1551 entered pursuant to this section or chapter 895.

1552 (d) In the course of a criminal or civil proceeding.  
1553

1554 A person or law enforcement agency which receives any  
1555 information, record, or transcription of testimony that has been  
1556 made confidential by this subsection shall maintain the  
1557 confidentiality of such material and shall not disclose such  
1558 information, record, or transcription of testimony except as  
1559 provided for herein. Any person who willfully discloses any  
1560 information, record, or transcription of testimony that has been  
1561 made confidential by this subsection, except as provided for  
1562 herein, is guilty of a misdemeanor of the first degree,  
1563 punishable as provided in s. 775.082 or s. 775.083. If any  
1564 information, record, or testimony obtained pursuant to  
1565 subsection (2) is offered in evidence in any judicial  
1566 proceeding, the court may, in its discretion, seal that portion  
1567 of the record to further the policies of confidentiality set  
1568 forth herein.

1569 Section 63. Subsection (6) of section 617.0503, Florida  
1570 Statutes, is amended to read:

1571 617.0503 Registered agent; duties; confidentiality of  
1572 investigation records.—

1573 (6) Information provided to, and records and transcriptions  
1574 of testimony obtained by, the Department of Legal Affairs  
1575 pursuant to this section are confidential and exempt from the  
1576 provisions of s. 119.07(1) and s. 24(a), Art. I of the State



526826

1577 Constitution while the investigation is active. For purposes of  
1578 this section, an investigation shall be considered "active"  
1579 while such investigation is being conducted with a reasonable,  
1580 good faith belief that it may lead to the filing of an  
1581 administrative, civil, or criminal proceeding. An investigation  
1582 does not cease to be active so long as the department is  
1583 proceeding with reasonable dispatch and there is a good faith  
1584 belief that action may be initiated by the department or other  
1585 administrative or law enforcement agency. Except for active  
1586 criminal intelligence or criminal investigative information, as  
1587 defined in s. 119.011, and information which, if disclosed,  
1588 ~~would reveal a trade secret, as defined in s. 688.002, or would~~  
1589 jeopardize the safety of an individual, all information,  
1590 records, and transcriptions become available to the public when  
1591 the investigation is completed or ceases to be active. The  
1592 department shall not disclose confidential information, records,  
1593 or transcriptions of testimony except pursuant to authorization  
1594 by the Attorney General in any of the following circumstances:

1595 (a) To a law enforcement agency participating in or  
1596 conducting a civil investigation under chapter 895, or  
1597 participating in or conducting a criminal investigation.

1598 (b) In the course of filing, participating in, or  
1599 conducting a judicial proceeding instituted pursuant to this  
1600 section or chapter 895.

1601 (c) In the course of filing, participating in, or  
1602 conducting a judicial proceeding to enforce an order or judgment  
1603 entered pursuant to this section or chapter 895.

1604 (d) In the course of a criminal proceeding.

1605



526826

1606 A person or law enforcement agency that receives any  
1607 information, record, or transcription of testimony that has been  
1608 made confidential by this subsection shall maintain the  
1609 confidentiality of such material and shall not disclose such  
1610 information, record, or transcription of testimony except as  
1611 provided for herein. Any person who willfully discloses any  
1612 information, record, or transcription of testimony that has been  
1613 made confidential by this subsection, except as provided for in  
1614 this subsection, commits a misdemeanor of the first degree,  
1615 punishable as provided in s. 775.082 or s. 775.083. If any  
1616 information, record, or testimony obtained pursuant to  
1617 subsection (2) is offered in evidence in any judicial  
1618 proceeding, the court may, in its discretion, seal that portion  
1619 of the record to further the policies of confidentiality set  
1620 forth in this subsection.

1621 Section 64. Paragraph (c) of subsection (1) and subsection  
1622 (5) of section 624.4212, Florida Statutes, are amended to read:  
1623 624.4212 Confidentiality of proprietary business and other  
1624 information.-

1625 (1) As used in this section, the term "proprietary business  
1626 information" means information, regardless of form or  
1627 characteristics, which is owned or controlled by an insurer, or  
1628 a person or an affiliated person who seeks acquisition of  
1629 controlling stock in a domestic stock insurer or controlling  
1630 company, and which:

1631 (c) Includes:

1632 1. ~~Trade secrets as defined in s. 688.002 which comply with~~  
1633 ~~s. 624.4213.~~

1634 2. Information relating to competitive interests, the



526826

1635 disclosure of which would impair the competitive business of the  
1636 provider of the information.

1637 ~~2.3.~~ The source, nature, and amount of the consideration  
1638 used or to be used in carrying out a merger or other acquisition  
1639 of control in the ordinary course of business, including the  
1640 identity of the lender, if the person filing a statement  
1641 regarding consideration so requests.

1642 ~~3.4.~~ Information relating to bids or other contractual  
1643 data, the disclosure of which would impair the efforts of the  
1644 insurer or its affiliates to contract for goods or services on  
1645 favorable terms.

1646 ~~4.5.~~ Internal auditing controls and reports of internal  
1647 auditors.

1648 (5) The office may disclose information made confidential  
1649 and exempt under this section or s. 688.01:

1650 (a) If the insurer to which it pertains gives prior written  
1651 consent;

1652 (b) Pursuant to a court order;

1653 (c) To the Actuarial Board for Counseling and Discipline  
1654 upon a request stating that the information is for the purpose  
1655 of professional disciplinary proceedings and specifying  
1656 procedures satisfactory to the office for preserving the  
1657 confidentiality of the information;

1658 (d) To other states, federal and international agencies,  
1659 the National Association of Insurance Commissioners and its  
1660 affiliates and subsidiaries, and state, federal, and  
1661 international law enforcement authorities, including members of  
1662 a supervisory college described in s. 628.805 if the recipient  
1663 agrees in writing to maintain the confidential and exempt status





526826

1664 of the document, material, or other information and has  
1665 certified in writing its legal authority to maintain such  
1666 confidentiality; or

1667 (e) For the purpose of aggregating information on an  
1668 industrywide basis and disclosing the information to the public  
1669 only if the specific identities of the insurers, or persons or  
1670 affiliated persons, are not revealed.

1671 Section 65. Section 624.4213, Florida Statutes, is  
1672 repealed.

1673 Section 66. Paragraph (d) of subsection (1) of section  
1674 626.84195, Florida Statutes, is amended to read:

1675 626.84195 Confidentiality of information supplied by title  
1676 insurance agencies and insurers.—

1677 (1) As used in this section, the term “proprietary business  
1678 information” means information that:

1679 (d) Concerns:

1680 1. Business plans;

1681 2. Internal auditing controls and reports of internal  
1682 auditors;

1683 3. Reports of external auditors for privately held  
1684 companies;

1685 4. ~~Trade secrets, as defined in s. 688.002;~~ or

1686 ~~5.~~ Financial information, including revenue data, loss  
1687 expense data, gross receipts, taxes paid, capital investment,  
1688 and employee wages.

1689 Section 67. Subsection (2) of section 626.884, Florida  
1690 Statutes, is amended to read:

1691 626.884 Maintenance of records by administrator; access;  
1692 confidentiality.—



526826

1693 (2) The office shall have access to books and records  
1694 maintained by the administrator for the purpose of examination,  
1695 audit, and inspection. ~~Information contained in such books and~~  
1696 ~~records is confidential and exempt from the provisions of s.~~  
1697 ~~119.07(1) if the disclosure of such information would reveal a~~  
1698 ~~trade secret as defined in s. 688.002. However,~~ The office may  
1699 use such information in any proceeding instituted against the  
1700 administrator.

1701 Section 68. Subsection (1) of section 626.9936, Florida  
1702 Statutes, is amended to read:

1703 626.9936 Access to records.—

1704 (1) Notwithstanding subsections (1) and (2) of Article  
1705 VIII, subsection (2) of Article X, and subsection (6) of Article  
1706 XII of the Interstate Insurance Product Regulation Compact, a  
1707 request by a resident of this state for public inspection and  
1708 copying of information, data, or official records that includes:

1709 (a) An insurer's trade secrets shall be referred to the  
1710 commissioner who shall respond to the request, with the  
1711 cooperation and assistance of the commission, in accordance with  
1712 s. 688.01 ~~s. 624.4213~~; or

1713 (b) Matters of privacy of individuals shall be referred to  
1714 the commissioner who shall respond to the request, with the  
1715 cooperation and assistance of the commission, in accordance with  
1716 s. 119.07(1).

1717 Section 69. Paragraph (g) of subsection (3) of section  
1718 627.0628, Florida Statutes, is amended to read:

1719 627.0628 Florida Commission on Hurricane Loss Projection  
1720 Methodology; public records exemption; public meetings  
1721 exemption.—



526826

1722 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.-  
1723 (g)1. ~~A trade secret, as defined in s. 688.002, which is~~  
1724 ~~used in designing and constructing a hurricane or flood loss~~  
1725 ~~model and which is provided pursuant to this section, by a~~  
1726 ~~private company, to the commission, office, or consumer advocate~~  
1727 ~~appointed pursuant to s. 627.0613 is confidential and exempt~~  
1728 ~~from s. 119.07(1) and s. 24(a), Art. I of the State~~  
1729 ~~Constitution.~~

1730 ~~2.a.~~ That portion of a meeting of the commission or of a  
1731 rate proceeding on an insurer's rate filing at which a trade  
1732 secret made confidential and exempt pursuant to s. 688.01 ~~by~~  
1733 ~~this paragraph~~ is discussed is exempt from s. 286.011 and s.  
1734 24(b), Art. I of the State Constitution. The closed meeting must  
1735 be recorded, and no portion of the closed meeting may be off the  
1736 record.

1737 ~~2.b.~~ The recording of a closed portion of a meeting is  
1738 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
1739 Constitution.

1740 ~~e. This paragraph is subject to the Open Government Sunset~~  
1741 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~  
1742 ~~on October 2, 2019, unless reviewed and saved from repeal~~  
1743 ~~through reenactment by the Legislature.~~

1744 Section 70. Paragraphs (a) and (c) of subsection (11) of  
1745 section 627.3518, Florida Statutes, are amended to read:

1746 627.3518 Citizens Property Insurance Corporation  
1747 policyholder eligibility clearinghouse program.—The purpose of  
1748 this section is to provide a framework for the corporation to  
1749 implement a clearinghouse program by January 1, 2014.

1750 (11) Proprietary business information provided to the



526826

1751 corporation's clearinghouse by insurers with respect to  
1752 identifying and selecting risks for an offer of coverage is  
1753 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
1754 of the State Constitution.

1755 (a) As used in this subsection, the term "proprietary  
1756 business information" means information, regardless of form or  
1757 characteristics, which is owned or controlled by an insurer and:

1758 1. Is identified by the insurer as proprietary business  
1759 information and is intended to be and is treated by the insurer  
1760 as private in that the disclosure of the information would cause  
1761 harm to the insurer, an individual, or the company's business  
1762 operations and has not been disclosed unless disclosed pursuant  
1763 to a statutory requirement, an order of a court or  
1764 administrative body, or a private agreement that provides that  
1765 the information will not be released to the public;

1766 2. Is not otherwise readily ascertainable or publicly  
1767 available by proper means by other persons from another source  
1768 in the same configuration as provided to the clearinghouse; and

1769 3. Includes:

1770 ~~a. Trade secrets, as defined in s. 688.002.~~

1771 ~~b.~~ information relating to competitive interests, the  
1772 disclosure of which would impair the competitive business of the  
1773 provider of the information.

1774  
1775 Proprietary business information may be found in underwriting  
1776 criteria or instructions which are used to identify and select  
1777 risks through the program for an offer of coverage and are  
1778 shared with the clearinghouse to facilitate the shopping of  
1779 risks with the insurer.



526826

1780           Section 71. Present subsections (4), (5), (14), and (15) of  
1781 section 655.057, Florida Statutes, are amended, present  
1782 subsections (6) through (13) of that section are renumbered as  
1783 subsections (5) through (12), respectively, and a new subsection  
1784 (13) is added to that section, to read:

1785           655.057 Records; limited restrictions upon public access.—

1786           (4) ~~Except as otherwise provided in this section and except~~  
1787 ~~for those portions that are otherwise public record, trade~~  
1788 ~~secrets as defined in s. 688.002 which comply with s. 655.0591~~  
1789 ~~and which are held by the office in accordance with its~~  
1790 ~~statutory duties with respect to the financial institutions~~  
1791 ~~codes are confidential and exempt from s. 119.07(1) and s.~~  
1792 ~~24(a), Art. I of the State Constitution.~~

1793           ~~(5) Neither this section nor s. 688.01 prevents does not~~  
1794 ~~prevent or restricts restrict:~~

1795           (a) Publishing reports that are required to be submitted to  
1796 the office pursuant to s. 655.045(2) or required by applicable  
1797 federal statutes or regulations to be published.

1798           (b) Furnishing records or information to any other state,  
1799 federal, or foreign agency responsible for the regulation or  
1800 supervision of financial institutions.

1801           (c) Disclosing or publishing summaries of the condition of  
1802 financial institutions and general economic and similar  
1803 statistics and data, provided that the identity of a particular  
1804 financial institution is not disclosed.

1805           (d) Reporting any suspected criminal activity, with  
1806 supporting documents and information, to appropriate law  
1807 enforcement and prosecutorial agencies.

1808           (e) Furnishing information upon request to the Chief



526826

1809 Financial Officer or the Division of Treasury of the Department  
1810 of Financial Services regarding the financial condition of any  
1811 financial institution that is, or has applied to be, designated  
1812 as a qualified public depository pursuant to chapter 280.

1813 (f) Furnishing information to Federal Home Loan Banks  
1814 regarding its member institutions pursuant to an information  
1815 sharing agreement between the Federal Home Loan Banks and the  
1816 office.

1817  
1818 Any confidential information or records obtained from the office  
1819 pursuant to this subsection shall be maintained as confidential  
1820 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
1821 Constitution.

1822 (13) This section is ~~(14) Subsections (3) and (4) are~~  
1823 ~~subject to the Open Government Sunset Review Act in accordance~~  
1824 ~~with s. 119.15 and are repealed on October 2, 2019, unless~~  
1825 ~~reviewed and saved from repeal through reenactment by the~~  
1826 ~~Legislature.~~

1827 ~~(15) Subsections (1), (2), (5), and (9) are~~ subject to the  
1828 Open Government Sunset Review Act in accordance with s. 119.15  
1829 and is ~~are~~ repealed on October 2, 2022, unless reviewed and  
1830 saved from repeal through reenactment by the Legislature.

1831 Section 72. Section 655.0591, Florida Statutes, is  
1832 repealed.

1833 Section 73. Subsection (11) of section 663.533, Florida  
1834 Statutes, is amended to read:

1835 663.533 Applicability of the financial institutions codes.—  
1836 A qualified limited service affiliate is subject to the  
1837 financial institutions codes. Without limiting the foregoing,



526826

1838 the following provisions are applicable to a qualified limited  
1839 service affiliate:

1840 (11) Section 688.01 ~~655.0591~~, relating to trade secret  
1841 documents.

1842

1843 This section does not prohibit the office from investigating or  
1844 examining an entity to ensure that it is not in violation of  
1845 this chapter or applicable provisions of the financial  
1846 institutions codes.

1847 Section 74. Section 721.071, Florida Statutes, is repealed.

1848 Section 75. Subsection (3) and present subsection (4) of  
1849 section 815.04, Florida Statutes, are amended, and present  
1850 subsection (5) of that section is renumbered as subsection (4),  
1851 to read:

1852 815.04 Offenses against intellectual property; ~~public~~  
1853 ~~records exemption.~~-

1854 (3) ~~Data, programs, or supporting documentation that is a~~  
1855 ~~trade secret as defined in s. 812.081, that is held by an agency~~  
1856 ~~as defined in chapter 119, and that resides or exists internal~~  
1857 ~~or external to a computer, computer system, computer network, or~~  
1858 ~~electronic device is confidential and exempt from the provisions~~  
1859 ~~of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.~~  
1860 ~~This subsection is subject to the Open Government Sunset Review~~  
1861 ~~Act in accordance with s. 119.15 and shall stand repealed on~~  
1862 ~~October 2, 2021, unless reviewed and saved from repeal through~~  
1863 ~~reenactment by the Legislature.~~

1864 (4) A person who willfully, knowingly, and without  
1865 authorization discloses or takes data, programs, or supporting  
1866 documentation that is a trade secret as defined in s. 812.081 ~~or~~



526826

1867 ~~is confidential as provided by law~~ residing or existing internal  
1868 or external to a computer, computer system, computer network, or  
1869 electronic device commits an offense against intellectual  
1870 property.

1871 Section 76. Section 815.045, Florida Statutes, is repealed.

1872 Section 77. Paragraph (b) of subsection (8) of section  
1873 1004.43, Florida Statutes, is amended to read:

1874 1004.43 H. Lee Moffitt Cancer Center and Research  
1875 Institute.—There is established the H. Lee Moffitt Cancer Center  
1876 and Research Institute, a statewide resource for basic and  
1877 clinical research and multidisciplinary approaches to patient  
1878 care.

1879 (8)

1880 (b) Proprietary confidential business information is  
1881 confidential and exempt from the provisions of s. 119.07(1) and  
1882 s. 24(a), Art. I of the State Constitution. However, the Auditor  
1883 General, the Office of Program Policy Analysis and Government  
1884 Accountability, and the Board of Governors, pursuant to their  
1885 oversight and auditing functions, must be given access to all  
1886 proprietary confidential business information upon request and  
1887 without subpoena and must maintain the confidentiality of  
1888 information so received. As used in this paragraph, the term  
1889 "proprietary confidential business information" means  
1890 information, regardless of its form or characteristics, which is  
1891 owned or controlled by the not-for-profit corporation or its  
1892 subsidiaries; is intended to be and is treated by the not-for-  
1893 profit corporation or its subsidiaries as private and the  
1894 disclosure of which would harm the business operations of the  
1895 not-for-profit corporation or its subsidiaries; has not been





526826

1896 intentionally disclosed by the corporation or its subsidiaries  
1897 unless pursuant to law, an order of a court or administrative  
1898 body, a legislative proceeding pursuant to s. 5, Art. III of the  
1899 State Constitution, or a private agreement that provides that  
1900 the information may be released to the public; and which is  
1901 information concerning:

1902 1. Internal auditing controls and reports of internal  
1903 auditors;

1904 2. Matters reasonably encompassed in privileged attorney-  
1905 client communications;

1906 3. Contracts for managed-care arrangements, including  
1907 preferred provider organization contracts, health maintenance  
1908 organization contracts, and exclusive provider organization  
1909 contracts, and any documents directly relating to the  
1910 negotiation, performance, and implementation of any such  
1911 contracts for managed-care arrangements;

1912 4. Bids or other contractual data, banking records, and  
1913 credit agreements the disclosure of which would impair the  
1914 efforts of the not-for-profit corporation or its subsidiaries to  
1915 contract for goods or services on favorable terms;

1916 5. Information relating to private contractual data, the  
1917 disclosure of which would impair the competitive interest of the  
1918 provider of the information;

1919 6. Corporate officer and employee personnel information;

1920 7. Information relating to the proceedings and records of  
1921 credentialing panels and committees and of the governing board  
1922 of the not-for-profit corporation or its subsidiaries relating  
1923 to credentialing;

1924 8. Minutes of meetings of the governing board of the not-



526826

1925 for-profit corporation and its subsidiaries, except minutes of  
1926 meetings open to the public pursuant to subsection (9);

1927 9. Information that reveals plans for marketing services  
1928 that the corporation or its subsidiaries reasonably expect to be  
1929 provided by competitors;

1930 10. Trade secrets as defined in s. 688.01 ~~s. 688.002~~,  
1931 including:

1932 a. Information relating to methods of manufacture or  
1933 production, ~~potential trade secrets~~, potentially patentable  
1934 materials, or proprietary information received, generated,  
1935 ascertained, or discovered during the course of research  
1936 conducted by the not-for-profit corporation or its subsidiaries;  
1937 and

1938 b. Reimbursement methodologies or rates;

1939 11. The identity of donors or prospective donors of  
1940 property who wish to remain anonymous or any information  
1941 identifying such donors or prospective donors. The anonymity of  
1942 these donors or prospective donors must be maintained in the  
1943 auditor's report; or

1944 12. Any information received by the not-for-profit  
1945 corporation or its subsidiaries from an agency in this or  
1946 another state or nation or the Federal Government which is  
1947 otherwise exempt or confidential pursuant to the laws of this or  
1948 another state or nation or pursuant to federal law.

1949  
1950 As used in this paragraph, the term "managed care" means systems  
1951 or techniques generally used by third-party payors or their  
1952 agents to affect access to and control payment for health care  
1953 services. Managed-care techniques most often include one or more



526826

1954 of the following: prior, concurrent, and retrospective review of  
1955 the medical necessity and appropriateness of services or site of  
1956 services; contracts with selected health care providers;  
1957 financial incentives or disincentives related to the use of  
1958 specific providers, services, or service sites; controlled  
1959 access to and coordination of services by a case manager; and  
1960 payor efforts to identify treatment alternatives and modify  
1961 benefit restrictions for high-cost patient care.

1962 Section 78. Subsection (2) of section 1004.78, Florida  
1963 Statutes, is amended to read:

1964 1004.78 Technology transfer centers at Florida College  
1965 System institutions.—

1966 (2) The Florida College System institution board of  
1967 trustees shall set such policies to regulate the activities of  
1968 the technology transfer center as it may consider necessary to  
1969 effectuate the purposes of this section and to administer the  
1970 programs of the center in a manner which assures efficiency and  
1971 effectiveness, producing the maximum benefit for the educational  
1972 programs and maximum service to the state. To this end,  
1973 materials that relate to methods of manufacture or production,  
1974 ~~potential trade secrets~~, potentially patentable material, ~~actual~~  
1975 trade secrets as defined in s. 688.01, business transactions, or  
1976 proprietary information received, generated, ascertained, or  
1977 discovered during the course of activities conducted within the  
1978 Florida College System institutions shall be confidential and  
1979 exempt from the provisions of s. 119.07(1), except that a  
1980 Florida College System institution shall make available upon  
1981 request the title and description of a project, the name of the  
1982 investigator, and the amount and source of funding provided for



526826

1983 such project.

1984 Section 79. Section 601.80, Florida Statutes, is amended to  
1985 read:

1986 601.80 Unlawful to use uncertified coloring matter.—It is  
1987 unlawful for any person to use on oranges or citrus hybrids any  
1988 coloring matter which has not first received the approval of the  
1989 Department of Agriculture ~~as provided under s. 601.76.~~

1990 Section 80. Present subsection (11) of section 663.533,  
1991 Florida Statutes, is amended, and present subsections (12) and  
1992 (13) of that section are renumbered as subsections (11) and  
1993 (12), respectively, to read:

1994 663.533 Applicability of the financial institutions codes.—  
1995 A qualified limited service affiliate is subject to the  
1996 financial institutions codes. Without limiting the foregoing,  
1997 the following provisions are applicable to a qualified limited  
1998 service affiliate:

1999 ~~(11) Section 655.0591, relating to trade secret documents.~~

2000  
2001 This section does not prohibit the office from investigating or  
2002 examining an entity to ensure that it is not in violation of  
2003 this chapter or applicable provisions of the financial  
2004 institutions codes.

2005 Section 81. Paragraph (c) of subsection (12) of section  
2006 721.13, Florida Statutes, is amended to read:

2007 721.13 Management.—

2008 (12)

2009 (c) The managing entity shall maintain copies of all  
2010 records, data, and information supporting the processes,  
2011 analyses, procedures, and methods utilized by the managing



526826

2012 entity in its determination to reserve accommodations of the  
2013 timeshare plan pursuant to this subsection for a period of 5  
2014 years from the date of such determination. In the event of an  
2015 investigation by the division for failure of a managing entity  
2016 to comply with this subsection, the managing entity shall make  
2017 all such records, data, and information available to the  
2018 division for inspection, ~~provided that if the managing entity~~  
2019 ~~complies with the provisions of s. 721.071, any such records,~~  
2020 ~~data, and information provided to the division shall constitute~~  
2021 ~~a trade secret pursuant to that section.~~

2022 Section 82. Paragraphs (a) and (c) of subsection (3) of  
2023 section 921.0022, Florida Statutes, are amended to read:

2024 921.0022 Criminal Punishment Code; offense severity ranking  
2025 chart.-

2026 (3) OFFENSE SEVERITY RANKING CHART

2027 (a) LEVEL 1

2028

Florida Statute	Felony Degree	Description
2029 24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
2030 212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
2031 212.15(2)(b)	3rd	Failure to remit sales taxes, amount greater than



526826

2032			\$300 but less than \$20,000.
	316.1935 (1)	3rd	Fleeing or attempting to elude law enforcement officer.
2033			
	319.30 (5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
2034			
	319.35 (1) (a)	3rd	Tamper, adjust, change, etc., an odometer.
2035			
	320.26 (1) (a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
2036			
	322.212 (1) (a) - (c)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver license; possession of simulated identification.
2037			
	322.212 (4)	3rd	Supply or aid in supplying unauthorized driver license or identification card.
2038			
	322.212 (5) (a)	3rd	False application for driver



526826

2039			license or identification card.
2040	414.39 (3) (a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.
2041	443.071 (1)	3rd	False statement or representation to obtain or increase reemployment assistance benefits.
2042	509.151 (1)	3rd	Defraud an innkeeper, food or lodging value greater than \$300.
2043	517.302 (1)	3rd	Violation of the Florida Securities and Investor Protection Act.
2044	562.27 (1)	3rd	Possess still or still apparatus.
2045	713.69	3rd	Tenant removes property upon which lien has accrued, value more than \$50.
	812.014 (3) (c)	3rd	Petit theft (3rd



526826

2046			conviction); theft of any property not specified in subsection (2).
	812.081 (2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.
2047	<u>815.04 (4) (a)</u> <del>815.04 (5) (a)</del>	3rd	Offense against intellectual property (i.e., computer programs, data).
2048	817.52 (2)	3rd	Hiring with intent to defraud, motor vehicle services.
2049	817.569 (2)	3rd	Use of public record or public records information or providing false information to facilitate commission of a felony.
2050	826.01	3rd	Bigamy.
2051	828.122 (3)	3rd	Fighting or baiting animals.
2052	831.04 (1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other





526826

2053			document listed in s. 92.28.
	831.31 (1) (a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
2054			
	832.041 (1)	3rd	Stopping payment with intent to defraud \$150 or more.
2055			
	832.05 (2) (b) & (4) (c)	3rd	Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.
2056			
	838.15 (2)	3rd	Commercial bribe receiving.
2057			
	838.16	3rd	Commercial bribery.
2058			
	843.18	3rd	Fleeing by boat to elude a law enforcement officer.
2059			
	847.011 (1) (a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
2060			
	849.01	3rd	Keeping gambling house.
2061			



526826

2062	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
2063	849.23	3rd	Gambling-related machines; "common offender" as to property rights.
2064	849.25(2)	3rd	Engaging in bookmaking.
2065	860.08	3rd	Interfere with a railroad signal.
2066	860.13(1)(a)	3rd	Operate aircraft while under the influence.
2067	893.13(2)(a)2.	3rd	Purchase of cannabis.
2068	893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
2069	934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.



526826

2070

2071 (c) LEVEL 3

2072

Florida  
Statute

Felony  
Degree

Description

2073

119.10 (2) (b)

3rd

Unlawful use of  
confidential information  
from police reports.

2074

316.066

3rd

(3) (b) - (d)

Unlawfully obtaining or  
using confidential crash  
reports.

2075

316.193 (2) (b)

3rd

Felony DUI, 3rd conviction.

2076

316.1935 (2)

3rd

Fleeing or attempting to  
elude law enforcement  
officer in patrol vehicle  
with siren and lights  
activated.

2077

319.30 (4)

3rd

Possession by junkyard of  
motor vehicle with  
identification number plate  
removed.

2078

319.33 (1) (a)

3rd

Alter or forge any  
certificate of title to a



526826

2079			motor vehicle or mobile home.
	319.33 (1) (c)	3rd	Procure or pass title on stolen vehicle.
2080			
	319.33 (4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
2081			
	327.35 (2) (b)	3rd	Felony BUI.
2082			
	328.05 (2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
2083			
	328.07 (4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
2084			
	376.302 (5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.



526826

2085

379.2431 3rd Taking, disturbing,  
mutilating, destroying,  
(1) (e) 5. causing to be destroyed,  
transferring, selling,  
offering to sell,  
molesting, or harassing  
marine turtles, marine  
turtle eggs, or marine  
turtle nests in violation  
of the Marine Turtle  
Protection Act.

2086

379.2431 3rd Possessing any marine  
turtle species or  
(1) (e) 6. hatchling, or parts  
thereof, or the nest of any  
marine turtle species  
described in the Marine  
Turtle Protection Act.

2087

379.2431 3rd Soliciting to commit or  
conspiring to commit a  
(1) (e) 7. violation of the Marine  
Turtle Protection Act.

2088

400.9935 (4) (a) 3rd Operating a clinic, or  
offering services requiring  
or (b) licensure, without a



526826

2089			license.
	400.9935 (4) (e)	3rd	Filing a false license application or other required information or failing to report information.
2090			
	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
2091			
	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
2092			
	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
2093			
	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
2094			



526826

2095	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.
2096	697.08	3rd	Equity skimming.
2097	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
2098	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
2099	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
2100	810.09 (2) (c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
2101	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
	812.0145 (2) (c)	3rd	Theft from person 65 years



526826

2102			of age or older; \$300 or more but less than \$10,000.
	<u>815.04 (4) (b)</u>	2nd	Computer offense devised to defraud or obtain property.
	<del>815.04 (5) (b)</del>		
2103			
	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
2104			
	817.233	3rd	Burning to defraud insurer.
2105			
	817.234	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
	(8) (b) & (c)		
2106			
	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
2107			
	817.236	3rd	Filing a false motor vehicle insurance application.
2108			
	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.





526826

2109	817.413 (2)	3rd	Sale of used goods as new.
2110	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
2111	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
2112	838.021 (3) (b)	3rd	Threatens unlawful harm to public servant.
2113	843.19	3rd	Injure, disable, or kill police dog or horse.
2114	860.15 (3)	3rd	Overcharging for repairs and parts.
2115	870.01 (2)	3rd	Riot; inciting or encouraging.
2116	893.13 (1) (a) 2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c) 1.,



526826

2117	893.13(1)(d)2.	2nd	(2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs).
2118	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of university.
2119	893.13(4)(c)	3rd	Use or hire of minor; deliver to minor other controlled substances.
2120			



526826

2121	893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
2122	893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
2123	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
2124	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
2125	893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
	893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance



526826

2126	893.13(8)(a)2.	3rd	through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
2127	893.13(8)(a)3.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
2128	893.13(8)(a)4.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
2129	918.13(1)(a)	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
			Alter, destroy, or conceal investigation evidence.



526826

2130

944.47 3rd Introduce contraband to  
correctional facility.

(1) (a) 1. & 2.

2131

944.47 (1) (c) 2nd Possess contraband while  
upon the grounds of a  
correctional institution.

2132

985.721 3rd Escapes from a juvenile  
facility (secure detention  
or residential commitment  
facility).

2133

2134

2135 Section 83. This act shall take effect upon becoming a law  
2136 if SB 1414 or similar legislation is adopted in the same  
2137 legislative session or an extension thereof and becomes a law.

2138

2139 ===== T I T L E A M E N D M E N T =====

2140 And the title is amended as follows:

2141 Delete everything before the enacting clause  
2142 and insert:

2143

2144

2145

2146

2147

2148

A bill to be entitled  
An act relating to public records; creating s.  
119.07135, F.S.; providing that certain information  
related to agency contracts is not confidential or  
exempt from public records requirements; providing an  
exception with respect to research activities at



526826

2149 certain educational institutions; amending s. 24.105,  
2150 F.S.; deleting provisions relating to exemptions from  
2151 public records requirements for certain information  
2152 held by the Department of the Lottery; amending s.  
2153 73.0155, F.S.; deleting provisions relating to public  
2154 records exemptions for trade secrets held by  
2155 governmental condemning authorities; amending s.  
2156 119.071, F.S.; deleting a provision declaring that  
2157 certain data processing software exempt from public  
2158 records requirements is considered a trade secret;  
2159 removing the scheduled repeal of the public record  
2160 exemption; amending s. 119.0713, F.S.; deleting a  
2161 provision exempting trade secrets held by local  
2162 government agencies from public records requirements;  
2163 amending s. 125.0104, F.S.; deleting a provision  
2164 exempting trade secrets held by county tourism  
2165 development agencies from public records requirements;  
2166 amending s. 163.01, F.S.; deleting a provision  
2167 exempting trade secrets held by public agencies that  
2168 are electric utilities from public records  
2169 requirements; amending s. 202.195, F.S.; deleting a  
2170 provision exempting trade secrets obtained from a  
2171 telecommunications company or franchised cable company  
2172 for certain purposes from public records requirements;  
2173 amending s. 215.4401, F.S.; deleting provisions  
2174 relating to confidentiality of trade secrets held by  
2175 the State Board of Administration; amending s. 252.88,  
2176 F.S.; deleting provisions exempting certain  
2177 information from public records requirements under the



526826

2178 Florida Emergency Planning and Community Right-to-Know  
2179 Act; repealing s. 252.943, F.S., relating to a public  
2180 records exemption under the Florida Accidental Release  
2181 Prevention and Risk Management Planning Act; amending  
2182 s. 287.0943, F.S.; deleting provisions relating to  
2183 confidentiality of certain information relating to  
2184 applications for certification of minority business  
2185 enterprises; amending s. 288.047, F.S.; deleting  
2186 provisions exempting potential trade secrets from  
2187 public records requirements; amending s. 288.075,  
2188 F.S.; deleting provisions relating to a public records  
2189 exemption for trade secrets held by economic  
2190 development agencies; amending s. 288.1226, F.S.;  
2191 deleting provisions relating to a public records  
2192 exemption for trade secrets held by the Florida  
2193 Tourism Industry Marketing Corporation; amending s.  
2194 288.776, F.S.; deleting provisions relating to a  
2195 public records exemption for trade secrets held by the  
2196 Florida Export Finance Corporation; amending s.  
2197 288.9520, F.S.; deleting provisions relating to a  
2198 public records exemption for trade secrets and  
2199 potential trade secrets held by Enterprise Florida,  
2200 Inc., and related entities; amending s. 288.9607,  
2201 F.S.; deleting provisions relating to a public records  
2202 exemption for trade secrets held by the Florida  
2203 Development Finance Corporation; amending s. 288.9626,  
2204 F.S.; deleting provisions relating to a public records  
2205 exemption for trade secrets and potential trade  
2206 secrets held by the Florida Opportunity Fund;



526826

2207 conforming provisions to changes made by the act;  
2208 amending s. 288.9627, F.S.; deleting provisions  
2209 relating to a public records exemption for trade  
2210 secrets and potential trade secrets held by the  
2211 Institute for Commercialization of Florida Technology;  
2212 conforming provisions to changes made by the act;  
2213 amending s. 331.326, F.S.; deleting provisions  
2214 relating to a public records exemption for trade  
2215 secrets held by Space Florida; amending s. 334.049,  
2216 F.S.; deleting provisions relating to a public records  
2217 exemption for trade secrets held by the Department of  
2218 State; amending ss. 350.121 and 364.183, F.S.;;  
2219 deleting provisions relating to public records  
2220 exemptions for trade secrets held by the Florida  
2221 Public Service Commission; amending s. 365.174, F.S.;;  
2222 deleting provisions relating to public records  
2223 exemptions for trade secrets held by the E911 Board  
2224 and the Technology Program within the Department of  
2225 Management Services; amending ss. 366.093, 367.156,  
2226 and 368.108, F.S.;; deleting provisions relating to  
2227 public records exemptions for trade secrets held by  
2228 the Florida Public Service Commission; repealing s.  
2229 381.83, F.S., relating to confidentiality of certain  
2230 information containing trade secrets obtained by the  
2231 Department of Health; amending s. 403.7046, F.S.;;  
2232 revising provisions relating to an exemption for trade  
2233 secrets contained in certain reports to the Department  
2234 of Environmental Protection; repealing s. 403.73,  
2235 F.S., relating to confidentiality of certain





526826

2236 information containing trade secrets obtained by the  
2237 Department of Environmental Protection; amending s.  
2238 408.061, F.S.; deleting a requirement that certain  
2239 trade secret information submitted to the Agency for  
2240 Healthcare Administration be clearly designated as  
2241 such; amending s. 408.185, F.S.; deleting provisions  
2242 relating to public records exemptions for certain  
2243 trade secrets held by the Office of the Attorney  
2244 General; amending s. 408.910, F.S.; deleting  
2245 provisions relating to public records exemptions for  
2246 trade secrets held by the Florida Health Choices  
2247 Program; amending s. 409.91196, F.S.; deleting  
2248 provisions relating to public records exemptions for  
2249 trade secrets held by the Agency for Health Care  
2250 Administration; amending s. 440.108, F.S.; deleting  
2251 provisions relating to public records exemptions for  
2252 trade secrets held by the Department of Financial  
2253 Services; amending s. 494.00125, F.S.; deleting  
2254 provisions relating to public records exemptions for  
2255 trade secrets held by the Office of Financial  
2256 Regulation; amending s. 497.172, F.S.; deleting  
2257 provisions relating to public records exemptions for  
2258 trade secrets held by the Department of Financial  
2259 Services or the Board of Funeral, Cemetery, and  
2260 Consumer Services; amending ss. 499.012, 499.0121,  
2261 499.05, and 499.051, F.S.; deleting provisions  
2262 relating to public records exemptions for trade  
2263 secrets held by the Department of Business and  
2264 Professional Regulation; repealing s. 499.931, F.S.,



526826

2265 relating to maintenance of information held by the  
2266 Department of Business and Professional Regulation  
2267 which is deemed to be a trade secret; amending s.  
2268 501.171, F.S.; deleting provisions relating to public  
2269 records exemptions for trade secrets held by the  
2270 Department of Legal Affairs; repealing s. 502.222,  
2271 F.S., relating to trade secrets of a dairy business  
2272 held by the Department of Agriculture and Consumer  
2273 Services; amending ss. 517.2015 and 520.9965, F.S.;  
2274 deleting provisions relating to public records  
2275 exemptions for trade secrets held by the Office of  
2276 Financial Regulation; amending s. 526.311, F.S.;  
2277 deleting provisions relating to public records  
2278 exemptions for trade secrets held by the Department of  
2279 Agriculture and Consumer Services; amending s.  
2280 548.062, F.S.; deleting provisions relating to public  
2281 records exemptions for trade secrets held by the  
2282 Florida State Boxing Commission; amending s. 556.113,  
2283 F.S.; deleting provisions relating to public records  
2284 exemptions for trade secrets held by Sunshine State  
2285 One-Call of Florida, Inc.; amending s. 559.5558, F.S.;  
2286 deleting provisions relating to public records  
2287 exemptions for trade secrets held by the Office of  
2288 Financial Regulation; amending s. 559.9285, F.S.;  
2289 revising provisions specifying that certain  
2290 information provided to the Department of Agriculture  
2291 and Consumer Services does not constitute a trade  
2292 secret; amending s. 560.129, F.S.; deleting provisions  
2293 relating to public records exemptions for trade



526826

2294 secrets held by the Office of Financial Regulation;  
2295 amending s. 570.48, F.S.; deleting provisions relating  
2296 to public records exemptions for trade secrets held by  
2297 the Division of Fruit and Vegetables; amending ss.  
2298 570.544 and 573.123, F.S.; deleting provisions  
2299 relating to public records exemptions for trade  
2300 secrets held by the Division of Consumer Services;  
2301 repealing s. 581.199, F.S., relating to a prohibition  
2302 on the use of trade secret information obtained under  
2303 specified provisions for personal use or gain;  
2304 amending ss. 601.10, 601.15, and 601.152, F.S.;;  
2305 deleting provisions relating to public records  
2306 exemptions for trade secrets held by the Department of  
2307 Citrus; amending s. 601.76, F.S.; deleting provisions  
2308 relating to a public records exemption for certain  
2309 formulas filed with the Department of Agriculture;  
2310 amending ss. 607.0505 and 617.0503, F.S.; deleting  
2311 provisions relating to public records exemptions for  
2312 certain information that might reveal trade secrets  
2313 held by the Department of Legal Affairs; amending s.  
2314 624.4212, F.S.; deleting provisions relating to public  
2315 records exemptions for trade secrets held by the  
2316 Office of Insurance Regulation; revising a cross-  
2317 reference; repealing s. 624.4213, F.S., relating to  
2318 trade secret documents submitted to the Department of  
2319 Financial Services or the Office of Insurance  
2320 Regulation; amending ss. 626.84195 and 626.884, F.S.;;  
2321 deleting provisions relating to public records  
2322 exemptions for trade secrets held by the Office of



526826

2323 Insurance Regulation; amending s. 626.9936, F.S.;

2324 revising provisions relating to a public records

2325 exemption for trade secrets held by the Office of

2326 Insurance Regulation; amending ss. 627.0628 and

2327 627.3518, F.S.; deleting provisions relating to public

2328 records exemptions for trade secrets held by the

2329 Department of Financial Services or the Office of

2330 Insurance Regulation; amending s. 655.057, F.S.;

2331 revising provisions relating to a public records

2332 exemption for trade secrets held by the Office of

2333 Financial Regulation; repealing s. 655.0591, F.S.,

2334 relating to trade secret documents held by the Office

2335 of Financial Regulation; amending s. 663.533, F.S.;

2336 revising a cross-reference; repealing s. 721.071,

2337 F.S., relating to trade secret material filed with the

2338 Division of Florida Condominiums, Timeshares, and

2339 Mobile Homes of the Department of Business and

2340 Professional Regulation; amending s. 815.04, F.S.;

2341 deleting a public records exemption for certain trade

2342 secret information relating to offenses against

2343 intellectual property; repealing s. 815.045, F.S.,

2344 relating to trade secret information; amending s.

2345 1004.43, F.S.; revising provisions relating to public

2346 records exemptions for trade secrets and potential

2347 trade secrets held by the H. Lee Moffitt Cancer Center

2348 and Research Institute; amending s. 1004.78, F.S.;

2349 revising provisions relating to public records

2350 exemptions for trade secrets and potential trade

2351 secrets held by the technology transfers centers at



526826

2352 Florida College System institutions; amending s.  
2353 601.80, F.S.; correcting a cross-reference; amending  
2354 ss. 663.533, 721.13, and 921.0022, F.S.; conforming  
2355 provisions to changes made by the act; providing a  
2356 contingent effective date.

By Senator Gruters

23-01684A-19

20191416\_\_

1 A bill to be entitled  
 2 An act relating to public records; creating s.  
 3 119.07135, F.S.; providing that certain information  
 4 related to agency contracts is not confidential or  
 5 exempt from public records requirements; amending s.  
 6 24.105, F.S.; deleting provisions relating to  
 7 exemptions from public records requirements for  
 8 certain information held by the Department of the  
 9 Lottery; amending s. 73.0155, F.S.; deleting  
 10 provisions relating to public records exemptions for  
 11 trade secrets held by governmental condemning  
 12 authorities; amending s. 119.071, F.S.; deleting a  
 13 provision declaring that certain data processing  
 14 software exempt from public records requirements is  
 15 considered a trade secret; removing the scheduled  
 16 repeal of the public record exemption; amending s.  
 17 119.0713, F.S.; deleting a provision exempting trade  
 18 secrets held by local government agencies from public  
 19 records requirements; amending s. 125.0104, F.S.;  
 20 deleting a provision exempting trade secrets held by  
 21 county tourism development agencies from public  
 22 records requirements; amending s. 163.01, F.S.;  
 23 deleting a provision exempting trade secrets held by  
 24 public agencies that are electric utilities from  
 25 public records requirements; amending s. 202.195,  
 26 F.S.; deleting a provision exempting trade secrets  
 27 obtained from a telecommunications company or  
 28 franchised cable company for certain purposes from  
 29 public records requirements; amending s. 215.4401,

Page 1 of 98

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

23-01684A-19

20191416\_\_

30 F.S.; deleting provisions relating to confidentiality  
 31 of trade secrets held by the State Board of  
 32 Administration; amending s. 252.88, F.S.; deleting  
 33 provisions exempting certain information from public  
 34 records requirements under the Florida Emergency  
 35 Planning and Community Right-to-Know Act; repealing s.  
 36 252.943, F.S., relating to a public records exemption  
 37 under the Florida Accidental Release Prevention and  
 38 Risk Management Planning Act; amending s. 287.0943,  
 39 F.S.; deleting provisions relating to confidentiality  
 40 of certain information relating to applications for  
 41 certification of minority business enterprises;  
 42 amending s. 288.047, F.S.; deleting provisions  
 43 exempting potential trade secrets from public records  
 44 requirements; amending s. 288.075, F.S.; deleting  
 45 provisions relating to a public records exemption for  
 46 trade secrets held by economic development agencies;  
 47 amending s. 288.1226, F.S.; deleting provisions  
 48 relating to a public records exemption for trade  
 49 secrets held by the Florida Tourism Industry Marketing  
 50 Corporation; amending s. 288.776, F.S.; deleting  
 51 provisions relating to a public records exemption for  
 52 trade secrets held by the Florida Export Finance  
 53 Corporation; amending s. 288.9520, F.S.; deleting  
 54 provisions relating to a public records exemption for  
 55 trade secrets and potential trade secrets held by  
 56 Enterprise Florida, Inc., and related entities;  
 57 amending s. 288.9607, F.S.; deleting provisions  
 58 relating to a public records exemption for trade

Page 2 of 98

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

23-01684A-19

20191416\_\_

59 secrets held by the Florida Development Finance  
 60 Corporation; amending s. 288.9626, F.S.; deleting  
 61 provisions relating to a public records exemption for  
 62 trade secrets and potential trade secrets held by the  
 63 Florida Opportunity Fund; conforming provisions to  
 64 changes made by the act; amending s. 288.9627, F.S.;  
 65 deleting provisions relating to a public records  
 66 exemption for trade secrets and potential trade  
 67 secrets held by the Institute for Commercialization of  
 68 Florida Technology; conforming provisions to changes  
 69 made by the act; amending s. 331.326, F.S.; deleting  
 70 provisions relating to a public records exemption for  
 71 trade secrets held by Space Florida; amending s.  
 72 334.049, F.S.; deleting provisions relating to a  
 73 public records exemption for trade secrets held by the  
 74 Department of State; amending ss. 350.121 and 364.183,  
 75 F.S.; deleting provisions relating to public records  
 76 exemptions for trade secrets held by the Florida  
 77 Public Service Commission; amending s. 365.174, F.S.;  
 78 deleting provisions relating to public records  
 79 exemptions for trade secrets held by the E911 Board  
 80 and the Technology Program within the Department of  
 81 Management Services; amending ss. 366.093, 367.156,  
 82 and 368.108, F.S.; deleting provisions relating to  
 83 public records exemptions for trade secrets held by  
 84 the Florida Public Service Commission; repealing s.  
 85 381.83, F.S., relating to confidentiality of certain  
 86 information containing trade secrets obtained by the  
 87 Department of Health; amending s. 395.3035, F.S.;

Page 3 of 98

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

23-01684A-19

20191416\_\_

88 deleting provisions relating to a public records  
 89 exemption for trade secrets of hospitals; amending s.  
 90 403.7046, F.S.; revising provisions relating to an  
 91 exemption for trade secrets contained in certain  
 92 reports to the Department of Environmental Protection;  
 93 repealing s. 403.73, F.S., relating to confidentiality  
 94 of certain information containing trade secrets  
 95 obtained by the Department of Environmental  
 96 Protection; amending s. 408.061, F.S.; deleting a  
 97 requirement that certain trade secret information  
 98 submitted to the Agency for Healthcare Administration  
 99 be clearly designated as such; amending s. 408.185,  
 100 F.S.; deleting provisions relating to public records  
 101 exemptions for certain trade secrets held by the  
 102 Office of the Attorney General; amending s. 408.910,  
 103 F.S.; deleting provisions relating to public records  
 104 exemptions for trade secrets held by the Florida  
 105 Health Choices Program; amending s. 409.91196, F.S.;  
 106 deleting provisions relating to public records  
 107 exemptions for trade secrets held by the Agency for  
 108 Health Care Administration; amending s. 440.108, F.S.;  
 109 deleting provisions relating to public records  
 110 exemptions for trade secrets held by the Department of  
 111 Financial Services; amending s. 494.00125, F.S.;  
 112 deleting provisions relating to public records  
 113 exemptions for trade secrets held by the Office of  
 114 Financial Regulation; amending s. 497.172, F.S.;  
 115 deleting provisions relating to public records  
 116 exemptions for trade secrets held by the Department of

Page 4 of 98

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

23-01684A-19

20191416\_\_

117 Financial Services or the Board of Funeral, Cemetery,  
 118 and Consumer Services; amending ss. 499.012, 499.0121,  
 119 499.05, and 499.051, F.S.; deleting provisions  
 120 relating to public records exemptions for trade  
 121 secrets held by the Department of Business and  
 122 Professional Regulation; repealing s. 499.931, F.S.,  
 123 relating to maintenance of information held by the  
 124 Department of Business and Professional Regulation  
 125 which is deemed to be a trade secret; amending s.  
 126 501.171, F.S.; deleting provisions relating to public  
 127 records exemptions for trade secrets held by the  
 128 Department of Legal Affairs; repealing s. 502.222,  
 129 F.S., relating to trade secrets of a dairy business  
 130 held by the Department of Agriculture and Consumer  
 131 Services; amending ss. 517.2015 and 520.9965, F.S.;  
 132 deleting provisions relating to public records  
 133 exemptions for trade secrets held by the Office of  
 134 Financial Regulation; amending s. 526.311, F.S.;  
 135 deleting provisions relating to public records  
 136 exemptions for trade secrets held by the Department of  
 137 Agriculture and Consumer Services; amending s.  
 138 548.062, F.S.; deleting provisions relating to public  
 139 records exemptions for trade secrets held by the  
 140 Florida State Boxing Commission; amending s. 556.113,  
 141 F.S.; deleting provisions relating to public records  
 142 exemptions for trade secrets held by Sunshine State  
 143 One-Call of Florida, Inc.; amending s. 559.5558, F.S.;  
 144 deleting provisions relating to public records  
 145 exemptions for trade secrets held by the Office of

23-01684A-19

20191416\_\_

146 Financial Regulation; amending s. 559.9285, F.S.;  
 147 revising provisions specifying that certain  
 148 information provided to the Department of Agriculture  
 149 and Consumer Services does not constitute a trade  
 150 secret; amending s. 560.129, F.S.; deleting provisions  
 151 relating to public records exemptions for trade  
 152 secrets held by the Office of Financial Regulation;  
 153 amending s. 570.48, F.S.; deleting provisions relating  
 154 to public records exemptions for trade secrets held by  
 155 the Division of Fruit and Vegetables; amending ss.  
 156 570.544 and 573.123, F.S.; deleting provisions  
 157 relating to public records exemptions for trade  
 158 secrets held by the Division of Consumer Services;  
 159 repealing s. 581.199, F.S., relating to a prohibition  
 160 on the use of trade secret information obtained under  
 161 specified provisions for personal use or gain;  
 162 amending ss. 601.10, 601.15, and 601.152, F.S.;  
 163 deleting provisions relating to public records  
 164 exemptions for trade secrets held by the Department of  
 165 Citrus; amending s. 601.76, F.S.; deleting provisions  
 166 relating to a public records exemption for certain  
 167 formulas filed with the Department of Agriculture;  
 168 amending ss. 607.0505 and 617.0503, F.S.; deleting  
 169 provisions relating to public records exemptions for  
 170 certain information that might reveal trade secrets  
 171 held by the Department of Legal Affairs; amending s.  
 172 624.307, F.S.; authorizing the Office of Insurance  
 173 Regulation to report certain information on an  
 174 aggregate basis; amending s. 624.315, F.S.;



23-01684A-19

20191416\_\_

175 authorizing the Office of Insurance Regulation to make  
 176 certain information available on an aggregate basis;  
 177 amending s. 624.4212, F.S.; deleting provisions  
 178 relating to public records exemptions for trade  
 179 secrets held by the Office of Insurance Regulation;  
 180 revising a cross-reference; repealing s. 624.4213,  
 181 F.S., relating to trade secret documents submitted to  
 182 the Department of Financial Services or the Office of  
 183 Insurance Regulation; amending ss. 626.84195 and  
 184 626.884, F.S.; deleting provisions relating to public  
 185 records exemptions for trade secrets held by the  
 186 Office of Insurance Regulation; amending s. 626.9936,  
 187 F.S.; revising provisions relating to a public records  
 188 exemption for trade secrets held by the Office of  
 189 Insurance Regulation; amending ss. 627.0628 and  
 190 627.3518, F.S.; deleting provisions relating to public  
 191 records exemptions for trade secrets held by the  
 192 Department of Financial Services or the Office of  
 193 Insurance Regulation; amending s. 655.057, F.S.;  
 194 revising provisions relating to a public records  
 195 exemption for trade secrets held by the Office of  
 196 Financial Regulation; repealing s. 655.0591, F.S.,  
 197 relating to trade secret documents held by the Office  
 198 of Financial Regulation; amending s. 663.533, F.S.;  
 199 revising a cross-reference; repealing s. 721.071,  
 200 F.S., relating to trade secret material filed with the  
 201 Division of Florida Condominiums, Timeshares, and  
 202 Mobile Homes of the Department of Business and  
 203 Professional Regulation; amending s. 815.04, F.S.;

Page 7 of 98

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

23-01684A-19

20191416\_\_

204 deleting a public records exemption for certain trade  
 205 secret information relating to offenses against  
 206 intellectual property; repealing s. 815.045, F.S.,  
 207 relating to trade secret information; amending s.  
 208 1004.22, F.S.; revising provisions relating to public  
 209 records exemptions for trade secrets and potential  
 210 trade secrets received, generated, ascertained, or  
 211 discovered during the course of research conducted  
 212 within the state universities; amending s. 1004.30,  
 213 F.S.; revising provisions relating to public records  
 214 exemptions for trade secrets held by state university  
 215 health support organizations; amending s. 1004.43,  
 216 F.S.; revising provisions relating to public records  
 217 exemptions for trade secrets and potential trade  
 218 secrets held by the H. Lee Moffitt Cancer Center and  
 219 Research Institute; amending s. 1004.4472, F.S.;  
 220 revising provisions relating to public records  
 221 exemptions for trade secrets and potential trade  
 222 secrets held by the Florida Institute for Human and  
 223 Machine Cognition, Inc.; amending s. 1004.78, F.S.;  
 224 revising provisions relating to public records  
 225 exemptions for trade secrets and potential trade  
 226 secrets held by the technology transfers centers at  
 227 Florida College System institutions; amending s.  
 228 601.80, F.S.; correcting a cross-reference; amending  
 229 ss. 663.533, 721.13, and 921.0022, F.S.; conforming  
 230 provisions to changes made by the act; providing a  
 231 contingent effective date.  
 232

Page 8 of 98

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

23-01684A-19 20191416\_\_

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

234

235 Section 1. Section 119.07135, Florida Statutes, is created  
236 to read:

237 119.07135 Agency contracts; public records.-

238 (1) Any contract or agreement, or an addendum thereto, to  
239 which an agency or an entity subject to this chapter is a party,  
240 is a public record, except that confidential or exempt  
241 information contained therein may be redacted before release of  
242 the contract or agreement, or an addendum thereto, if the  
243 specific statutory exemption is identified.

244 (2) Notwithstanding any other provision of law, the  
245 following information related to any contract or agreement, or  
246 an addendum thereto, with an agency or an entity subject to this  
247 chapter is not confidential or exempt from s. 119.07(1) and s.  
248 24(a), Art. I of the State Constitution:

249 (a) The parties to the contract or agreement, or an  
250 addendum thereto, if the contract or agreement, or the addendum  
251 thereto, includes a provision requiring the agency or an entity  
252 subject to this chapter to expend funds.

253 (b) The amount of money paid, any payment structure or  
254 plan, expenditures, incentives, bonuses, fees, or penalties.

255 (c) The nature or type of the commodities or services  
256 purchased.

257 (d) Applicable contract unit prices and deliverables.

258 Section 2. Subsection (12) of section 24.105, Florida  
259 Statutes, is amended to read:

260 24.105 Powers and duties of department.-The department  
261 shall:

23-01684A-19 20191416\_\_

262 (12) ~~(a) Determine by rule information relating to the~~  
263 ~~operation of the lottery which is confidential and exempt from~~  
264 ~~the provisions of s. 119.07(1) and s. 24(a), Art. I of the State~~  
265 ~~Constitution. Such information includes trade secrets; security~~  
266 ~~measures, systems, or procedures; security reports; information~~  
267 ~~concerning bids or other contractual data, the disclosure of~~  
268 ~~which would impair the efforts of the department to contract for~~  
269 ~~goods or services on favorable terms; employee personnel~~  
270 ~~information unrelated to compensation, duties, qualifications,~~  
271 ~~or responsibilities; and information obtained by the Division of~~  
272 ~~Security pursuant to its investigations which is otherwise~~  
273 ~~confidential. To be deemed confidential, the information must be~~  
274 ~~necessary to the security and integrity of the lottery.~~  
275 ~~Confidential information may be released to other governmental~~  
276 ~~entities as needed in connection with the performance of their~~  
277 ~~duties. The receiving governmental entity shall retain the~~  
278 ~~confidentiality of such information as provided for in this~~  
279 ~~subsection.~~

280 (a)(b) Maintain the confidentiality of the street address  
281 and the telephone number of a winner, in that such information  
282 is confidential and exempt from the provisions of s. 119.07(1)  
283 and s. 24(a), Art. I of the State Constitution, unless the  
284 winner consents to the release of such information or as  
285 provided for in s. 24.115(4) or s. 409.2577.

286 (b)(e) Any information made confidential and exempt from  
287 the provisions of s. 119.07(1) under this subsection shall be  
288 disclosed to the Auditor General, to the Office of Program  
289 Policy Analysis and Government Accountability, or to the  
290 independent auditor selected under s. 24.123 upon such person's

23-01684A-19

20191416\_\_

291 request therefor. If the President of the Senate or the Speaker  
 292 of the House of Representatives certifies that information made  
 293 confidential under this subsection is necessary for effecting  
 294 legislative changes, the requested information shall be  
 295 disclosed to him or her, and he or she may disclose such  
 296 information to members of the Legislature and legislative staff  
 297 as necessary to effect such purpose.

298 Section 3. Paragraph (e) of subsection (1) of section  
 299 73.0155, Florida Statutes, is amended to read:  
 300 73.0155 Confidentiality; business information provided to a  
 301 governmental condemning authority.—

302 (1) The following business information provided by the  
 303 owner of a business to a governmental condemning authority as  
 304 part of an offer of business damages under s. 73.015 is  
 305 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
 306 of the State Constitution if the owner requests in writing that  
 307 the business information be held confidential and exempt:

308 (e) Materials that relate to methods of manufacture or  
 309 production ~~or, potential trade secrets,~~ patentable material, ~~or~~  
 310 ~~actual trade secrets as defined in s. 688.002.~~

311 Section 4. Paragraph (f) of subsection (1) of section  
 312 119.071, Florida Statutes, is amended to read:

313 119.071 General exemptions from inspection or copying of  
 314 public records.—

315 (1) AGENCY ADMINISTRATION.—

316 (f) ~~Data processing software obtained by an agency under a~~  
 317 ~~licensing agreement that prohibits its disclosure and which~~  
 318 ~~software is a trade secret, as defined in s. 812.081, and~~  
 319 Agency-produced data processing software that is sensitive is

23-01684A-19

20191416\_\_

320 ~~are exempt from s. 119.07(1) and s. 24(a), Art. I of the State~~  
 321 ~~Constitution. The designation of agency-produced software as~~  
 322 ~~sensitive does not prohibit an agency head from sharing or~~  
 323 ~~exchanging such software with another public agency. This~~  
 324 ~~paragraph is subject to the Open Government Sunset Review Act in~~  
 325 ~~accordance with s. 119.15 and shall stand repealed on October 2,~~  
 326 ~~2021, unless reviewed and saved from repeal through reenactment~~  
 327 ~~by the Legislature.~~

328 Section 5. Paragraph (a) of subsection (4) of section  
 329 119.0713, Florida Statutes, is amended to read:

330 119.0713 Local government agency exemptions from inspection  
 331 or copying of public records.—

332 (4) (a) Proprietary confidential business information means  
 333 information, regardless of form or characteristics, which is  
 334 held by an electric utility that is subject to this chapter, is  
 335 intended to be and is treated by the entity that provided the  
 336 information to the electric utility as private in that the  
 337 disclosure of the information would cause harm to the entity  
 338 providing the information or its business operations, and has  
 339 not been disclosed unless disclosed pursuant to a statutory  
 340 provision, an order of a court or administrative body, or a  
 341 private agreement that provides that the information will not be  
 342 released to the public. Proprietary confidential business  
 343 information includes:

344 1. ~~Trade secrets, as defined in s. 688.002.~~

345 ~~2.~~ Internal auditing controls and reports of internal  
 346 auditors.

347 ~~2.3.~~ Security measures, systems, or procedures.

348 ~~3.4.~~ Information concerning bids or other contractual data,

23-01684A-19

20191416\_\_

349 the disclosure of which would impair the efforts of the electric  
350 utility to contract for goods or services on favorable terms.

351 ~~4.5-~~ Information relating to competitive interests, the  
352 disclosure of which would impair the competitive business of the  
353 provider of the information.

354 Section 6. Paragraph (d) of subsection (9) of section  
355 125.0104, Florida Statutes, is amended to read:

356 125.0104 Tourist development tax; procedure for levying;  
357 authorized uses; referendum; enforcement.-

358 (9) COUNTY TOURISM PROMOTION AGENCIES.-In addition to any  
359 other powers and duties provided for agencies created for the  
360 purpose of tourism promotion by a county levying the tourist  
361 development tax, such agencies are authorized and empowered to:

362 (d) Undertake marketing research and advertising research  
363 studies and provide reservations services and convention and  
364 meetings booking services consistent with the authorized uses of  
365 revenue as set forth in subsection (5).

366 1. Information given to a county tourism promotion agency  
367 which, if released, would reveal the identity of persons or  
368 entities who provide data or other information as a response to  
369 a sales promotion effort, an advertisement, or a research  
370 project or whose names, addresses, meeting or convention plan  
371 information or accommodations or other visitation needs become  
372 booking or reservation list data, is exempt from s. 119.07(1)  
373 and s. 24(a), Art. I of the State Constitution.

374 2. ~~The following information,~~ When held by a county tourism  
375 promotion agency, booking business records, as defined in s.  
376 255.047, are ~~is~~ exempt from s. 119.07(1) and s. 24(a), Art. I of  
377 the State Constitution.±

23-01684A-19

20191416\_\_

378 ~~a. Booking business records, as defined in s. 255.047-~~

379 ~~b. Trade secrets and commercial or financial information~~  
380 ~~gathered from a person and privileged or confidential, as~~  
381 ~~defined and interpreted under 5 U.S.C. s. 552(b)(4), or any~~  
382 ~~amendments thereto.~~

383 ~~3. A trade secret, as defined in s. 812.081, held by a~~  
384 ~~county tourism promotion agency is exempt from s. 119.07(1) and~~  
385 ~~s. 24(a), Art. I of the State Constitution. This subparagraph is~~  
386 ~~subject to the Open Government Sunset Review Act in accordance~~  
387 ~~with s. 119.15 and shall stand repealed on October 2, 2021,~~  
388 ~~unless reviewed and saved from repeal through reenactment by the~~  
389 ~~Legislature.~~

390 Section 7. Paragraph (m) of subsection (15) of section  
391 163.01, Florida Statutes, is amended to read:

392 163.01 Florida Interlocal Cooperation Act of 1969.-

393 (15) Notwithstanding any other provision of this section or  
394 of any other law except s. 361.14, any public agency of this  
395 state which is an electric utility, or any separate legal entity  
396 created pursuant to the provisions of this section, the  
397 membership of which consists only of electric utilities, and  
398 which exercises or proposes to exercise the powers granted by  
399 part II of chapter 361, the Joint Power Act, may exercise any or  
400 all of the following powers:

401 (m) In the event that any public agency or any such legal  
402 entity, or both, should receive, in connection with its joint  
403 ownership or right to the services, output, capacity, or energy  
404 of an electric project, as defined in paragraph (3)(d), any  
405 material which is designated by the person supplying such  
406 material as proprietary confidential business information or

23-01684A-19

20191416\_\_

407 which a court of competent jurisdiction has designated as  
 408 confidential or secret shall be kept confidential and shall be  
 409 exempt from the provisions of s. 119.07(1). As used in this  
 410 paragraph, "proprietary confidential business information"  
 411 ~~includes, but is not limited to, trade secrets,~~ internal  
 412 auditing controls and reports of internal auditors; security  
 413 measures, systems, or procedures; ~~information concerning bids or~~  
 414 ~~other contractual data, the disclosure of which would impair the~~  
 415 ~~efforts of the utility to contract for services on favorable~~  
 416 ~~terms;~~ employee personnel information unrelated to compensation,  
 417 duties, qualifications, or responsibilities; and formulas,  
 418 patterns, devices, combinations of devices, ~~contract costs,~~ or  
 419 other information the disclosure of which would injure the  
 420 affected entity in the marketplace.

421 Section 8. Subsection (2) of section 202.195, Florida  
 422 Statutes, is amended to read:

423 202.195 Proprietary confidential business information;  
 424 public records exemption.-

425 (2) For the purposes of this exemption, "proprietary  
 426 confidential business information" includes maps, plans, billing  
 427 and payment records, ~~trade secrets,~~ or other information  
 428 relating to the provision of or facilities for communications  
 429 service:

430 (a) That is intended to be and is treated by the company as  
 431 confidential;

432 (b) The disclosure of which would be reasonably likely to  
 433 be used by a competitor to harm the business interests of the  
 434 company; and

435 (c) That is not otherwise readily ascertainable or publicly

23-01684A-19

20191416\_\_

436 available by proper means by other persons from another source  
 437 in the same configuration as requested by the local governmental  
 438 entity.

439  
 440 Proprietary confidential business information does not include  
 441 schematics indicating the location of facilities for a specific  
 442 site that are provided in the normal course of the local  
 443 governmental entity's permitting process.

444 Section 9. Paragraphs (a), (c), and (d) of subsection (3)  
 445 of section 215.4401, Florida Statutes, are amended to read:

446 215.4401 Board of Administration; public record  
 447 exemptions.-

448 (3) (a) As used in this subsection, the term:

449 1. "Alternative investment" means an investment by the  
 450 State Board of Administration in a private equity fund, venture  
 451 fund, hedge fund, or distress fund or a direct investment in a  
 452 portfolio company through an investment manager.

453 2. "Alternative investment vehicle" means the limited  
 454 partnership, limited liability company, or similar legal  
 455 structure or investment manager through which the State Board of  
 456 Administration invests in a portfolio company.

457 3. "Portfolio company" means a corporation or other issuer,  
 458 any of whose securities are owned by an alternative investment  
 459 vehicle or the State Board of Administration and any subsidiary  
 460 of such corporation or other issuer.

461 4. "Portfolio positions" means individual investments in  
 462 portfolio companies which are made by the alternative investment  
 463 vehicles, including information or specific investment terms  
 464 associated with any portfolio company investment.

23-01684A-19

20191416\_\_

465 5. "Proprietor" means an alternative investment vehicle, a  
 466 portfolio company in which the alternative investment vehicle is  
 467 invested, or an outside consultant, including the respective  
 468 authorized officers, employees, agents, or successors in  
 469 interest, which controls or owns information provided to the  
 470 State Board of Administration.

471 6. "Proprietary confidential business information" means  
 472 information that has been designated by the proprietor when  
 473 provided to the State Board of Administration as information  
 474 that is owned or controlled by a proprietor; that is intended to  
 475 be and is treated by the proprietor as private, the disclosure  
 476 of which would harm the business operations of the proprietor  
 477 and has not been intentionally disclosed by the proprietor  
 478 unless pursuant to a private agreement that provides that the  
 479 information will not be released to the public except as  
 480 required by law or legal process, or pursuant to law or an order  
 481 of a court or administrative body; and that concerns:

482 a. ~~Trade secrets as defined in s. 688.002.~~

483 ~~b.~~ Information provided to the State Board of  
 484 Administration regarding a prospective investment in a private  
 485 equity fund, venture fund, hedge fund, distress fund, or  
 486 portfolio company which is proprietary to the provider of the  
 487 information.

488 ~~b.e.~~ Financial statements and auditor reports of an  
 489 alternative investment vehicle.

490 ~~c.d.~~ Meeting materials of an alternative investment vehicle  
 491 relating to financial, operating, or marketing information of  
 492 the alternative investment vehicle.

493 ~~d.e.~~ Information regarding the portfolio positions in which

23-01684A-19

20191416\_\_

494 the alternative investment vehicles invest.

495 ~~e.f.~~ Capital call and distribution notices to investors of  
 496 an alternative investment vehicle.

497 ~~f.g.~~ Alternative investment agreements and related records.

498 ~~g.h.~~ Information concerning investors, other than the State  
 499 Board of Administration, in an alternative investment vehicle.

500 7. "Proprietary confidential business information" does not  
 501 include:

502 a. The name, address, and vintage year of an alternative  
 503 investment vehicle and the identity of the principals involved  
 504 in the management of the alternative investment vehicle.

505 b. The dollar amount of the commitment made by the State  
 506 Board of Administration to each alternative investment vehicle  
 507 since inception.

508 c. The dollar amount and date of cash contributions made by  
 509 the State Board of Administration to each alternative investment  
 510 vehicle since inception.

511 d. The dollar amount, on a fiscal-year-end basis, of cash  
 512 distributions received by the State Board of Administration from  
 513 each alternative investment vehicle.

514 e. The dollar amount, on a fiscal-year-end basis, of cash  
 515 distributions received by the State Board of Administration plus  
 516 the remaining value of alternative-vehicle assets that are  
 517 attributable to the State Board of Administration's investment  
 518 in each alternative investment vehicle.

519 f. The net internal rate of return of each alternative  
 520 investment vehicle since inception.

521 g. The investment multiple of each alternative investment  
 522 vehicle since inception.

23-01684A-19

20191416\_\_

523 h. The dollar amount of the total management fees and costs  
524 paid on an annual fiscal-year-end basis by the State Board of  
525 Administration to each alternative investment vehicle.

526 i. The dollar amount of cash profit received by the State  
527 Board of Administration from each alternative investment vehicle  
528 on a fiscal-year-end basis.

529 j. A description of any compensation, fees, or expenses,  
530 including the amount or value, paid or agreed to be paid by a  
531 proprietor to any person to solicit the board to make an  
532 alternative investment or investment through an alternative  
533 investment vehicle. This does not apply to an executive officer,  
534 general partner, managing member, or other employee of the  
535 proprietor, who is paid by the proprietor to solicit the board  
536 to make such investments.

537 (c)1. Notwithstanding the provisions of paragraph (b), a  
538 request to inspect or copy a record under s. 119.07(1) that  
539 contains proprietary confidential business information shall be  
540 granted if the proprietor of the information fails, within a  
541 reasonable period of time after the request is received by the  
542 State Board of Administration, to verify the following to the  
543 State Board of Administration through a written declaration in  
544 the manner provided by s. 92.525:

545 a. That the requested record contains proprietary  
546 confidential business information and the specific location of  
547 such information within the record;

548 b. ~~If the proprietary confidential business information is~~  
549 ~~a trade secret, a verification that it is a trade secret as~~  
550 ~~defined in s. 688.002;~~

551 e. That the proprietary confidential business information

23-01684A-19

20191416\_\_

552 is intended to be and is treated by the proprietor as private,  
553 is the subject of efforts of the proprietor to maintain its  
554 privacy, and is not readily ascertainable or publicly available  
555 from any other source; and

556 ~~c.~~ That the disclosure of the proprietary confidential  
557 business information to the public would harm the business  
558 operations of the proprietor.

559 2. The State Board of Administration shall maintain a list  
560 and a description of the records covered by any verified,  
561 written declaration made under this paragraph.

562 (d) Any person may petition a court of competent  
563 jurisdiction for an order for the public release of those  
564 portions of any record made confidential and exempt by paragraph  
565 (b). Any action under this paragraph must be brought in Leon  
566 County, Florida, and the petition or other initial pleading  
567 shall be served on the State Board of Administration and, if  
568 determinable upon diligent inquiry, on the proprietor of the  
569 information sought to be released. In any order for the public  
570 release of a record under this paragraph, the court shall make a  
571 finding ~~that the record or portion thereof is not a trade secret~~  
572 ~~as defined in s. 688.002,~~ that a compelling public interest is  
573 served by the release of the record or portions thereof which  
574 exceed the public necessity for maintaining the confidentiality  
575 of such record, and that the release of the record will not  
576 cause damage to or adversely affect the interests of the  
577 proprietor of the released information, other private persons or  
578 business entities, the State Board of Administration, or any  
579 trust fund, the assets of which are invested by the State Board  
580 of Administration.

23-01684A-19

20191416\_\_

581 Section 10. Subsection (1) of section 252.88, Florida  
 582 Statutes, is amended to read:  
 583 252.88 Public records.—  
 584 (1) Whenever EPCRA authorizes an employer to exclude trade  
 585 secret information from its submittals, the employer shall  
 586 furnish the information so excluded to the commission upon  
 587 request. ~~Such information shall be confidential and exempt from~~  
 588 ~~the provisions of s. 119.07(1). The commission shall not~~  
 589 ~~disclose such information except pursuant to a final~~  
 590 ~~determination under s. 322 of EPCRA by the Administrator of the~~  
 591 ~~Environmental Protection Agency that such information is not~~  
 592 ~~entitled to trade secret protection, or pursuant to an order of~~  
 593 ~~court.~~  
 594 Section 11. Section 252.943, Florida Statutes, is repealed.  
 595 Section 12. Paragraph (h) of subsection (2) of section  
 596 287.0943, Florida Statutes, is amended to read:  
 597 287.0943 Certification of minority business enterprises.—  
 598 (2)  
 599 (h) The certification procedures should allow an applicant  
 600 seeking certification to designate on the application form the  
 601 information the applicant considers to be proprietary,  
 602 confidential business information. As used in this paragraph,  
 603 "proprietary, confidential business information" includes, ~~but~~  
 604 ~~is not limited to,~~ any information that would be exempt from  
 605 public inspection pursuant to the provisions of chapter 119;  
 606 ~~trade secrets,~~ internal auditing controls and reports; ~~contract~~  
 607 ~~costs,~~ or other information the disclosure of which would injure  
 608 the affected party in the marketplace or otherwise violate s.  
 609 286.041. The executor in receipt of the application shall issue

Page 21 of 98

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

23-01684A-19

20191416\_\_

610 written and final notice of any information for which  
 611 noninspection is requested but not provided for by law.  
 612 Section 13. Subsection (7) of section 288.047, Florida  
 613 Statutes, is amended to read:  
 614 288.047 Quick-response training for economic development.—  
 615 (7) In providing instruction pursuant to this section,  
 616 materials that relate to methods of manufacture or production,  
 617 ~~potential trade secrets,~~ business transactions, or proprietary  
 618 information received, produced, ascertained, or discovered by  
 619 employees of the respective departments, district school boards,  
 620 community college district boards of trustees, or other  
 621 personnel employed for the purposes of this section is  
 622 confidential and exempt from the provisions of s. 119.07(1). The  
 623 state may seek copyright protection for instructional materials  
 624 and ancillary written documents developed wholly or partially  
 625 with state funds as a result of instruction provided pursuant to  
 626 this section, except for materials that are confidential and  
 627 exempt from the provisions of s. 119.07(1).  
 628 Section 14. Paragraph (c) of subsection (1) and subsection  
 629 (3) of section 288.075, Florida Statutes, are amended, and  
 630 present subsections (4) through (7) of that section are  
 631 renumbered as subsections (3) through (6), respectively, to  
 632 read:  
 633 288.075 Confidentiality of records.—  
 634 (1) DEFINITIONS.—As used in this section, the term:  
 635 ~~(c) "Trade secret" has the same meaning as in s. 688.002.~~  
 636 ~~(3) TRADE SECRETS. Trade secrets held by an economic~~  
 637 ~~development agency are confidential and exempt from s. 119.07(1)~~  
 638 ~~and s. 24(a), Art. I of the State Constitution.~~

Page 22 of 98

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



23-01684A-19

20191416\_\_

639 Section 15. Subsection (9) of section 288.1226, Florida  
640 Statutes, is amended to read:

641 288.1226 Florida Tourism Industry Marketing Corporation;  
642 use of property; board of directors; duties; audit.—

643 (9) PUBLIC RECORDS EXEMPTION.—The identity of any person  
644 who responds to a marketing project or advertising research  
645 project conducted by the corporation in the performance of its  
646 duties on behalf of Enterprise Florida, Inc., is or trade  
647 ~~secrets as defined by s. 812.081 obtained pursuant to such~~  
648 ~~activities, are exempt from s. 119.07(1) and s. 24(a), Art. I of~~  
649 ~~the State Constitution. This subsection is subject to the Open~~  
650 ~~Government Sunset Review Act in accordance with s. 119.15 and~~  
651 ~~shall stand repealed on October 2, 2021, unless reviewed and~~  
652 ~~saved from repeal through reenactment by the Legislature.~~

653 Section 16. Paragraph (d) of subsection (3) of section  
654 288.776, Florida Statutes, is amended to read:

655 288.776 Board of directors; powers and duties.—

656 (3) The board shall:

657 (d) Adopt policies, including criteria, establishing which  
658 exporters and export transactions shall be eligible for  
659 insurance, coinsurance, loan guarantees, and direct, guaranteed,  
660 or collateralized loans which may be extended by the  
661 corporation. Pursuant to this subsection, the board shall  
662 include the following criteria:

663 1. Any individual signing any corporation loan application  
664 and loan or guarantee agreement shall have an equity in the  
665 business applying for financial assistance.

666 2. Each program shall exclusively support the export of  
667 goods and services by small and medium-sized businesses which

23-01684A-19

20191416\_\_

668 are domiciled in this state. Priority shall be given to goods  
669 which have value added in this state.

670 3. Financial assistance shall only be extended when at  
671 least one of the following circumstances exists:

672 a. The assistance is required to secure the participation  
673 of small and medium-sized export businesses in federal, state,  
674 or private financing programs.

675 b. No conventional source of lender support is available  
676 for the business from public or private financing sources.

677  
678 Personal financial records, ~~trade secrets~~, or proprietary  
679 information of applicants shall be confidential and exempt from  
680 the provisions of s. 119.07(1).

681 Section 17. Section 288.9520, Florida Statutes, is amended  
682 to read:

683 288.9520 Public records exemption.—Materials that relate to  
684 methods of manufacture or production, ~~potential trade secrets~~,  
685 potentially patentable material, ~~actual trade secrets~~, business  
686 transactions, financial and proprietary information, and  
687 agreements or proposals to receive funding that are received,  
688 generated, ascertained, or discovered by Enterprise Florida,  
689 Inc., including its affiliates or subsidiaries and partnership  
690 participants, such as private enterprises, educational  
691 institutions, and other organizations, are confidential and  
692 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I  
693 of the State Constitution, except that a recipient of Enterprise  
694 Florida, Inc., research funds shall make available, upon  
695 request, the title and description of the research project, the  
696 name of the researcher, and the amount and source of funding

23-01684A-19

20191416\_\_

697 provided for the project.

698 Section 18. Subsection (5) of section 288.9607, Florida  
699 Statutes, is amended to read:

700 288.9607 Guaranty of bond issues.—

701 (5) Personal financial records, ~~trade secrets~~, or  
702 proprietary information of applicants delivered to or obtained  
703 by the corporation shall be confidential and exempt from the  
704 provisions of s. 119.07(1).

705 Section 19. Paragraph (f) of subsection (1), paragraph (a)  
706 of subsection (2), paragraph (a) of subsection (3), and  
707 paragraphs (b) and (c) of subsection (4) of section 288.9626,  
708 Florida Statutes, are amended to read:

709 288.9626 Exemptions from public records and public meetings  
710 requirements for the Florida Opportunity Fund.—

711 (1) DEFINITIONS.—As used in this section, the term:

712 (f)1. "Proprietary confidential business information" means  
713 information that has been designated by the proprietor when  
714 provided to the Florida Opportunity Fund as information that is  
715 owned or controlled by a proprietor; that is intended to be and  
716 is treated by the proprietor as private, the disclosure of which  
717 would harm the business operations of the proprietor and has not  
718 been intentionally disclosed by the proprietor unless pursuant  
719 to a private agreement that provides that the information will  
720 not be released to the public except as required by law or legal  
721 process, or pursuant to law or an order of a court or  
722 administrative body; and that concerns:

723 a. ~~Trade secrets as defined in s. 688.002.~~

724 b. Information provided to the Florida Opportunity Fund  
725 regarding an existing or prospective alternative investment in a

Page 25 of 98

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

23-01684A-19

20191416\_\_

726 private equity fund, venture capital fund, angel fund, or  
727 portfolio company that is proprietary to the provider of the  
728 information.

729 b.e. Financial statements and auditor reports of an  
730 alternative investment vehicle or portfolio company, unless  
731 publicly released by the alternative investment vehicle or  
732 portfolio company.

733 c.d. Meeting materials of an alternative investment vehicle  
734 or portfolio company relating to financial, operating, or  
735 marketing information of the alternative investment vehicle or  
736 portfolio company.

737 d.e. Information regarding the portfolio positions in which  
738 the alternative investment vehicles or Florida Opportunity Fund  
739 invest.

740 e.f. Capital call and distribution notices to investors or  
741 the Florida Opportunity Fund of an alternative investment  
742 vehicle.

743 f.g. Alternative investment agreements and related records.

744 g.h. Information concerning investors, other than the  
745 Florida Opportunity Fund, in an alternative investment vehicle  
746 or portfolio company.

747 2. "Proprietary confidential business information" does not  
748 include:

749 a. The name, address, and vintage year of an alternative  
750 investment vehicle or Florida Opportunity Fund and the identity  
751 of the principals involved in the management of the alternative  
752 investment vehicle or Florida Opportunity Fund.

753 b. The dollar amount of the commitment made by the Florida  
754 Opportunity Fund to each alternative investment vehicle since

Page 26 of 98

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

23-01684A-19

20191416\_\_

755 inception, if any.

756 c. The dollar amount and date of cash contributions made by  
757 the Florida Opportunity Fund to each alternative investment  
758 vehicle since inception, if any.

759 d. The dollar amount, on a fiscal-year-end basis, of cash  
760 or other fungible distributions received by the Florida  
761 Opportunity Fund from each alternative investment vehicle.

762 e. The dollar amount, on a fiscal-year-end basis, of cash  
763 or other fungible distributions received by the Florida  
764 Opportunity Fund plus the remaining value of alternative-vehicle  
765 assets that are attributable to the Florida Opportunity Fund's  
766 investment in each alternative investment vehicle.

767 f. The net internal rate of return of each alternative  
768 investment vehicle since inception.

769 g. The investment multiple of each alternative investment  
770 vehicle since inception.

771 h. The dollar amount of the total management fees and costs  
772 paid on an annual fiscal-year-end basis by the Florida  
773 Opportunity Fund to each alternative investment vehicle.

774 i. The dollar amount of cash profit received by the Florida  
775 Opportunity Fund from each alternative investment vehicle on a  
776 fiscal-year-end basis.

777 (2) PUBLIC RECORDS EXEMPTION.—

778 (a) The following records held by the Florida Opportunity  
779 Fund are confidential and exempt from s. 119.07(1) and s. 24(a),  
780 Art. I of the State Constitution:

781 1. Materials that relate to methods of manufacture or  
782 production, ~~potential trade secrets~~, or patentable material  
783 received, generated, ascertained, or discovered during the

Page 27 of 98

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

23-01684A-19

20191416\_\_

784 course of research or through research projects and that are  
785 provided by a proprietor.

786 2. Information that would identify an investor or potential  
787 investor who desires to remain anonymous in projects reviewed by  
788 the Florida Opportunity Fund.

789 3. Proprietary confidential business information regarding  
790 alternative investments for 7 years after the termination of the  
791 alternative investment.

792 (3) PUBLIC MEETINGS EXEMPTION.—

793 (a) That portion of a meeting of the board of directors of  
794 the Florida Opportunity Fund at which information is discussed  
795 which is confidential and exempt under subsection (2) or s.  
796 688.01 is exempt from s. 286.011 and s. 24(b), Art. I of the  
797 State Constitution.

798 (4) REQUEST TO INSPECT OR COPY A RECORD.—

799 (b) Notwithstanding the provisions of paragraph (2) (a), a  
800 request to inspect or copy a public record that contains  
801 proprietary confidential business information shall be granted  
802 if the proprietor of the information fails, within a reasonable  
803 period of time after the request is received by the Florida  
804 Opportunity Fund, to verify the following to the Florida  
805 Opportunity Fund through a written declaration in the manner  
806 provided by s. 92.525:

807 1. That the requested record contains proprietary  
808 confidential business information and the specific location of  
809 such information within the record;

810 2. ~~If the proprietary confidential business information is~~  
811 ~~a trade secret, a verification that it is a trade secret as~~  
812 ~~defined in s. 688.002;~~

Page 28 of 98

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

23-01684A-19

20191416\_\_

813 ~~3.~~ That the proprietary confidential business information  
814 is intended to be and is treated by the proprietor as private,  
815 is the subject of efforts of the proprietor to maintain its  
816 privacy, and is not readily ascertainable or publicly available  
817 from any other source; and

818 ~~3.4.~~ That the disclosure of the proprietary confidential  
819 business information to the public would harm the business  
820 operations of the proprietor.

821 (c)1. Any person may petition a court of competent  
822 jurisdiction for an order for the public release of those  
823 portions of any record made confidential and exempt by  
824 subsection (2).

825 2. Any action under this subsection must be brought in  
826 Orange County, and the petition or other initial pleading shall  
827 be served on the Florida Opportunity Fund and, if determinable  
828 upon diligent inquiry, on the proprietor of the information  
829 sought to be released.

830 3. In any order for the public release of a record under  
831 this subsection, the court shall make a finding that:

832 a. ~~The record or portion thereof is not a trade secret as~~  
833 ~~defined in s. 688.002;~~

834 ~~b.~~ A compelling public interest is served by the release of  
835 the record or portions thereof which exceed the public necessity  
836 for maintaining the confidentiality of such record; and

837 ~~d.e.~~ The release of the record will not cause damage to or  
838 adversely affect the interests of the proprietor of the released  
839 information, other private persons or business entities, or the  
840 Florida Opportunity Fund.

841 Section 20. Paragraph (b) of subsection (1), paragraph (a)

Page 29 of 98

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

23-01684A-19

20191416\_\_

842 of subsection (2), paragraph (a) of subsection (3), and  
843 paragraphs (b) and (c) of subsection (4) of section 288.9627,  
844 Florida Statutes, are amended to read:

845 288.9627 Exemptions from public records and public meetings  
846 requirements for the Institute for Commercialization of Florida  
847 Technology.—

848 (1) DEFINITIONS.—As used in this section, the term:

849 (b)1. "Proprietary confidential business information" means  
850 information that has been designated by the proprietor when  
851 provided to the institute as information that is owned or  
852 controlled by a proprietor; that is intended to be and is  
853 treated by the proprietor as private, the disclosure of which  
854 would harm the business operations of the proprietor and has not  
855 been intentionally disclosed by the proprietor unless pursuant  
856 to a private agreement that provides that the information will  
857 not be released to the public except as required by law or legal  
858 process, or pursuant to law or an order of a court or  
859 administrative body; and that concerns:

860 a. ~~Trade secrets as defined in s. 688.002.~~

861 ~~b.~~ Financial statements and internal or external auditor  
862 reports of a proprietor corporation, partnership, or person  
863 requesting confidentiality under this statute, unless publicly  
864 released by the proprietor.

865 ~~b.e.~~ Meeting materials related to financial, operating,  
866 investment, or marketing information of the proprietor  
867 corporation, partnership, or person.

868 ~~c.d.~~ Information concerning private investors in the  
869 proprietor corporation, partnership, or person.

870 2. "Proprietary confidential business information" does not

Page 30 of 98

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

23-01684A-19

20191416\_\_

871 include:

- 872 a. The identity and primary address of the proprietor's  
873 principals.
- 874 b. The dollar amount and date of the financial commitment  
875 or contribution made by the institute.
- 876 c. The dollar amount, on a fiscal-year-end basis, of cash  
877 repayments or other fungible distributions received by the  
878 institute from each proprietor.
- 879 d. The dollar amount, if any, of the total management fees  
880 and costs paid on an annual fiscal-year-end basis by the  
881 institute.

## (2) PUBLIC RECORDS EXEMPTION.—

883 (a) The following records held by the institute are  
884 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
885 of the State Constitution:

- 886 1. Materials that relate to methods of manufacture or  
887 production, ~~potential trade secrets~~, or patentable material  
888 received, generated, ascertained, or discovered during the  
889 course of research or through research projects conducted by  
890 universities and other publicly supported organizations in this  
891 state and that are provided to the institute by a proprietor.
- 892 2. Information that would identify an investor or potential  
893 investor who desires to remain anonymous in projects reviewed by  
894 the institute for assistance.
- 895 3. Any information received from a person from another  
896 state or nation or the Federal Government which is otherwise  
897 confidential or exempt pursuant to the laws of that state or  
898 nation or pursuant to federal law.
- 899 4. Proprietary confidential business information for 7

Page 31 of 98

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

23-01684A-19

20191416\_\_

900 years after the termination of the institute's financial  
901 commitment to the company.

## (3) PUBLIC MEETINGS EXEMPTION.—

903 (a) That portion of a meeting of the institute's board of  
904 directors at which information is discussed which is  
905 confidential and exempt under subsection (2) or s. 688.01 is  
906 exempt from s. 286.011 and s. 24(b), Art. I of the State  
907 Constitution.

## (4) REQUEST TO INSPECT OR COPY A RECORD.—

909 (b) Notwithstanding the provisions of paragraph (2)(a), a  
910 request to inspect or copy a public record that contains  
911 proprietary confidential business information shall be granted  
912 if the proprietor of the information fails, within a reasonable  
913 period of time after the request is received by the institute,  
914 to verify the following to the institute through a written  
915 declaration in the manner provided by s. 92.525:

- 916 1. That the requested record contains proprietary  
917 confidential business information and the specific location of  
918 such information within the record;
- 919 2. ~~If the proprietary confidential business information is~~  
920 ~~a trade secret, a verification that it is a trade secret as~~  
921 ~~defined in s. 688.002;~~
- 922 ~~3.~~ That the proprietary confidential business information  
923 is intended to be and is treated by the proprietor as private,  
924 is the subject of efforts of the proprietor to maintain its  
925 privacy, and is not readily ascertainable or publicly available  
926 from any other source; and
- 927 3.4. That the disclosure of the proprietary confidential  
928 business information to the public would harm the business

Page 32 of 98

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

23-01684A-19

20191416\_\_

929 operations of the proprietor.

930 (c)1. Any person may petition a court of competent  
931 jurisdiction for an order for the public release of those  
932 portions of any record made confidential and exempt by  
933 subsection (2).

934 2. Any action under this subsection must be brought in Palm  
935 Beach County or Alachua County, and the petition or other  
936 initial pleading shall be served on the institute and, if  
937 determinable upon diligent inquiry, on the proprietor of the  
938 information sought to be released.

939 3. In any order for the public release of a record under  
940 this subsection, the court shall make a finding that:

941 a. ~~The record or portion thereof is not a trade secret as~~  
942 ~~defined in s. 688.002;~~

943 ~~b.~~ A compelling public interest is served by the release of  
944 the record or portions thereof which exceed the public necessity  
945 for maintaining the confidentiality of such record; and

946 ~~b.e.~~ The release of the record will not cause damage to or  
947 adversely affect the interests of the proprietor of the released  
948 information, other private persons or business entities, or the  
949 institute.

950 Section 21. Section 331.326, Florida Statutes, is amended  
951 to read:

952 331.326 Information relating to trade secrets  
953 confidential.—The records of Space Florida regarding matters  
954 encompassed by this act are public records subject to chapter  
955 119. ~~Any information held by Space Florida which is a trade~~  
956 ~~secret, as defined in s. 812.081, including trade secrets of~~  
957 ~~Space Florida, any spaceport user, or the space industry~~

23-01684A-19

20191416\_\_

958 ~~business, is confidential and exempt from s. 119.07(1) and s.~~  
959 ~~24(a), Art. I of the State Constitution and may not be~~  
960 ~~disclosed. If Space Florida determines that any information~~  
961 ~~requested by the public will reveal a trade secret, it shall, in~~  
962 ~~writing, inform the person making the request of that~~  
963 ~~determination. The determination is a final order as defined in~~  
964 ~~s. 120.52. Any meeting or portion of a meeting of Space~~  
965 ~~Florida's board is exempt from s. 286.011 and s. 24(b), Art. I~~  
966 ~~of the State Constitution when the board is discussing trade~~  
967 ~~secrets as defined in s. 688.01. Any public record generated~~  
968 ~~during the closed portions of the meetings, such as minutes,~~  
969 ~~tape recordings, and notes, is confidential and exempt from s.~~  
970 ~~119.07(1) and s. 24(a), Art. I of the State Constitution. This~~  
971 ~~section is subject to the Open Government Sunset Review Act in~~  
972 ~~accordance with s. 119.15 and shall stand repealed on October 2,~~  
973 ~~2021, unless reviewed and saved from repeal through reenactment~~  
974 ~~by the Legislature.~~

975 Section 22. Present subsection (4) of section 334.049,  
976 Florida Statutes, is amended, and present subsection (5) of that  
977 section is renumbered as subsection (4), to read:

978 334.049 Patents, copyrights, trademarks; notice to  
979 Department of State; ~~confidentiality of trade secrets.—~~

980 ~~(4) Any information obtained by the department as a result~~  
981 ~~of research and development projects and revealing a method of~~  
982 ~~process, production, or manufacture which is a trade secret as~~  
983 ~~defined in s. 688.002, is confidential and exempt from the~~  
984 ~~provisions of s. 119.07(1).~~

985 Section 23. Section 350.121, Florida Statutes, is amended  
986 to read:

23-01684A-19

20191416\_\_

987 350.121 Commission inquiries; confidentiality of business  
 988 material.—If the commission undertakes an inquiry, any records,  
 989 documents, papers, maps, books, tapes, photographs, files, sound  
 990 recordings, or other business material, regardless of form or  
 991 characteristics, obtained by the commission incident to the  
 992 inquiry are considered confidential and exempt from s. 119.07(1)  
 993 while the inquiry is pending. If at the conclusion of an inquiry  
 994 the commission undertakes a formal proceeding, any matter  
 995 determined by the commission or by a judicial or administrative  
 996 body, federal or state, to be ~~trade secrets or~~ proprietary  
 997 confidential business information coming into its possession  
 998 pursuant to such inquiry shall be considered confidential and  
 999 exempt from s. 119.07(1). Such material may be used in any  
 1000 administrative or judicial proceeding so long as the  
 1001 confidential or proprietary nature of the material is  
 1002 maintained.

1003 Section 24. Subsection (3) of section 364.183, Florida  
 1004 Statutes, is amended to read:

1005 364.183 Access to company records.—

1006 (3) The term “proprietary confidential business  
 1007 information” means information, regardless of form or  
 1008 characteristics, which is owned or controlled by the person or  
 1009 company, is intended to be and is treated by the person or  
 1010 company as private in that the disclosure of the information  
 1011 would cause harm to the ratepayers or the person’s or company’s  
 1012 business operations, and has not been disclosed unless disclosed  
 1013 pursuant to a statutory provision, an order of a court or  
 1014 administrative body, or private agreement that provides that the  
 1015 information will not be released to the public. The term

Page 35 of 98

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

23-01684A-19

20191416\_\_

1016 includes, ~~but is not limited to:~~

1017 (a) ~~Trade secrets.~~

1018 ~~(b)~~ Internal auditing controls and reports of internal  
 1019 auditors.

1020 ~~(b)(c)~~ Security measures, systems, or procedures.

1021 ~~(c)(d)~~ Information concerning bids or other contractual  
 1022 data, the disclosure of which would impair the efforts of the  
 1023 company or its affiliates to contract for goods or services on  
 1024 favorable terms.

1025 ~~(d)(e)~~ Information relating to competitive interests, the  
 1026 disclosure of which would impair the competitive business of the  
 1027 provider of information.

1028 ~~(e)(f)~~ Employee personnel information unrelated to  
 1029 compensation, duties, qualifications, or responsibilities.

1030 Section 25. Subsection (3) of section 365.174, Florida  
 1031 Statutes, is amended to read:

1032 365.174 Proprietary confidential business information.—

1033 (3) As used in this section, the term “proprietary  
 1034 confidential business information” means customer lists,  
 1035 customer numbers, individual or aggregate customer data by  
 1036 location, usage and capacity data, network facilities used to  
 1037 serve subscribers, technology descriptions, or technical  
 1038 information, ~~or trade secrets, including trade secrets as~~  
 1039 ~~defined in s. 812.001~~, and the actual or developmental costs of  
 1040 E911 systems that are developed, produced, or received  
 1041 internally by a provider or by a provider’s employees,  
 1042 directors, officers, or agents.

1043 Section 26. Subsection (3) of section 366.093, Florida  
 1044 Statutes, is amended to read:

Page 36 of 98

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

23-01684A-19

20191416\_\_

1045 366.093 Public utility records; confidentiality.-  
 1046 (3) Proprietary confidential business information means  
 1047 information, regardless of form or characteristics, which is  
 1048 owned or controlled by the person or company, is intended to be  
 1049 and is treated by the person or company as private in that the  
 1050 disclosure of the information would cause harm to the ratepayers  
 1051 or the person's or company's business operations, and has not  
 1052 been disclosed unless disclosed pursuant to a statutory  
 1053 provision, an order of a court or administrative body, or  
 1054 private agreement that provides that the information will not be  
 1055 released to the public. Proprietary confidential business  
 1056 information includes, ~~but is not limited to:~~  
 1057 (a) ~~Trade secrets.~~  
 1058 ~~(b)~~ Internal auditing controls and reports of internal  
 1059 auditors.  
 1060 (b)(e) Security measures, systems, or procedures.  
 1061 (c)(d) Information concerning bids or other contractual  
 1062 data, the disclosure of which would impair the efforts of the  
 1063 public utility or its affiliates to contract for goods or  
 1064 services on favorable terms.  
 1065 (d)(e) Information relating to competitive interests, the  
 1066 disclosure of which would impair the competitive business of the  
 1067 provider of the information.  
 1068 (e)(f) Employee personnel information unrelated to  
 1069 compensation, duties, qualifications, or responsibilities.  
 1070 Section 27. Subsection (3) of section 367.156, Florida  
 1071 Statutes, is amended to read:  
 1072 367.156 Public utility records; confidentiality.-  
 1073 (3) Proprietary confidential business information means

Page 37 of 98

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

23-01684A-19

20191416\_\_

1074 information, regardless of form or characteristics, which is  
 1075 owned or controlled by the person or company, is intended to be  
 1076 and is treated by the person or company as private in that the  
 1077 disclosure of the information would cause harm to the ratepayers  
 1078 or the person's or company's business operations, and has not  
 1079 been disclosed unless disclosed pursuant to a statutory  
 1080 provision, an order of a court or administrative body, or a  
 1081 private agreement that provides that the information will not be  
 1082 released to the public. Proprietary business information  
 1083 includes, ~~but is not limited to:~~  
 1084 (a) ~~Trade secrets.~~  
 1085 ~~(b)~~ Internal auditing controls and reports of internal  
 1086 auditors.  
 1087 (b)(e) Security measures, systems, or procedures.  
 1088 (c)(d) Information concerning bids or other contractual  
 1089 data, the disclosure of which would impair the efforts of the  
 1090 utility or its affiliates to contract for goods or services on  
 1091 favorable terms.  
 1092 (d)(e) Information relating to competitive interests, the  
 1093 disclosure of which would impair the competitive businesses of  
 1094 the provider of the information.  
 1095 (e)(f) Employee personnel information unrelated to  
 1096 compensation, duties, qualifications, or responsibilities.  
 1097 Section 28. Subsection (3) of section 368.108, Florida  
 1098 Statutes, is amended to read:  
 1099 368.108 Confidentiality; discovery.-  
 1100 (3) "Proprietary confidential business information" means  
 1101 information, regardless of form or characteristics, which is  
 1102 owned or controlled by the person or company, is intended to be

Page 38 of 98

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



23-01684A-19

20191416\_\_

1103 and is treated by the person or company as private in that the  
 1104 disclosure of the information would cause harm to the ratepayers  
 1105 or the person's or company's business operations, and has not  
 1106 been disclosed unless disclosed pursuant to a statutory  
 1107 provision, an order of a court or administrative body, or a  
 1108 private agreement that provides that the information will not be  
 1109 released to the public. "Proprietary confidential business  
 1110 information" includes, ~~but is not limited to:~~

1111 (a) ~~Trade secrets.~~

1112 ~~(b)~~ Internal auditing controls and reports of internal  
 1113 auditors.

1114 ~~(b)~~ (c) Security measures, systems, or procedures.

1115 ~~(c)~~ (d) Information concerning bids or other contractual  
 1116 data, the disclosure of which would impair the efforts of the  
 1117 natural gas transmission company or its affiliates to contract  
 1118 for goods or services on favorable terms.

1119 ~~(d)~~ (e) Information relating to competitive interests, the  
 1120 disclosure of which would impair the competitive business of the  
 1121 provider of the information.

1122 ~~(e)~~ (f) Employee personnel information unrelated to  
 1123 compensation, duties, qualifications, or responsibilities.

1124 Section 29. Section 381.83, Florida Statutes, is repealed.

1125 Section 30. Paragraph (c) of subsection (2) of section  
 1126 395.3035, Florida Statutes, is amended to read:

1127 395.3035 Confidentiality of hospital records and meetings.-

1128 (2) The following records and information of any hospital  
 1129 that is subject to chapter 119 and s. 24(a), Art. I of the State  
 1130 Constitution are confidential and exempt from the provisions of  
 1131 s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

23-01684A-19

20191416\_\_

1132 (c) ~~Trade secrets, as defined in s. 688.002, including~~  
 1133 Reimbursement methodologies and rates.

1134 Section 31. Subsection (2) and paragraph (b) of subsection  
 1135 (3) of section 403.7046, Florida Statutes, are amended to read:  
 1136 403.7046 Regulation of recovered materials.-

1137 (2) Notwithstanding s. 688.01, information reported  
 1138 pursuant to this section or any rule adopted pursuant to this  
 1139 section which, if disclosed, would reveal a trade secret, as  
 1140 defined in s. 688.01, may be provided by the department ~~or~~  
 1141 ~~812.081, is confidential and exempt from s. 119.07(1) and s.~~  
 1142 ~~24(a), Art. I of the State Constitution. For reporting or~~  
 1143 ~~information purposes, however, the department may provide this~~  
 1144 ~~information in such form that the names of the persons reporting~~  
 1145 ~~such information and the specific information reported are not~~  
 1146 ~~revealed. This subsection is subject to the Open Government~~  
 1147 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~  
 1148 ~~repealed on October 2, 2021, unless reviewed and saved from~~  
 1149 ~~repeal through reenactment by the Legislature.~~

1150 (3) Except as otherwise provided in this section or  
 1151 pursuant to a special act in effect on or before January 1,  
 1152 1993, a local government may not require a commercial  
 1153 establishment that generates source-separated recovered  
 1154 materials to sell or otherwise convey its recovered materials to  
 1155 the local government or to a facility designated by the local  
 1156 government, nor may the local government restrict such a  
 1157 generator's right to sell or otherwise convey such recovered  
 1158 materials to any properly certified recovered materials dealer  
 1159 who has satisfied the requirements of this section. A local  
 1160 government may not enact any ordinance that prevents such a

23-01684A-19

20191416\_\_

1161 dealer from entering into a contract with a commercial  
 1162 establishment to purchase, collect, transport, process, or  
 1163 receive source-separated recovered materials.

1164 (b) ~~1~~ Before engaging in business within the jurisdiction  
 1165 of the local government, a recovered materials dealer or  
 1166 pyrolysis facility must provide the local government with a copy  
 1167 of the certification provided for in this section. In addition,  
 1168 the local government may establish a registration process  
 1169 whereby a recovered materials dealer or pyrolysis facility must  
 1170 register with the local government before engaging in business  
 1171 within the jurisdiction of the local government. Such  
 1172 registration process is limited to requiring the dealer or  
 1173 pyrolysis facility to register its name, including the owner or  
 1174 operator of the dealer or pyrolysis facility, and, if the dealer  
 1175 or pyrolysis facility is a business entity, its general or  
 1176 limited partners, its corporate officers and directors, its  
 1177 permanent place of business, evidence of its certification under  
 1178 this section, and a certification that the recovered materials  
 1179 or post-use polymers will be processed at a recovered materials  
 1180 processing facility or pyrolysis facility satisfying the  
 1181 requirements of this section. The local government may not use  
 1182 the information provided in the registration application to  
 1183 compete unfairly with the recovered materials dealer until 90  
 1184 days after receipt of the application. All counties, and  
 1185 municipalities whose population exceeds 35,000 according to the  
 1186 population estimates determined pursuant to s. 186.901, may  
 1187 establish a reporting process that must be limited to the  
 1188 regulations, reporting format, and reporting frequency  
 1189 established by the department pursuant to this section, which

23-01684A-19

20191416\_\_

1190 must, at a minimum, include requiring the dealer or pyrolysis  
 1191 facility to identify the types and approximate amount of  
 1192 recovered materials or post-use polymers collected, recycled, or  
 1193 reused during the reporting period; the approximate percentage  
 1194 of recovered materials or post-use polymers reused, stored, or  
 1195 delivered to a recovered materials processing facility or  
 1196 pyrolysis facility or disposed of in a solid waste disposal  
 1197 facility; and the locations where any recovered materials or  
 1198 post-use polymers were disposed of as solid waste. The local  
 1199 government may charge the dealer or pyrolysis facility a  
 1200 registration fee commensurate with and no greater than the cost  
 1201 incurred by the local government in operating its registration  
 1202 program. Registration program costs are limited to those costs  
 1203 associated with the activities described in this paragraph  
 1204 ~~subparagraph~~. Any reporting or registration process established  
 1205 by a local government with regard to recovered materials or  
 1206 post-use polymers is governed by this section and department  
 1207 rules adopted pursuant thereto.

1208 ~~2. Information reported under this subsection which, if~~  
 1209 ~~disclosed, would reveal a trade secret, as defined in s.~~  
 1210 ~~812.081, is confidential and exempt from s. 119.07(1) and s.~~  
 1211 ~~24(a), Art. I of the State Constitution. This subparagraph is~~  
 1212 ~~subject to the Open Government Sunset Review Act in accordance~~  
 1213 ~~with s. 119.15 and shall stand repealed on October 2, 2021,~~  
 1214 ~~unless reviewed and saved from repeal through reenactment by the~~  
 1215 ~~Legislature.~~

1216 Section 32. Section 403.73, Florida Statutes, is repealed.

1217 Section 33. Paragraph (c) of subsection (1) of section  
 1218 408.061, Florida Statutes, is amended to read:

23-01684A-19

20191416\_\_

1219 408.061 Data collection; uniform systems of financial  
 1220 reporting; information relating to physician charges;  
 1221 confidential information; immunity.-

1222 (1) The agency shall require the submission by health care  
 1223 facilities, health care providers, and health insurers of data  
 1224 necessary to carry out the agency's duties and to facilitate  
 1225 transparency in health care pricing data and quality measures.  
 1226 Specifications for data to be collected under this section shall  
 1227 be developed by the agency and applicable contract vendors, with  
 1228 the assistance of technical advisory panels including  
 1229 representatives of affected entities, consumers, purchasers, and  
 1230 such other interested parties as may be determined by the  
 1231 agency.

1232 (c) Data to be submitted by health insurers may include,  
 1233 but are not limited to: claims, payments to health care  
 1234 facilities and health care providers as specified by rule,  
 1235 premium, administration, and financial information. Data  
 1236 submitted shall be certified by the chief financial officer, an  
 1237 appropriate and duly authorized representative, or an employee  
 1238 of the insurer that the information submitted is true and  
 1239 accurate. ~~Information that is considered a trade secret under s.~~  
 1240 ~~812.001 shall be clearly designated.~~

1241 Section 34. Present subsection (1) of section 408.185,  
 1242 Florida Statutes, is amended, and present subsections (2)  
 1243 through (5) of that section are renumbered as subsections (1)  
 1244 through (4), respectively, to read:

1245 408.185 Information submitted for review of antitrust  
 1246 issues; confidentiality.-The following information held by the  
 1247 Office of the Attorney General, which is submitted by a member

Page 43 of 98

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

23-01684A-19

20191416\_\_

1248 of the health care community pursuant to a request for an  
 1249 antitrust no-action letter shall be confidential and exempt from  
 1250 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
 1251 Constitution for 1 year after the date of submission.

1252 ~~(1) Documents that reveal trade secrets as defined in s.~~  
 1253 ~~688.002.~~

1254 Section 35. Paragraph (a) of subsection (14) of section  
 1255 408.910, Florida Statutes, is amended to read:

1256 408.910 Florida Health Choices Program.-

1257 (14) EXEMPTION FROM PUBLIC RECORDS REQUIREMENTS.-

1258 (a) *Definitions*.-For purposes of this subsection, the term:

1259 1. "Buyer's representative" means a participating insurance  
 1260 agent as described in paragraph (4)(g).

1261 2. "Enrollee" means an employer who is eligible to enroll  
 1262 in the program pursuant to paragraph (4)(a).

1263 3. "Participant" means an individual who is eligible to  
 1264 participate in the program pursuant to paragraph (4)(b).

1265 4. "Proprietary confidential business information" means  
 1266 information, regardless of form or characteristics, that is  
 1267 owned or controlled by a vendor requesting confidentiality under  
 1268 this section; that is intended to be and is treated by the  
 1269 vendor as private in that the disclosure of the information  
 1270 would cause harm to the business operations of the vendor; that  
 1271 has not been disclosed unless disclosed pursuant to a statutory  
 1272 provision, an order of a court or administrative body, or a  
 1273 private agreement providing that the information may be released  
 1274 to the public; and that is information concerning:

1275 a. Business plans.

1276 b. Internal auditing controls and reports of internal

Page 44 of 98

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

23-01684A-19 20191416\_\_

1277 auditors.

1278 c. Reports of external auditors for privately held

1279 companies.

1280 d. Client and customer lists.

1281 e. Potentially patentable material.

1282 ~~f. A trade secret as defined in s. 688.002.~~

1283 5. "Vendor" means a participating insurer or other provider

1284 of services as described in paragraph (4) (d).

1285 Section 36. Section 409.91196, Florida Statutes, is amended

1286 to read:

1287 409.91196 Supplemental rebate agreements; public records

1288 and public meetings exemption.—

1289 (1) The rebate amount, percent of rebate, manufacturer's

1290 pricing, and supplemental rebate, ~~and other trade secrets as~~

1291 ~~defined in s. 688.002 that the agency has identified for use in~~

1292 ~~negotiations,~~ held by the Agency for Health Care Administration

1293 under s. 409.912(5) (a)7. are confidential and exempt from s.

1294 119.07(1) and s. 24(a), Art. I of the State Constitution.

1295 (2) That portion of a meeting of the Medicaid

1296 Pharmaceutical and Therapeutics Committee at which the rebate

1297 amount, percent of rebate, manufacturer's pricing, or

1298 supplemental rebate, or confidential and exempt ~~other~~ trade

1299 secrets as provided for in s. 688.01 ~~defined in s. 688.002~~ that

1300 the agency has identified for use in negotiations, are discussed

1301 is exempt from s. 286.011 and s. 24(b), Art. I of the State

1302 Constitution. A record shall be made of each exempt portion of a

1303 meeting. Such record must include the times of commencement and

1304 termination, all discussions and proceedings, the names of all

1305 persons present at any time, and the names of all persons

23-01684A-19 20191416\_\_

1306 speaking. No exempt portion of a meeting may be held off the

1307 record.

1308 Section 37. Subsection (2) of section 440.108, Florida

1309 Statutes, is amended to read:

1310 440.108 Investigatory records relating to workers'

1311 compensation employer compliance; confidentiality.—

1312 (2) After an investigation is completed or ceases to be

1313 active, information in records relating to the investigation

1314 remains confidential and exempt from the provisions of s.

1315 119.07(1) and s. 24(a), Art. I of the State Constitution if

1316 disclosure of that information would:

1317 (a) Jeopardize the integrity of another active

1318 investigation;

1319 (b) ~~Reveal a trade secret, as defined in s. 688.002;~~

1320 ~~(c)~~ Reveal business or personal financial information;

1321 (c) ~~(d)~~ Reveal personal identifying information regarding

1322 the identity of a confidential source;

1323 (d) ~~(e)~~ Defame or cause unwarranted damage to the good name

1324 or reputation of an individual or jeopardize the safety of an

1325 individual; or

1326 (e) ~~(f)~~ Reveal investigative techniques or procedures.

1327 Section 38. Paragraph (c) of subsection (1) of section

1328 494.00125, Florida Statutes, is amended to read:

1329 494.00125 Public records exemptions.—

1330 (1) INVESTIGATIONS OR EXAMINATIONS.—

1331 (c) Except as necessary for the office to enforce the

1332 provisions of this chapter, a consumer complaint and other

1333 information relative to an investigation or examination shall

1334 remain confidential and exempt from s. 119.07(1) after the

23-01684A-19 20191416\_\_

1335 investigation or examination is completed or ceases to be active  
 1336 to the extent disclosure would:

1337 1. Jeopardize the integrity of another active investigation  
 1338 or examination.

1339 2. Reveal the name, address, telephone number, social  
 1340 security number, or any other identifying number or information  
 1341 of any complainant, customer, or account holder.

1342 3. Disclose the identity of a confidential source.

1343 4. Disclose investigative techniques or procedures.

1344 5. ~~Reveal a trade secret as defined in s. 688.002.~~

1345 Section 39. Subsection (4) of section 497.172, Florida  
 1346 Statutes, is amended to read:

1347 497.172 Public records exemptions; public meetings  
 1348 exemptions.—

1349 ~~(4) TRADE SECRETS. Trade secrets, as defined in s. 688.002,~~  
 1350 ~~held by the department or board, are confidential and exempt~~  
 1351 ~~from s. 119.07(1) and s. 24(a), Art. I of the State~~  
 1352 ~~Constitution.~~

1353 Section 40. Paragraph (c) of subsection (3) of section  
 1354 499.012, Florida Statutes, is amended to read:

1355 499.012 Permit application requirements.—

1356 (3)

1357 ~~(c) Information submitted by an applicant on an application~~  
 1358 ~~required pursuant to this subsection which is a trade secret, as~~  
 1359 ~~defined in s. 812.081, shall be maintained by the department as~~  
 1360 ~~trade secret information pursuant to s. 499.051(7).~~

1361 Section 41. Subsection (7) of section 499.0121, Florida  
 1362 Statutes, is amended to read:

1363 499.0121 Storage and handling of prescription drugs;

23-01684A-19 20191416\_\_

1364 recordkeeping.—The department shall adopt rules to implement  
 1365 this section as necessary to protect the public health, safety,  
 1366 and welfare. Such rules shall include, but not be limited to,  
 1367 requirements for the storage and handling of prescription drugs  
 1368 and for the establishment and maintenance of prescription drug  
 1369 distribution records.

1370 (7) PRESCRIPTION DRUG PURCHASE LIST.—

1371 ~~(a)~~ Each wholesale distributor, except for a manufacturer,  
 1372 shall annually provide the department with a written list of all  
 1373 wholesale distributors and manufacturers from whom the wholesale  
 1374 distributor purchases prescription drugs. A wholesale  
 1375 distributor, except a manufacturer, shall notify the department  
 1376 not later than 10 days after any change to either list.

1377 ~~(b) Such portions of the information required pursuant to~~  
 1378 ~~this subsection which are a trade secret, as defined in s.~~  
 1379 ~~812.081, shall be maintained by the department as trade secret~~  
 1380 ~~information is required to be maintained under s. 499.051. This~~  
 1381 ~~paragraph is subject to the Open Government Sunset Review Act in~~  
 1382 ~~accordance with s. 119.15 and shall stand repealed on October 2,~~  
 1383 ~~2021, unless reviewed and saved from repeal through reenactment~~  
 1384 ~~by the Legislature.~~

1385 Section 42. Paragraph (g) of subsection (1) of section  
 1386 499.05, Florida Statutes, is amended to read:

1387 499.05 Rules.—

1388 (1) The department shall adopt rules to implement and  
 1389 enforce this chapter with respect to:

1390 (g) Inspections and investigations conducted under s.  
 1391 499.051 or s. 499.93, ~~and the identification of information~~  
 1392 ~~claimed to be a trade secret and exempt from the public records~~

23-01684A-19

20191416\_\_

1393 ~~law as provided in s. 499.051(7).~~

1394 Section 43. Subsection (7) of section 499.051, Florida  
1395 Statutes, is amended to read:

1396 499.051 Inspections and investigations.—

1397 (7) (a) The complaint and all information obtained pursuant  
1398 to the investigation by the department are confidential and  
1399 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
1400 Constitution until the investigation and the enforcement action  
1401 are completed.

1402 ~~(b) Information that constitutes a trade secret, as defined~~  
1403 ~~in s. 812.081, contained in the complaint or obtained by the~~  
1404 ~~department pursuant to the investigation must remain~~  
1405 ~~confidential and exempt from s. 119.07(1) and s. 24(a), Art. I~~  
1406 ~~of the State Constitution as long as the information is held by~~  
1407 ~~the department. This paragraph is subject to the Open Government~~  
1408 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~  
1409 ~~repealed on October 2, 2021, unless reviewed and saved from~~  
1410 ~~repeal through reenactment by the Legislature.~~

1411 ~~(e)~~ This subsection does not prohibit the department from  
1412 using such information for regulatory or enforcement proceedings  
1413 under this chapter or from providing such information to any law  
1414 enforcement agency or any other regulatory agency. However, the  
1415 receiving agency shall keep such records confidential and exempt  
1416 as provided in this subsection.

1417 Section 44. Section 499.931, Florida Statutes, is repealed.

1418 Section 45. Paragraph (d) of subsection (11) of section  
1419 501.171, Florida Statutes, is amended to read:

1420 501.171 Security of confidential personal information.—

1421 (11) PUBLIC RECORDS EXEMPTION.—

Page 49 of 98

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

23-01684A-19

20191416\_\_

1422 (d) For purposes of this subsection, the term "proprietary  
1423 information" means information that:

1424 1. Is owned or controlled by the covered entity.

1425 2. Is intended to be private and is treated by the covered  
1426 entity as private because disclosure would harm the covered  
1427 entity or its business operations.

1428 3. Has not been disclosed except as required by law or a  
1429 private agreement that provides that the information will not be  
1430 released to the public.

1431 4. Is not publicly available or otherwise readily  
1432 ascertainable through proper means from another source in the  
1433 same configuration as received by the department.

1434 5. Includes+

1435 ~~a. Trade secrets as defined in s. 688.002.~~

1436 ~~b.~~ competitive interests, the disclosure of which would  
1437 impair the competitive business of the covered entity who is the  
1438 subject of the information.

1439 Section 46. Section 502.222, Florida Statutes, is repealed.

1440 Section 47. Paragraph (b) of subsection (1) of section  
1441 517.2015, Florida Statutes, is amended to read:

1442 517.2015 Confidentiality of information relating to  
1443 investigations and examinations.—

1444 (1)

1445 (b) Except as necessary for the office to enforce the  
1446 provisions of this chapter, a consumer complaint and other  
1447 information relative to an investigation or examination shall  
1448 remain confidential and exempt from s. 119.07(1) after the  
1449 investigation or examination is completed or ceases to be active  
1450 to the extent disclosure would:

Page 50 of 98

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

23-01684A-19

20191416\_\_

1451 1. Jeopardize the integrity of another active investigation  
1452 or examination.

1453 2. Reveal the name, address, telephone number, social  
1454 security number, or any other identifying number or information  
1455 of any complainant, customer, or account holder.

1456 3. Disclose the identity of a confidential source.

1457 4. Disclose investigative techniques or procedures.

1458 ~~5. Reveal a trade secret as defined in s. 688.002.~~

1459 Section 48. Paragraph (b) of subsection (1) of section  
1460 520.9965, Florida Statutes, is amended to read:

1461 520.9965 Confidentiality of information relating to  
1462 investigations and examinations.—

1463 (1)

1464 (b) Except as necessary for the office to enforce the  
1465 provisions of this chapter, a consumer complaint and other  
1466 information relative to an investigation or examination shall  
1467 remain confidential and exempt from s. 119.07(1) after the  
1468 investigation or examination is completed or ceases to be active  
1469 to the extent disclosure would:

1470 1. Jeopardize the integrity of another active investigation  
1471 or examination.

1472 2. Reveal the name, address, telephone number, social  
1473 security number, or any other identifying number or information  
1474 of any complainant, customer, or account holder.

1475 3. Disclose the identity of a confidential source.

1476 4. Disclose investigative techniques or procedures.

1477 ~~5. Reveal a trade secret as defined in s. 688.002.~~

1478 Section 49. Subsection (2) of section 526.311, Florida  
1479 Statutes, is amended to read:

23-01684A-19

20191416\_\_

1480 526.311 Enforcement; civil penalties; injunctive relief.—

1481 (2) The Department of Agriculture and Consumer Services  
1482 shall investigate any complaints regarding violations of this  
1483 act and may request in writing the production of documents and  
1484 records as part of its investigation of a complaint. If the  
1485 person upon whom such request was made fails to produce the  
1486 documents or records within 30 days after the date of the  
1487 request, the department, through the department's office of  
1488 general counsel, may issue and serve a subpoena to compel the  
1489 production of such documents and records. If any person shall  
1490 refuse to comply with a subpoena issued under this section, the  
1491 department may petition a court of competent jurisdiction to  
1492 enforce the subpoena and assess such sanctions as the court may  
1493 direct. Refiners shall afford the department reasonable access  
1494 to the refiners' posted terminal price. Any records, documents,  
1495 papers, maps, books, tapes, photographs, files, sound  
1496 recordings, or other business material, regardless of form or  
1497 characteristics, obtained by the department are confidential and  
1498 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I  
1499 of the State Constitution while the investigation is pending. At  
1500 the conclusion of an investigation, any matter determined by the  
1501 department or by a judicial or administrative body, federal or  
1502 state, to be a ~~trade secret~~ or proprietary confidential business  
1503 information held by the department pursuant to such  
1504 investigation shall be considered confidential and exempt from  
1505 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
1506 Constitution. Such materials may be used in any administrative  
1507 or judicial proceeding so long as the confidential or  
1508 proprietary nature of the material is maintained.

23-01684A-19 20191416\_\_

1509 Section 50. Paragraph (e) of subsection (1) of section  
 1510 548.062, Florida Statutes, is amended to read:  
 1511 548.062 Public records exemption.—  
 1512 (1) As used in this section, the term “proprietary  
 1513 confidential business information” means information that:  
 1514 (e) Concerns any of the following:  
 1515 1. The number of ticket sales for a match;  
 1516 2. The amount of gross receipts after a match;  
 1517 3. ~~A trade secret, as defined in s. 688.002;~~  
 1518 4. Business plans;  
 1519 4.5. Internal auditing controls and reports of internal  
 1520 auditors; or  
 1521 5.6. Reports of external auditors.  
 1522 Section 51. Paragraph (a) of subsection (1) of section  
 1523 556.113, Florida Statutes, is amended to read:  
 1524 556.113 Sunshine State One-Call of Florida, Inc.; public  
 1525 records exemption.—  
 1526 (1) As used in this section, the term “proprietary  
 1527 confidential business information” means information provided  
 1528 by:  
 1529 (a) A member operator which is a map, plan, facility  
 1530 location diagram, internal damage investigation report or  
 1531 analysis, or dispatch methodology, ~~or trade secret as defined in~~  
 1532 ~~s. 688.002~~, or which describes the exact location of a utility  
 1533 underground facility or the protection, repair, or restoration  
 1534 thereof, and:  
 1535 1. Is intended to be and is treated by the member operator  
 1536 as confidential;  
 1537 2. The disclosure of which would likely be used by a

23-01684A-19 20191416\_\_

1538 competitor to harm the business interests of the member operator  
 1539 or could be used for the purpose of inflicting damage on  
 1540 underground facilities; and  
 1541 3. Is not otherwise readily ascertainable or publicly  
 1542 available by proper means by other persons from another source  
 1543 in the same configuration as provided to Sunshine State One-Call  
 1544 of Florida, Inc.  
 1545 Section 52. Paragraph (b) of subsection (2) of section  
 1546 559.5558, Florida Statutes, is amended to read:  
 1547 559.5558 Public records exemption; investigations and  
 1548 examinations.—  
 1549 (2)  
 1550 (b) Information made confidential and exempt pursuant to  
 1551 this section is no longer confidential and exempt once the  
 1552 investigation or examination is completed or ceases to be active  
 1553 unless disclosure of the information would:  
 1554 1. Jeopardize the integrity of another active investigation  
 1555 or examination.  
 1556 2. Reveal the personal identifying information of a  
 1557 consumer, unless the consumer is also the complainant. A  
 1558 complainant’s personal identifying information is subject to  
 1559 disclosure after the investigation or examination is completed  
 1560 or ceases to be active. However, a complainant’s personal  
 1561 financial and health information remains confidential and  
 1562 exempt.  
 1563 3. Reveal the identity of a confidential source.  
 1564 4. Reveal investigative or examination techniques or  
 1565 procedures.  
 1566 ~~5. Reveal trade secrets, as defined in s. 688.002.~~



23-01684A-19

20191416\_\_

1567 Section 53. Paragraph (c) of subsection (3) of section  
1568 559.9285, Florida Statutes, is amended to read:

1569 559.9285 Certification of business activities.—

1570 (3) The department shall specify by rule the form of each  
1571 certification under this section which shall include the  
1572 following information:

1573 (c) The legal name, any trade names or fictitious names,  
1574 mailing address, physical address, telephone number or numbers,  
1575 facsimile number or numbers, and all Internet and electronic  
1576 contact information of every other commercial entity with which  
1577 the certifying party engages in business or commerce that is  
1578 related in any way to the certifying party's business or  
1579 commerce with any terrorist state. The information disclosed  
1580 pursuant to this paragraph does not constitute customer lists  
1581 ~~or~~ customer names, ~~or trade secrets~~ protected under s.  
1582 570.544(8) or trade secrets protected under s. 688.01.

1583 Section 54. Subsection (2) of section 560.129, Florida  
1584 Statutes, is amended to read:

1585 560.129 Confidentiality.—

1586 (2) All information obtained by the office in the course of  
1587 its investigation or examination ~~which is a trade secret, as~~  
1588 ~~defined in s. 688.002, or~~ which is personal financial  
1589 information shall remain confidential and exempt from s.  
1590 119.07(1) and s. 24(a), Art. I of the State Constitution. If any  
1591 administrative, civil, or criminal proceeding against a money  
1592 services business, its authorized vendor, or an affiliated party  
1593 is initiated and the office seeks to use matter that a licensee  
1594 believes to be ~~a trade secret or~~ personal financial information,  
1595 such records shall be subject to an in camera review by the

Page 55 of 98

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

23-01684A-19

20191416\_\_

1596 administrative law judge, if the matter is before the Division  
1597 of Administrative Hearings, or a judge of any court of this  
1598 state, any other state, or the United States, as appropriate,  
1599 for the purpose of determining if the matter is ~~a trade secret~~  
1600 ~~or is~~ personal financial information. ~~If it is determined that~~  
1601 ~~the matter is a trade secret, the matter shall remain~~  
1602 ~~confidential.~~ If it is determined that the matter is personal  
1603 financial information, the matter shall remain confidential  
1604 unless the administrative law judge or judge determines that, in  
1605 the interests of justice, the matter should become public.

1606 Section 55. Subsection (3) of section 570.48, Florida  
1607 Statutes, is amended to read:

1608 570.48 Division of Fruit and Vegetables; powers and duties;  
1609 records.—The duties of the Division of Fruit and Vegetables  
1610 include, but are not limited to:

1611 (3) Maintaining the records of the division. The records of  
1612 the division are public records, ~~however, trade secrets as~~  
1613 ~~defined in s. 812.081 are confidential and exempt from s.~~  
1614 ~~119.07(1) and s. 24(a), Art. I of the State Constitution. This~~  
1615 ~~subsection is subject to the Open Government Sunset Review Act~~  
1616 ~~in accordance with s. 119.15 and shall stand repealed on October~~  
1617 ~~2, 2021, unless reviewed and saved from repeal through~~  
1618 ~~reenactment by the Legislature. This Section 688.01 may not be~~  
1619 ~~construed to prohibit+~~

1620 ~~(a) A disclosure necessary to enforcement procedures.~~

1621 ~~(b) The department from releasing information to other~~  
1622 ~~governmental agencies. Other governmental agencies that receive~~  
1623 ~~confidential information from the department under this~~  
1624 ~~subsection shall maintain the confidentiality of that~~

Page 56 of 98

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

23-01684A-19 20191416\_\_

1625 ~~information.~~

1626 ~~(e)~~ the department or other agencies from compiling and

1627 publishing appropriate data regarding procedures, yield,

1628 recovery, quality, and related matters, provided such released

1629 data do not reveal by whom the activity to which the data relate

1630 was conducted.

1631 Section 56. Subsection (8) of section 570.544, Florida

1632 Statutes, is amended to read:

1633 570.544 Division of Consumer Services; director; powers;

1634 processing of complaints; records.—

1635 (8) The records of the Division of Consumer Services are

1636 public records. However, customer lists and customer names, ~~and~~

1637 ~~trade secrets~~ are confidential and exempt from the provisions of

1638 s. 119.07(1). Disclosure necessary to enforcement procedures

1639 does not violate this prohibition.

1640 Section 57. Present subsection (2) of section 573.123,

1641 Florida Statutes, is amended, and present subsections (3) and

1642 (4) of that subsection are renumbered as subsections (2) and

1643 (3), respectively, to read:

1644 573.123 Maintenance and production of records.—

1645 ~~(2) Information that, if disclosed, would reveal a trade~~

1646 ~~secret, as defined in s. 812.081, of any person subject to a~~

1647 ~~marketing order is confidential and exempt from s. 119.07(1) and~~

1648 ~~s. 24(a), Art. I of the State Constitution and may not be~~

1649 ~~disclosed except to an attorney who provides legal advice to the~~

1650 ~~division about enforcing a marketing order or by court order. A~~

1651 ~~person who receives confidential information under this~~

1652 ~~subsection shall maintain the confidentiality of that~~

1653 ~~information. This subsection is subject to the Open Government~~

23-01684A-19 20191416\_\_

1654 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~

1655 ~~repealed on October 2, 2021, unless reviewed and saved from~~

1656 ~~repeal through reenactment by the Legislature.~~

1657 Section 58. Section 581.199, Florida Statutes, is repealed.

1658 Section 59. Paragraph (b) of subsection (8) of section

1659 601.10, Florida Statutes, is amended, and present paragraph (c)

1660 of that subsection is redesignated as paragraph (b), to read:

1661 601.10 Powers of the Department of Citrus.—The department

1662 shall have and shall exercise such general and specific powers

1663 as are delegated to it by this chapter and other statutes of the

1664 state, which powers shall include, but are not limited to, the

1665 following:

1666 (8)

1667 ~~(b) Any information provided to the department which~~

1668 ~~constitutes a trade secret as defined in s. 812.081 is~~

1669 ~~confidential and exempt from s. 119.07(1) and s. 24(a), Art. I~~

1670 ~~of the State Constitution. This paragraph is subject to the Open~~

1671 ~~Government Sunset Review Act in accordance with s. 119.15 and~~

1672 ~~shall stand repealed on October 2, 2021, unless reviewed and~~

1673 ~~saved from repeal through reenactment by the Legislature.~~

1674 Section 60. Paragraph (d) of subsection (7) of section

1675 601.15, Florida Statutes, is amended to read:

1676 601.15 Advertising campaign; methods of conducting;

1677 assessments; emergency reserve fund; citrus research.—

1678 (7) All assessments levied and collected under this chapter

1679 shall be paid into the State Treasury on or before the 15th day

1680 of each month. Such moneys shall be accounted for in a special

1681 fund to be designated as the Florida Citrus Advertising Trust

1682 Fund, and all moneys in such fund are appropriated to the

23-01684A-19

20191416\_\_

1683 department for the following purposes:

1684 (d)1. The pro rata portion of moneys allocated to each type  
 1685 of citrus product in noncommodity programs shall be used by the  
 1686 department to encourage substantial increases in the  
 1687 effectiveness, frequency, and volume of noncommodity  
 1688 advertising, merchandising, publicity, and sales promotion of  
 1689 such citrus products through rebates and incentive payments to  
 1690 handlers and trade customers for these activities. The  
 1691 department shall adopt rules providing for the use of such  
 1692 moneys. The rules shall establish alternate incentive programs,  
 1693 including at least one incentive program for product sold under  
 1694 advertised brands, one incentive program for product sold under  
 1695 private label brands, and one incentive program for product sold  
 1696 in bulk. For each incentive program, the rules must establish  
 1697 eligibility and performance requirements and must provide  
 1698 appropriate limitations on amounts payable to a handler or trade  
 1699 customer for a particular season. Such limitations may relate to  
 1700 the amount of citrus assessments levied and collected on the  
 1701 citrus product handled by such handler or trade customer during  
 1702 a 12-month representative period.

1703 2. The department may require from participants in  
 1704 noncommodity advertising and promotional programs commercial  
 1705 information necessary to determine eligibility for and  
 1706 performance in such programs. ~~Any information required which  
 1707 constitutes a trade secret as defined in s. 812.081 is  
 1708 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
 1709 of the State Constitution. This subparagraph is subject to the  
 1710 Open Government Sunset Review Act in accordance with s. 119.15  
 1711 and shall stand repealed on October 2, 2021, unless reviewed and~~

Page 59 of 98

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

23-01684A-19

20191416\_\_

1712 ~~saved from repeal through reenactment by the Legislature.~~

1713 Section 61. Paragraph (c) of subsection (8) of section  
 1714 601.152, Florida Statutes, is amended to read:

1715 601.152 Special marketing orders.—

1716 (8)

1717 (c)~~1~~. Every handler shall, at such times as the department  
 1718 may require, file with the department a return, not under oath,  
 1719 on forms to be prescribed and furnished by the department,  
 1720 certified as true and correct, stating the quantity of the type,  
 1721 variety, and form of citrus fruit or citrus product specified in  
 1722 the marketing order first handled in the primary channels of  
 1723 trade in the state by such handler during the period of time  
 1724 specified in the marketing order. Such returns must contain any  
 1725 further information deemed by the department to be reasonably  
 1726 necessary to properly administer or enforce this section or any  
 1727 marketing order implemented under this section.

1728 ~~2. Information that, if disclosed, would reveal a trade  
 1729 secret, as defined in s. 812.081, of any person subject to a  
 1730 marketing order is confidential and exempt from s. 119.07(1) and  
 1731 s. 24(a), Art. I of the State Constitution. This subparagraph is  
 1732 subject to the Open Government Sunset Review Act in accordance  
 1733 with s. 119.15 and shall stand repealed on October 2, 2021,  
 1734 unless reviewed and saved from repeal through reenactment by the  
 1735 Legislature.~~

1736 Section 62. Section 601.76, Florida Statutes, is amended to  
 1737 read:

1738 601.76 Manufacturer to furnish formula and other  
 1739 information.—Any formula required to be filed with the  
 1740 Department of Agriculture ~~shall be deemed a trade secret as~~

Page 60 of 98

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

23-01684A-19

20191416\_\_

1741 ~~defined in s. 812.081~~, is confidential and exempt from s.  
 1742 119.07(1) and s. 24(a), Art. I of the State Constitution, and  
 1743 may be divulged only to the Department of Agriculture or to its  
 1744 duly authorized representatives or upon court order when  
 1745 necessary in the enforcement of this law. A person who receives  
 1746 such a formula from the Department of Agriculture under this  
 1747 section shall maintain the confidentiality of the formula. ~~This~~  
 1748 ~~section is subject to the Open Government Sunset Review Act in~~  
 1749 ~~accordance with s. 119.15 and shall stand repealed on October 2,~~  
 1750 ~~2021, unless reviewed and saved from repeal through reenactment~~  
 1751 ~~by the Legislature.~~

1752 Section 63. Subsection (6) of section 607.0505, Florida  
 1753 Statutes, is amended to read:

1754 607.0505 Registered agent; duties.—

1755 (6) Information provided to, and records and transcriptions  
 1756 of testimony obtained by, the Department of Legal Affairs  
 1757 pursuant to this section are confidential and exempt from the  
 1758 provisions of s. 119.07(1) while the investigation is active.  
 1759 For purposes of this section, an investigation shall be  
 1760 considered "active" while such investigation is being conducted  
 1761 with a reasonable, good faith belief that it may lead to the  
 1762 filing of an administrative, civil, or criminal proceeding. An  
 1763 investigation does not cease to be active so long as the  
 1764 department is proceeding with reasonable dispatch and there is a  
 1765 good faith belief that action may be initiated by the department  
 1766 or other administrative or law enforcement agency. Except for  
 1767 active criminal intelligence or criminal investigative  
 1768 information, as defined in s. 119.011, and information which, if  
 1769 disclosed, ~~would reveal a trade secret, as defined in s.~~

Page 61 of 98

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

23-01684A-19

20191416\_\_

1770 ~~688.002, or~~ would jeopardize the safety of an individual, all  
 1771 information, records, and transcriptions become public record  
 1772 when the investigation is completed or ceases to be active. The  
 1773 department shall not disclose confidential information, records,  
 1774 or transcriptions of testimony except pursuant to the  
 1775 authorization by the Attorney General in any of the following  
 1776 circumstances:

1777 (a) To a law enforcement agency participating in or  
 1778 conducting a civil investigation under chapter 895, or  
 1779 participating in or conducting a criminal investigation.

1780 (b) In the course of filing, participating in, or  
 1781 conducting a judicial proceeding instituted pursuant to this  
 1782 section or chapter 895.

1783 (c) In the course of filing, participating in, or  
 1784 conducting a judicial proceeding to enforce an order or judgment  
 1785 entered pursuant to this section or chapter 895.

1786 (d) In the course of a criminal or civil proceeding.

1787  
 1788 A person or law enforcement agency which receives any  
 1789 information, record, or transcription of testimony that has been  
 1790 made confidential by this subsection shall maintain the  
 1791 confidentiality of such material and shall not disclose such  
 1792 information, record, or transcription of testimony except as  
 1793 provided for herein. Any person who willfully discloses any  
 1794 information, record, or transcription of testimony that has been  
 1795 made confidential by this subsection, except as provided for  
 1796 herein, is guilty of a misdemeanor of the first degree,  
 1797 punishable as provided in s. 775.082 or s. 775.083. If any  
 1798 information, record, or testimony obtained pursuant to

Page 62 of 98

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

23-01684A-19

20191416\_\_

1799 subsection (2) is offered in evidence in any judicial  
1800 proceeding, the court may, in its discretion, seal that portion  
1801 of the record to further the policies of confidentiality set  
1802 forth herein.

1803 Section 64. Subsection (6) of section 617.0503, Florida  
1804 Statutes, is amended to read:

1805 617.0503 Registered agent; duties; confidentiality of  
1806 investigation records.—

1807 (6) Information provided to, and records and transcriptions  
1808 of testimony obtained by, the Department of Legal Affairs  
1809 pursuant to this section are confidential and exempt from the  
1810 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
1811 Constitution while the investigation is active. For purposes of  
1812 this section, an investigation shall be considered "active"  
1813 while such investigation is being conducted with a reasonable,  
1814 good faith belief that it may lead to the filing of an  
1815 administrative, civil, or criminal proceeding. An investigation  
1816 does not cease to be active so long as the department is  
1817 proceeding with reasonable dispatch and there is a good faith  
1818 belief that action may be initiated by the department or other  
1819 administrative or law enforcement agency. Except for active  
1820 criminal intelligence or criminal investigative information, as  
1821 defined in s. 119.011, and information which, if disclosed,  
1822 ~~would reveal a trade secret, as defined in s. 688.002, or~~ would  
1823 jeopardize the safety of an individual, all information,  
1824 records, and transcriptions become available to the public when  
1825 the investigation is completed or ceases to be active. The  
1826 department shall not disclose confidential information, records,  
1827 or transcriptions of testimony except pursuant to authorization

Page 63 of 98

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

23-01684A-19

20191416\_\_

1828 by the Attorney General in any of the following circumstances:

1829 (a) To a law enforcement agency participating in or  
1830 conducting a civil investigation under chapter 895, or  
1831 participating in or conducting a criminal investigation.

1832 (b) In the course of filing, participating in, or  
1833 conducting a judicial proceeding instituted pursuant to this  
1834 section or chapter 895.

1835 (c) In the course of filing, participating in, or  
1836 conducting a judicial proceeding to enforce an order or judgment  
1837 entered pursuant to this section or chapter 895.

1838 (d) In the course of a criminal proceeding.  
1839

1840 A person or law enforcement agency that receives any  
1841 information, record, or transcription of testimony that has been  
1842 made confidential by this subsection shall maintain the  
1843 confidentiality of such material and shall not disclose such  
1844 information, record, or transcription of testimony except as  
1845 provided for herein. Any person who willfully discloses any  
1846 information, record, or transcription of testimony that has been  
1847 made confidential by this subsection, except as provided for in  
1848 this subsection, commits a misdemeanor of the first degree,  
1849 punishable as provided in s. 775.082 or s. 775.083. If any  
1850 information, record, or testimony obtained pursuant to  
1851 subsection (2) is offered in evidence in any judicial  
1852 proceeding, the court may, in its discretion, seal that portion  
1853 of the record to further the policies of confidentiality set  
1854 forth in this subsection.

1855 Section 65. Subsection (4) of section 624.307, Florida  
1856 Statutes, is amended to read:

Page 64 of 98

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

23-01684A-19

20191416\_\_

1857 624.307 General powers; duties.—

1858 (4) The department and office may each collect, propose,  
 1859 publish, and disseminate information relating to the subject  
 1860 matter of any duties imposed upon it by law. Notwithstanding any  
 1861 other provision of law, information reported to and collected by  
 1862 the office may be made available on an aggregate basis. The  
 1863 office may report, publish, or otherwise make available such  
 1864 information from all insurers on an aggregate basis by line of  
 1865 business and by county, even if marked as a trade secret  
 1866 pursuant to s. 688.01, but shall otherwise maintain trade secret  
 1867 confidentiality in accordance with s. 688.01.

1868 Section 66. Subsection (4) is added to section 624.315,  
 1869 Florida Statutes, to read:

1870 624.315 Department; annual report.—

1871 (4) Notwithstanding any other provision of law, the office  
 1872 may make the information in subsection (2) available on an  
 1873 aggregate basis. The office may include such statistical  
 1874 information from all insurers on an aggregate basis by line of  
 1875 business and by county, even if marked as a trade secret  
 1876 pursuant to s. 688.01, but shall otherwise maintain trade secret  
 1877 confidentiality in accordance with s. 688.01.

1878 Section 67. Paragraph (c) of subsection (1) and subsection  
 1879 (5) of section 624.4212, Florida Statutes, are amended to read:  
 1880 624.4212 Confidentiality of proprietary business and other  
 1881 information.—

1882 (1) As used in this section, the term "proprietary business  
 1883 information" means information, regardless of form or  
 1884 characteristics, which is owned or controlled by an insurer, or  
 1885 a person or an affiliated person who seeks acquisition of

23-01684A-19

20191416\_\_

1886 controlling stock in a domestic stock insurer or controlling  
 1887 company, and which:

1888 (c) Includes:

1889 1. ~~Trade secrets as defined in s. 688.002 which comply with~~  
 1890 ~~s. 624.4213.~~

1891 ~~2.~~ Information relating to competitive interests, the  
 1892 disclosure of which would impair the competitive business of the  
 1893 provider of the information.

1894 ~~2.3.~~ The source, nature, and amount of the consideration  
 1895 used or to be used in carrying out a merger or other acquisition  
 1896 of control in the ordinary course of business, including the  
 1897 identity of the lender, if the person filing a statement  
 1898 regarding consideration so requests.

1899 ~~3.4.~~ Information relating to bids or other contractual  
 1900 data, the disclosure of which would impair the efforts of the  
 1901 insurer or its affiliates to contract for goods or services on  
 1902 favorable terms.

1903 ~~4.5.~~ Internal auditing controls and reports of internal  
 1904 auditors.

1905 (5) The office may disclose information made confidential  
 1906 and exempt under this section or s. 688.01:

1907 (a) If the insurer to which it pertains gives prior written  
 1908 consent;

1909 (b) Pursuant to a court order;

1910 (c) To the Actuarial Board for Counseling and Discipline  
 1911 upon a request stating that the information is for the purpose  
 1912 of professional disciplinary proceedings and specifying  
 1913 procedures satisfactory to the office for preserving the  
 1914 confidentiality of the information;

23-01684A-19

20191416\_\_

1915 (d) To other states, federal and international agencies,  
 1916 the National Association of Insurance Commissioners and its  
 1917 affiliates and subsidiaries, and state, federal, and  
 1918 international law enforcement authorities, including members of  
 1919 a supervisory college described in s. 628.805 if the recipient  
 1920 agrees in writing to maintain the confidential and exempt status  
 1921 of the document, material, or other information and has  
 1922 certified in writing its legal authority to maintain such  
 1923 confidentiality; or

1924 (e) For the purpose of aggregating information on an  
 1925 industrywide basis and disclosing the information to the public  
 1926 only if the specific identities of the insurers, or persons or  
 1927 affiliated persons, are not revealed.

1928 Section 68. Section 624.4213, Florida Statutes, is  
 1929 repealed.

1930 Section 69. Paragraph (d) of subsection (1) of section  
 1931 626.84195, Florida Statutes, is amended to read:

1932 626.84195 Confidentiality of information supplied by title  
 1933 insurance agencies and insurers.—

1934 (1) As used in this section, the term "proprietary business  
 1935 information" means information that:

1936 (d) Concerns:

1937 1. Business plans;

1938 2. Internal auditing controls and reports of internal  
 1939 auditors;

1940 3. Reports of external auditors for privately held  
 1941 companies;

1942 4. ~~Trade secrets, as defined in s. 688.002;~~ or

1943 5. Financial information, including revenue data, loss

23-01684A-19

20191416\_\_

1944 expense data, gross receipts, taxes paid, capital investment,  
 1945 and employee wages.

1946 Section 70. Subsection (2) of section 626.884, Florida  
 1947 Statutes, is amended to read:

1948 626.884 Maintenance of records by administrator; access;  
 1949 confidentiality.—

1950 (2) The office shall have access to books and records  
 1951 maintained by the administrator for the purpose of examination,  
 1952 audit, and inspection. ~~Information contained in such books and~~  
 1953 ~~records is confidential and exempt from the provisions of s.~~  
 1954 ~~119.07(1) if the disclosure of such information would reveal a~~  
 1955 ~~trade secret as defined in s. 688.002. However,~~ The office may  
 1956 use such information in any proceeding instituted against the  
 1957 administrator.

1958 Section 71. Subsection (1) of section 626.9936, Florida  
 1959 Statutes, is amended to read:

1960 626.9936 Access to records.—

1961 (1) Notwithstanding subsections (1) and (2) of Article  
 1962 VIII, subsection (2) of Article X, and subsection (6) of Article  
 1963 XII of the Interstate Insurance Product Regulation Compact, a  
 1964 request by a resident of this state for public inspection and  
 1965 copying of information, data, or official records that includes:

1966 (a) An insurer's trade secrets shall be referred to the  
 1967 commissioner who shall respond to the request, with the  
 1968 cooperation and assistance of the commission, in accordance with  
 1969 s. 688.01 ~~s. 624.4213;~~ or

1970 (b) Matters of privacy of individuals shall be referred to  
 1971 the commissioner who shall respond to the request, with the  
 1972 cooperation and assistance of the commission, in accordance with

23-01684A-19 20191416\_\_

1973 s. 119.07(1).

1974 Section 72. Paragraph (g) of subsection (3) of section

1975 627.0628, Florida Statutes, is amended to read:

1976 627.0628 Florida Commission on Hurricane Loss Projection

1977 Methodology; public records exemption; public meetings

1978 exemption.-

1979 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.-

1980 (g)1. ~~A trade secret, as defined in s. 688.002, which is~~

1981 ~~used in designing and constructing a hurricane or flood loss~~

1982 ~~model and which is provided pursuant to this section, by a~~

1983 ~~private company, to the commission, office, or consumer advocate~~

1984 ~~appointed pursuant to s. 627.0613 is confidential and exempt~~

1985 ~~from s. 119.07(1) and s. 24(a), Art. I of the State~~

1986 ~~Constitution.~~

1987 2.a. That portion of a meeting of the commission or of a

1988 rate proceeding on an insurer's rate filing at which a trade

1989 secret made confidential and exempt pursuant to s. 688.01 by

1990 ~~this paragraph~~ is discussed is exempt from s. 286.011 and s.

1991 24(b), Art. I of the State Constitution. The closed meeting must

1992 be recorded, and no portion of the closed meeting may be off the

1993 record.

1994 2.b. The recording of a closed portion of a meeting is

1995 exempt from s. 119.07(1) and s. 24(a), Art. I of the State

1996 Constitution.

1997 ~~e. This paragraph is subject to the Open Government Sunset~~

1998 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~

1999 ~~on October 2, 2019, unless reviewed and saved from repeal~~

2000 ~~through reenactment by the Legislature.~~

2001 Section 73. Paragraphs (a) and (c) of subsection (11) of

23-01684A-19 20191416\_\_

2002 section 627.3518, Florida Statutes, are amended to read:

2003 627.3518 Citizens Property Insurance Corporation

2004 policyholder eligibility clearinghouse program.—The purpose of

2005 this section is to provide a framework for the corporation to

2006 implement a clearinghouse program by January 1, 2014.

2007 (11) Proprietary business information provided to the

2008 corporation's clearinghouse by insurers with respect to

2009 identifying and selecting risks for an offer of coverage is

2010 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I

2011 of the State Constitution.

2012 (a) As used in this subsection, the term "proprietary

2013 business information" means information, regardless of form or

2014 characteristics, which is owned or controlled by an insurer and:

2015 1. Is identified by the insurer as proprietary business

2016 information and is intended to be and is treated by the insurer

2017 as private in that the disclosure of the information would cause

2018 harm to the insurer, an individual, or the company's business

2019 operations and has not been disclosed unless disclosed pursuant

2020 to a statutory requirement, an order of a court or

2021 administrative body, or a private agreement that provides that

2022 the information will not be released to the public;

2023 2. Is not otherwise readily ascertainable or publicly

2024 available by proper means by other persons from another source

2025 in the same configuration as provided to the clearinghouse; and

2026 3. Includes+

2027 ~~a. Trade secrets, as defined in s. 688.002.~~

2028 ~~b.~~ information relating to competitive interests, the

2029 disclosure of which would impair the competitive business of the

2030 provider of the information.



23-01684A-19

20191416\_\_

2031  
2032  
2033  
2034  
2035  
2036  
2037  
2038  
2039  
2040  
2041  
2042  
2043  
2044  
2045  
2046  
2047  
2048  
2049  
2050  
2051  
2052  
2053  
2054  
2055  
2056  
2057  
2058  
2059

Proprietary business information may be found in underwriting criteria or instructions which are used to identify and select risks through the program for an offer of coverage and are shared with the clearinghouse to facilitate the shopping of risks with the insurer.

Section 74. Present subsections (4), (5), (14), and (15) of section 655.057, Florida Statutes, are amended, and present subsections (6) through (13) of that section are renumbered as subsections (5) through (12), respectively, to read:

655.057 Records; limited restrictions upon public access.—

(4) ~~Except as otherwise provided in this section and except for those portions that are otherwise public record, trade secrets as defined in s. 688.002 which comply with s. 655.0591 and which are held by the office in accordance with its statutory duties with respect to the financial institutions codes are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.~~

~~(5) Neither this section nor s. 688.01 prevents does not prevent or restricts restrict:~~

(a) Publishing reports that are required to be submitted to the office pursuant to s. 655.045(2) or required by applicable federal statutes or regulations to be published.

(b) Furnishing records or information to any other state, federal, or foreign agency responsible for the regulation or supervision of financial institutions.

(c) Disclosing or publishing summaries of the condition of financial institutions and general economic and similar statistics and data, provided that the identity of a particular

23-01684A-19

20191416\_\_

2060  
2061  
2062  
2063  
2064  
2065  
2066  
2067  
2068  
2069  
2070  
2071  
2072  
2073  
2074  
2075  
2076  
2077  
2078  
2079  
2080  
2081  
2082  
2083  
2084  
2085  
2086  
2087  
2088

financial institution is not disclosed.

(d) Reporting any suspected criminal activity, with supporting documents and information, to appropriate law enforcement and prosecutorial agencies.

(e) Furnishing information upon request to the Chief Financial Officer or the Division of Treasury of the Department of Financial Services regarding the financial condition of any financial institution that is, or has applied to be, designated as a qualified public depository pursuant to chapter 280.

(f) Furnishing information to Federal Home Loan Banks regarding its member institutions pursuant to an information sharing agreement between the Federal Home Loan Banks and the office.

Any confidential information or records obtained from the office pursuant to this subsection shall be maintained as confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(13) This section is ~~(14) Subsections (3) and (4) are subject to the Open Government Sunset Review Act in accordance with s. 119.15 and are repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.~~

~~(15) Subsections (1), (2), (5), and (9) are subject to the Open Government Sunset Review Act in accordance with s. 119.15 and is are repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 75. Section 655.0591, Florida Statutes, is repealed.

23-01684A-19

20191416\_\_

2089 Section 76. Subsection (11) of section 663.533, Florida  
 2090 Statutes, is amended to read:  
 2091 663.533 Applicability of the financial institutions codes.—  
 2092 A qualified limited service affiliate is subject to the  
 2093 financial institutions codes. Without limiting the foregoing,  
 2094 the following provisions are applicable to a qualified limited  
 2095 service affiliate:  
 2096 (11) Section 688.01 ~~655.0591~~, relating to trade secret  
 2097 documents.

2098  
 2099 This section does not prohibit the office from investigating or  
 2100 examining an entity to ensure that it is not in violation of  
 2101 this chapter or applicable provisions of the financial  
 2102 institutions codes.

2103 Section 77. Section 721.071, Florida Statutes, is repealed.

2104 Section 78. Present subsections (3) and (4) of section  
 2105 815.04, Florida Statutes, are amended, and present subsection  
 2106 (5) of that section is renumbered as subsection (4), to read:  
 2107 815.04 Offenses against intellectual property; ~~public~~  
 2108 ~~records exemption.—~~

2109 (3) ~~Data, programs, or supporting documentation that is a~~  
 2110 ~~trade secret as defined in s. 812.081, that is held by an agency~~  
 2111 ~~as defined in chapter 119, and that resides or exists internal~~  
 2112 ~~or external to a computer, computer system, computer network, or~~  
 2113 ~~electronic device is confidential and exempt from the provisions~~  
 2114 ~~of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.~~  
 2115 ~~This subsection is subject to the Open Government Sunset Review~~  
 2116 ~~Act in accordance with s. 119.15 and shall stand repealed on~~  
 2117 ~~October 2, 2021, unless reviewed and saved from repeal through~~

23-01684A-19

20191416\_\_

2118 ~~reenactment by the Legislature.~~

2119 ~~(4)~~ A person who willfully, knowingly, and without  
 2120 authorization discloses or takes data, programs, or supporting  
 2121 documentation that is a trade secret as defined in s. 812.081 ~~or~~  
 2122 ~~is confidential as provided by law~~ residing or existing internal  
 2123 or external to a computer, computer system, computer network, or  
 2124 electronic device commits an offense against intellectual  
 2125 property.

2126 Section 79. Section 815.045, Florida Statutes, is repealed.

2127 Section 80. Subsection (2) of section 1004.22, Florida  
 2128 Statutes, is amended to read:

2129 1004.22 Divisions of sponsored research at state  
 2130 universities.—

2131 (2) The university shall set such policies to regulate the  
 2132 activities of the divisions of sponsored research as it may  
 2133 consider necessary to administer the research programs in a  
 2134 manner which assures efficiency and effectiveness, producing the  
 2135 maximum benefit for the educational programs and maximum service  
 2136 to the state. To this end, materials that relate to methods of  
 2137 manufacture or production, ~~potential trade secrets~~, potentially  
 2138 patentable material, ~~actual~~ trade secrets as defined in s.  
 2139 688.01, business transactions, or proprietary information  
 2140 received, generated, ascertained, or discovered during the  
 2141 course of research conducted within the state universities shall  
 2142 be confidential and exempt from the provisions of s. 119.07(1),  
 2143 except that a division of sponsored research shall make  
 2144 available upon request the title and description of a research  
 2145 project, the name of the researcher, and the amount and source  
 2146 of funding provided for such project.

23-01684A-19

20191416\_\_

2147 Section 81. Paragraph (c) of subsection (2) and subsections  
2148 (3), (4), and (7) of section 1004.30, Florida Statutes, are  
2149 amended, and paragraph (d) of subsection (2) of that section is  
2150 redesignated as paragraph (c), to read:

2151 1004.30 University health services support organization;  
2152 confidentiality of information.—

2153 (2) The following university health services support  
2154 organization's records and information are confidential and  
2155 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I  
2156 of the State Constitution:

2157 ~~(c) Trade secrets, as defined in s. 688.002, including~~  
2158 ~~reimbursement methodologies and rates.~~

2159 (3) Any portion of a governing board or peer review panel  
2160 or committee meeting during which a confidential and exempt  
2161 contract, document, record, or marketing plan, ~~or trade secret~~,  
2162 as provided for in subsection (2), or a confidential and exempt  
2163 trade secret, as provided for in s. 688.01, is discussed is  
2164 exempt from the provisions of s. 286.011 and s. 24(b), Art. I of  
2165 the State Constitution.

2166 (4) Those portions of any public record, such as a tape  
2167 recording, minutes, and notes, generated during that portion of  
2168 a governing board or peer review panel or committee meeting  
2169 which is closed to the public pursuant to this section, ~~which~~  
2170 ~~contain information relating to contracts, documents, records,~~  
2171 ~~marketing plans, or trade secrets which are made confidential~~  
2172 ~~and exempt by this section~~, are confidential and exempt from the  
2173 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
2174 Constitution.

2175 (7) Those portions of any public record, such as a tape

Page 75 of 98

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

23-01684A-19

20191416\_\_

2176 recording, minutes, or notes, generated during that portion of a  
2177 governing board meeting at which negotiations for contracts for  
2178 managed-care arrangements occur, are reported on, or are acted  
2179 on by the governing board, which record is made confidential and  
2180 exempt by subsection (4), shall become public records 2 years  
2181 after the termination or completion of the term of the contract  
2182 to which such negotiations relate or, if no contract was  
2183 executed, 2 years after the termination of the negotiations.  
2184 Notwithstanding paragraph (2)(a) and subsection (4), a  
2185 university health services support organization must make  
2186 available, upon request, the title and general description of a  
2187 contract for managed-care arrangements, the names of the  
2188 contracting parties, and the duration of the contract term. All  
2189 contracts for managed-care arrangements which are made  
2190 confidential and exempt by paragraph (2)(a), except those  
2191 portions of any contract containing trade secrets which are made  
2192 confidential and exempt by s. 688.01 ~~paragraph (2)(c)~~, shall  
2193 become public 2 years after the termination or completion of the  
2194 term of the contract.

2195 Section 82. Paragraph (b) of subsection (8) of section  
2196 1004.43, Florida Statutes, is amended to read:

2197 1004.43 H. Lee Moffitt Cancer Center and Research  
2198 Institute.—There is established the H. Lee Moffitt Cancer Center  
2199 and Research Institute, a statewide resource for basic and  
2200 clinical research and multidisciplinary approaches to patient  
2201 care.

2202 (8)

2203 (b) Proprietary confidential business information is  
2204 confidential and exempt from the provisions of s. 119.07(1) and

Page 76 of 98

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

23-01684A-19 20191416\_\_

2205 s. 24(a), Art. I of the State Constitution. However, the Auditor  
 2206 General, the Office of Program Policy Analysis and Government  
 2207 Accountability, and the Board of Governors, pursuant to their  
 2208 oversight and auditing functions, must be given access to all  
 2209 proprietary confidential business information upon request and  
 2210 without subpoena and must maintain the confidentiality of  
 2211 information so received. As used in this paragraph, the term  
 2212 "proprietary confidential business information" means  
 2213 information, regardless of its form or characteristics, which is  
 2214 owned or controlled by the not-for-profit corporation or its  
 2215 subsidiaries; is intended to be and is treated by the not-for-  
 2216 profit corporation or its subsidiaries as private and the  
 2217 disclosure of which would harm the business operations of the  
 2218 not-for-profit corporation or its subsidiaries; has not been  
 2219 intentionally disclosed by the corporation or its subsidiaries  
 2220 unless pursuant to law, an order of a court or administrative  
 2221 body, a legislative proceeding pursuant to s. 5, Art. III of the  
 2222 State Constitution, or a private agreement that provides that  
 2223 the information may be released to the public; and which is  
 2224 information concerning:

- 2225 1. Internal auditing controls and reports of internal  
 2226 auditors;
- 2227 2. Matters reasonably encompassed in privileged attorney-  
 2228 client communications;
- 2229 3. Contracts for managed-care arrangements, including  
 2230 preferred provider organization contracts, health maintenance  
 2231 organization contracts, and exclusive provider organization  
 2232 contracts, and any documents directly relating to the  
 2233 negotiation, performance, and implementation of any such

23-01684A-19 20191416\_\_

2234 contracts for managed-care arrangements;

- 2235 4. Bids or other contractual data, banking records, and  
 2236 credit agreements the disclosure of which would impair the  
 2237 efforts of the not-for-profit corporation or its subsidiaries to  
 2238 contract for goods or services on favorable terms;
- 2239 5. Information relating to private contractual data, the  
 2240 disclosure of which would impair the competitive interest of the  
 2241 provider of the information;
- 2242 6. Corporate officer and employee personnel information;
- 2243 7. Information relating to the proceedings and records of  
 2244 credentialing panels and committees and of the governing board  
 2245 of the not-for-profit corporation or its subsidiaries relating  
 2246 to credentialing;
- 2247 8. Minutes of meetings of the governing board of the not-  
 2248 for-profit corporation and its subsidiaries, except minutes of  
 2249 meetings open to the public pursuant to subsection (9);
- 2250 9. Information that reveals plans for marketing services  
 2251 that the corporation or its subsidiaries reasonably expect to be  
 2252 provided by competitors;
- 2253 10. Trade secrets as defined in s. 688.01 ~~s. 688.002~~,  
 2254 including:
  - 2255 a. Information relating to methods of manufacture or  
 2256 production, ~~potential trade secrets~~, potentially patentable  
 2257 materials, or proprietary information received, generated,  
 2258 ascertained, or discovered during the course of research  
 2259 conducted by the not-for-profit corporation or its subsidiaries;
  - 2260 and
  - 2261 b. Reimbursement methodologies or rates;
- 2262 11. The identity of donors or prospective donors of

23-01684A-19 20191416\_\_

2263 property who wish to remain anonymous or any information  
 2264 identifying such donors or prospective donors. The anonymity of  
 2265 these donors or prospective donors must be maintained in the  
 2266 auditor's report; or

2267 12. Any information received by the not-for-profit  
 2268 corporation or its subsidiaries from an agency in this or  
 2269 another state or nation or the Federal Government which is  
 2270 otherwise exempt or confidential pursuant to the laws of this or  
 2271 another state or nation or pursuant to federal law.

2272  
 2273 As used in this paragraph, the term "managed care" means systems  
 2274 or techniques generally used by third-party payors or their  
 2275 agents to affect access to and control payment for health care  
 2276 services. Managed-care techniques most often include one or more  
 2277 of the following: prior, concurrent, and retrospective review of  
 2278 the medical necessity and appropriateness of services or site of  
 2279 services; contracts with selected health care providers;  
 2280 financial incentives or disincentives related to the use of  
 2281 specific providers, services, or service sites; controlled  
 2282 access to and coordination of services by a case manager; and  
 2283 payor efforts to identify treatment alternatives and modify  
 2284 benefit restrictions for high-cost patient care.

2285 Section 83. Paragraph (a) of subsection (2) of section  
 2286 1004.4472, Florida Statutes, is amended to read:

2287 1004.4472 Florida Institute for Human and Machine  
 2288 Cognition, Inc.; public records exemption; public meetings  
 2289 exemption.-

2290 (2) The following information held by the corporation or  
 2291 its subsidiary is confidential and exempt from s. 119.07(1) and

23-01684A-19 20191416\_\_

2292 s. 24(a), Art. I of the State Constitution:

2293 (a) Material relating to methods of manufacture or  
 2294 production, ~~potential trade secrets~~, patentable material, ~~actual~~  
 2295 trade secrets as defined in s. 688.01 ~~s. 688.002~~ or proprietary  
 2296 information received, generated, ascertained, or discovered  
 2297 during the course of research conducted by or through the  
 2298 corporation or a subsidiary, and business transactions resulting  
 2299 from such research.

2300 Section 84. Subsection (2) of section 1004.78, Florida  
 2301 Statutes, is amended to read:

2302 1004.78 Technology transfer centers at Florida College  
 2303 System institutions.-

2304 (2) The Florida College System institution board of  
 2305 trustees shall set such policies to regulate the activities of  
 2306 the technology transfer center as it may consider necessary to  
 2307 effectuate the purposes of this section and to administer the  
 2308 programs of the center in a manner which assures efficiency and  
 2309 effectiveness, producing the maximum benefit for the educational  
 2310 programs and maximum service to the state. To this end,  
 2311 materials that relate to methods of manufacture or production,  
 2312 ~~potential trade secrets~~, potentially patentable material, ~~actual~~  
 2313 trade secrets as defined in s. 688.01, business transactions, or  
 2314 proprietary information received, generated, ascertained, or  
 2315 discovered during the course of activities conducted within the  
 2316 Florida College System institutions shall be confidential and  
 2317 exempt from the provisions of s. 119.07(1), except that a  
 2318 Florida College System institution shall make available upon  
 2319 request the title and description of a project, the name of the  
 2320 investigator, and the amount and source of funding provided for

23-01684A-19 20191416\_\_

2321 such project.  
 2322 Section 85. Section 601.80, Florida Statutes, is amended to  
 2323 read:  
 2324 601.80 Unlawful to use uncertified coloring matter.—It is  
 2325 unlawful for any person to use on oranges or citrus hybrids any  
 2326 coloring matter which has not first received the approval of the  
 2327 Department of Agriculture ~~as provided under s. 601.76.~~  
 2328 Section 86. Present subsection (11) of section 663.533,  
 2329 Florida Statutes, is amended, and present subsections (12) and  
 2330 (13) of that section are renumbered as subsections (11) and  
 2331 (12), respectively, to read:  
 2332 663.533 Applicability of the financial institutions codes.—  
 2333 A qualified limited service affiliate is subject to the  
 2334 financial institutions codes. Without limiting the foregoing,  
 2335 the following provisions are applicable to a qualified limited  
 2336 service affiliate:  
 2337 ~~(11) Section 655.0591, relating to trade secret documents.~~  
 2338  
 2339 This section does not prohibit the office from investigating or  
 2340 examining an entity to ensure that it is not in violation of  
 2341 this chapter or applicable provisions of the financial  
 2342 institutions codes.  
 2343 Section 87. Paragraph (c) of subsection (12) of section  
 2344 721.13, Florida Statutes, is amended to read:  
 2345 721.13 Management.—  
 2346 (12)  
 2347 (c) The managing entity shall maintain copies of all  
 2348 records, data, and information supporting the processes,  
 2349 analyses, procedures, and methods utilized by the managing

23-01684A-19 20191416\_\_

2350 entity in its determination to reserve accommodations of the  
 2351 timeshare plan pursuant to this subsection for a period of 5  
 2352 years from the date of such determination. In the event of an  
 2353 investigation by the division for failure of a managing entity  
 2354 to comply with this subsection, the managing entity shall make  
 2355 all such records, data, and information available to the  
 2356 division for inspection, ~~provided that if the managing entity~~  
 2357 ~~complies with the provisions of s. 721.071, any such records,~~  
 2358 ~~data, and information provided to the division shall constitute~~  
 2359 ~~a trade secret pursuant to that section.~~  
 2360 Section 88. Paragraphs (a) and (c) of subsection (3) of  
 2361 section 921.0022, Florida Statutes, are amended to read:  
 2362 921.0022 Criminal Punishment Code; offense severity ranking  
 2363 chart.—  
 2364 (3) OFFENSE SEVERITY RANKING CHART  
 2365 (a) LEVEL 1  
 2366  

Florida Statute	Felony Degree	Description
2367 24.118(3) (a)	3rd	Counterfeit or altered state lottery ticket.
2368 212.054(2) (b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
2369 212.15(2) (b)	3rd	Failure to remit sales taxes, amount greater than

	23-01684A-19		20191416__	\$300 but less than \$20,000.
2370	316.1935(1)	3rd		Fleeing or attempting to elude law enforcement officer.
2371	319.30(5)	3rd		Sell, exchange, give away certificate of title or identification number plate.
2372	319.35(1)(a)	3rd		Tamper, adjust, change, etc., an odometer.
2373	320.26(1)(a)	3rd		Counterfeit, manufacture, or sell registration license plates or validation stickers.
2374	322.212 (1)(a)-(c)	3rd		Possession of forged, stolen, counterfeit, or unlawfully issued driver license; possession of simulated identification.
2375	322.212(4)	3rd		Supply or aid in supplying unauthorized driver license or identification card.
2376	322.212(5)(a)	3rd		False application for driver

	23-01684A-19		20191416__	license or identification card.
2377	414.39(3)(a)	3rd		Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.
2378	443.071(1)	3rd		False statement or representation to obtain or increase reemployment assistance benefits.
2379	509.151(1)	3rd		Defraud an innkeeper, food or lodging value greater than \$300.
2380	517.302(1)	3rd		Violation of the Florida Securities and Investor Protection Act.
2381	562.27(1)	3rd		Possess still or still apparatus.
2382	713.69	3rd		Tenant removes property upon which lien has accrued, value more than \$50.
2383	812.014(3)(c)	3rd		Petit theft (3rd

	23-01684A-19		20191416__	
				conviction); theft of any property not specified in subsection (2).
2384	812.081(2)	3rd		Unlawfully makes or causes to be made a reproduction of a trade secret.
2385	<u>815.04(4)(a)</u> <del>815.04(5)(a)</del>	3rd		Offense against intellectual property (i.e., computer programs, data).
2386	817.52(2)	3rd		Hiring with intent to defraud, motor vehicle services.
2387	817.569(2)	3rd		Use of public record or public records information or providing false information to facilitate commission of a felony.
2388	826.01	3rd		Bigamy.
2389	828.122(3)	3rd		Fighting or baiting animals.
2390	831.04(1)	3rd		Any erasure, alteration, etc., of any replacement deed, map, plat, or other

	23-01684A-19		20191416__	
				document listed in s. 92.28.
2391	831.31(1)(a)	3rd		Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
2392	832.041(1)	3rd		Stopping payment with intent to defraud \$150 or more.
2393	832.05(2)(b) & (4)(c)	3rd		Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.
2394	838.15(2)	3rd		Commercial bribe receiving.
2395	838.16	3rd		Commercial bribery.
2396	843.18	3rd		Fleeing by boat to elude a law enforcement officer.
2397	847.011(1)(a)	3rd		Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
2398	849.01	3rd		Keeping gambling house.
2399				



	23-01684A-19		20191416__
2400	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
2401	849.23	3rd	Gambling-related machines; "common offender" as to property rights.
2402	849.25(2)	3rd	Engaging in bookmaking.
2403	860.08	3rd	Interfere with a railroad signal.
2404	860.13(1)(a)	3rd	Operate aircraft while under the influence.
2405	893.13(2)(a)2.	3rd	Purchase of cannabis.
2406	893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
2407	934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.

	23-01684A-19		20191416__
2408	(c) LEVEL 3		
2409	Florida Statute	Felony Degree	Description
2410	119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
2411	316.066	3rd	Unlawfully obtaining or using confidential crash reports.
2412	(3)(b)-(d)		
2413	316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
2414	316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
2415	319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
2415	319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile

	23-01684A-19		20191416__	
			home.	
2416	319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.	
2417	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.	
2418	327.35(2)(b)	3rd	Felony BUI.	
2419	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.	
2420	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.	
2421	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.	
2422				

	23-01684A-19		20191416__	
	379.2431	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.	
	(1)(e)5.			
2423	379.2431	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.	
	(1)(e)6.			
2424	379.2431	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.	
	(1)(e)7.			
2425	400.9935(4)(a)	3rd	Operating a clinic, or offering services requiring licensure, without a license.	
	or (b)			

	23-01684A-19		20191416__
2426	400.9935 (4) (e)	3rd	Filing a false license application or other required information or failing to report information.
2427	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
2428	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
2429	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
2430	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
2431	626.902 (1) (a) &	3rd	Representing an

	23-01684A-19		20191416__
	(b)		unauthorized insurer.
2432	697.08	3rd	Equity skimming.
2433	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
2434	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
2435	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
2436	810.09 (2) (c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
2437	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
2438	812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or

	23-01684A-19		20191416__	more but less than \$10,000.
2439	<u>815.04(4)(b)</u>	2nd		Computer offense devised to defraud or obtain property.
	<del>815.04(5)(b)</del>			
2440	817.034(4)(a)3.	3rd		Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
2441	817.233	3rd		Burning to defraud insurer.
2442	817.234	3rd		Unlawful solicitation of persons involved in motor vehicle accidents.
	(8)(b) & (c)			
2443	817.234(11)(a)	3rd		Insurance fraud; property value less than \$20,000.
2444	817.236	3rd		Filing a false motor vehicle insurance application.
2445	817.2361	3rd		Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
2446				

	23-01684A-19		20191416__	
	817.413(2)	3rd		Sale of used goods as new.
2447	831.28(2)(a)	3rd		Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
2448	831.29	2nd		Possession of instruments for counterfeiting driver licenses or identification cards.
2449	838.021(3)(b)	3rd		Threatens unlawful harm to public servant.
2450	843.19	3rd		Injure, disable, or kill police dog or horse.
2451	860.15(3)	3rd		Overcharging for repairs and parts.
2452	870.01(2)	3rd		Riot; inciting or encouraging.
2453	893.13(1)(a)2.	3rd		Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3.,

23-01684A-19

20191416\_\_

(2) (c) 6., (2) (c) 7.,  
(2) (c) 8., (2) (c) 9.,  
(2) (c) 10., (3), or (4)  
drugs).

2454

893.13(1)(d)2.

2nd

Sell, manufacture, or  
deliver s. 893.03(1)(c),  
(2) (c) 1., (2) (c) 2.,  
(2) (c) 3., (2) (c) 6.,  
(2) (c) 7., (2) (c) 8.,  
(2) (c) 9., (2) (c) 10., (3),  
or (4) drugs within 1,000  
feet of university.

2455

893.13(1)(f)2.

2nd

Sell, manufacture, or  
deliver s. 893.03(1)(c),  
(2) (c) 1., (2) (c) 2.,  
(2) (c) 3., (2) (c) 6.,  
(2) (c) 7., (2) (c) 8.,  
(2) (c) 9., (2) (c) 10., (3),  
or (4) drugs within 1,000  
feet of public housing  
facility.

2456

893.13(4)(c)

3rd

Use or hire of minor;  
deliver to minor other  
controlled substances.

2457

893.13(6)(a)

3rd

Possession of any

23-01684A-19

20191416\_\_

controlled substance other  
than felony possession of  
cannabis.

2458

893.13(7)(a)8.

3rd

Withhold information from  
practitioner regarding  
previous receipt of or  
prescription for a  
controlled substance.

2459

893.13(7)(a)9.

3rd

Obtain or attempt to obtain  
controlled substance by  
fraud, forgery,  
misrepresentation, etc.

2460

893.13(7)(a)10.

3rd

Affix false or forged label  
to package of controlled  
substance.

2461

893.13(7)(a)11.

3rd

Furnish false or fraudulent  
material information on any  
document or record required  
by chapter 893.

2462

893.13(8)(a)1.

3rd

Knowingly assist a patient,  
other person, or owner of  
an animal in obtaining a  
controlled substance  
through deceptive, untrue,

	23-01684A-19		20191416__	
			or fraudulent representations in or related to the practitioner's practice.	
2463	893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.	
2464	893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.	
2465	893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.	
2466	918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.	
2467				

	23-01684A-19		20191416__	
	944.47	3rd	Introduce contraband to correctional facility.	
	(1)(a)1. & 2.			
2468	944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.	
2469	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).	
2470				
2471			Section 89. This act shall take effect upon becoming a law	
2472			if SB __ or similar legislation is adopted in the same	
2473			legislative session or an extension thereof and becomes a law.	

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/25/19

Meeting Date

SB 1416

Bill Number (if applicable)

Topic PUBLIC RECORDS

Amendment Barcode (if applicable)

Name NANCY STEPHENS

Job Title

Address 11025 SUMMIT LAKE DRIVE

Phone

Street

TALLAHASSEE

FL

32317

Email

City

State

Zip

Speaking: For [ ] Against [x] Information [ ]

Waive Speaking: In Support [ ] Against [x] (The Chair will read this information into the record.)

Representing MANUFACTURERS ASSOCIATION OF FLORIDA

Appearing at request of Chair: Yes [ ] No [x]

Lobbyist registered with Legislature: Yes [x] No [ ]

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

**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 1422

INTRODUCER: Senator Gruters

SUBJECT: Health Plans

DATE: March 22, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<b>Favorable</b>
2.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	<b>Favorable</b>
3.	_____	_____	<u>RC</u>	_____

---

**I. Summary:**

SB 1422 revises regulatory provisions relating to alternative coverage arrangements, such as short-term limited duration insurance policies and association health plans (AHPs). The bill codifies 2018 federal regulations to provide consumers and employers with more affordable coverage options and choices for health insurance coverage.

An AHP is a type of multiple employer welfare association, which constitutes a legal arrangement that allows business associations or unrelated employer groups to jointly offer health insurance and other fringe benefits to their members or employees. Changes in federal rules allow small employers, through associations, to gain regulatory and economic advantages that were previously only available to large employers. As a result of the federal regulatory changes, small employers, including working owners without employees, can form an AHP that would be treated as a large group rather than a small group for insurance purposes. This will lower insurance costs and regulatory burdens. In addition, the federal rule allows an AHP to form based on a geographic test, such as a common state, city, county, or a metropolitan area across state lines. Working owners without employees, including sole proprietors, can also join.

The bill also provides that short-term limited duration insurance is an individual or group health insurance coverage provided pursuant to a contract with an issuer that has an expiration date specified in the contract that is less than 12 months after the original effective date of the contract and has a duration of no longer than 36 months in total. Short-term limited duration insurance was designed primarily to fill temporary gaps in coverage that may occur when an individual is transitioning from one plan or coverage to another plan or coverage. Currently, a short-term limited duration insurance policy must expire within 12 months of the date of the contract, taking into account any extensions. The bill requires disclosure in the short-term limited duration insurance contract regarding the scope of the coverage.



## II. Present Situation:

Health care spending in the United States is expected to grow an average of 5.5 percent annually from 2018 through 2027, reaching nearly \$6.0 trillion by 2027.<sup>1</sup> Consumers are becoming responsible for a growing proportion of this spending, as demonstrated in the increased use of high deductible health plans and other forms of cost sharing. Since 2012, the percentage of workers covered by a plan with a deductible of \$1,000 or greater has grown from 34 to 51 percent.<sup>2</sup>

### Regulation of Insurance in Florida

The Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers, health maintenance organizations (HMOs), and other risk-bearing entities.<sup>3</sup> The Agency for Health Care Administration (agency) regulates the quality of care provided by HMOs under part III of ch. 641, F.S., and before receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from the agency.<sup>4</sup>

#### *Individual and Small Group Markets*

Nine health insurance companies writing individual policies or contracts submitted rate filings to the OIR in June 2018. In August 2018, the OIR announced that premiums for the individual federal Patient Protection and Affordable Care Act (PPACA)<sup>5</sup> compliant plans would increase an average of 5.2 percent effective January 1, 2019.<sup>6</sup> The average approved rate changes to the plans on the exchange ranged from -1.5 percent to +9.8 percent. Only one insurer, Blue Cross Blue Shield, offers individual coverage in all 67 counties.<sup>7</sup> During the 2019 open enrollment period, 1,786,679 individuals enrolled in Florida plans through the federally administered exchange.<sup>8</sup>

The OIR approved the 2019 rates for 14 small group insurers.<sup>9</sup> The weighted average change in approved rates from 2018 was 6 percent. The percentage change in approved rates from 2018

---

<sup>1</sup> Office of the Actuary, Centers for Medicare & Medicaid Services (CMS), *National Health Expenditure Projections 2018-2027*, <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Downloads/ForecastSummary.pdf> (last viewed Mar. 22, 2019).

<sup>2</sup> Brendan Riley, *Can Consumers be Smarter Health Care Shoppers in the Quest for Cost Containment?*, 79 N.C. Med. J., 34 (Jan.-Feb. 2018).

<sup>3</sup> Section 20.121(3)(a), F.S.

<sup>4</sup> Section 641.21(1), F.S.

<sup>5</sup> The Patient Protection and Affordable Care Act (Pub. L. No. 111-148) was enacted on March 23, 2010. The Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152), which amended and revised several provisions of the PPACA, was enacted on March 30, 2010.

<sup>6</sup> Office of Insurance Regulation, *Individual PPACA Market Monthly Premiums for Plan Year 2019*, <https://floir.com/siteDocuments/IndividualMarketPremiumSummary.pdf> (last viewed February 11, 2019). See also Office of Insurance Regulation, *OIR Announces 2019 PPACA Individual Market Health Insurance Plan Rates*, <https://www.floir.com/PressReleases/viewmediarelease.aspx?id=2234> (last viewed Mar. 22, 2019).

<sup>7</sup> Office of Insurance Regulation, *Individual Market County Offerings*, <https://www.floir.com/sitedocuments/IndividualMarketCountyOfferings.pdf>, (last viewed Mar. 22, 2019).

<sup>8</sup> CMS, *Final Weekly Enrollment Snapshot for the 2019 Enrollment Period* (Jan. 3, 2019), <https://edit.cms.gov/newsroom/fact-sheets/final-weekly-enrollment-snapshot-2019-enrollment-period> (last viewed Mar. 22, 2019).

<sup>9</sup> Office of Insurance Regulation, *Small Group PPACA Market Monthly Premiums for Plan Year 2019* (Aug. 22, 2018), available at <https://www.floir.com/siteDocuments/SGMarketPremiumSummary.pdf> (last viewed Mar. 22, 2019).

ranged from -11.8 percent to +14.5 percent. Florida Blue and UnitedHealthCare (and affiliates) offer small group plans in every county.

### ***State Regulation of Short-term Limited Duration Insurance Policies***

In Florida, short-term limited duration insurance (STLDI) is an individual health insurance coverage with an issuer or insurer that has specified in the contract an expiration date that is within 12 months of the contract's effective date.<sup>10</sup> An STLDI policy that is renewable or is for a term longer than 6 months cannot exclude preexisting conditions for more than 24 months.<sup>11</sup>

Currently in Florida there are two licensed insurers (Blue Cross Blue Shield and Integon Indemnity Corporation) offering short term limited duration individual policies that provide coverage for an estimated 10,000 members.

### ***Florida Regulation of Association Health Plans or Multiple Employer Welfare Arrangements***

In Florida, an AHP consisting of multiple employers is referred to as a multiple employer welfare arrangement (MEWAs).<sup>12</sup> A MEWA is an employee welfare benefit plan or any other arrangement that is established or maintained for the purpose of offering or providing health insurance benefits or any other benefits described in s. 624.33, F.S., other than life insurance benefits, to the employees of two or more employers, or to their beneficiaries.<sup>13</sup> Current state law requires AHPs or MEWAs to be based on a common industry. AHPs may not have less than 25 members and must have been organized and maintained in good faith for at least 1 year.<sup>14</sup> A small group health alliance must be organized as a not-for-profit corporation under ch. 617, F.S.<sup>15</sup>

In the Florida, there are two AHPs/MEWAs licensed by the OIR: the Independent Colleges and Universities Benefits Association, which is comprised of 26 employers with approximately 15,000 members, and the Florida Bankers Association comprised of 64 employers with approximately 6,000 members.

### **Federal Regulation of Health Insurance Products**

The PPACA requires health insurers to make major medical or comprehensive coverage available to all individuals and employers, without exclusions for preexisting conditions and without basing premiums on any health-related factors. The PPACA also mandates required essential health benefits,<sup>16</sup> rating and underwriting standards, and other provisions. The PPACA

---

<sup>10</sup> Fla. Admin. Code R. 690-154.104 (2000). The Insurance Code does not prohibit the OIR from approving a short-term limited duration rider that offered a guaranteed renewability option for up to 36 months. However, Rule 690-154.104 prevents guaranteed renewability.

<sup>11</sup> Section 627.6045, F.S.

<sup>12</sup> See ss. 624.436-624.446, F.S., which may be cited as the "Florida Nonprofit Multiple Welfare Arrangement Act."

<sup>13</sup> Section 627.437, F.S. This section does not apply to a multiple-employer welfare arrangement which offers or provides benefits which are fully insured by an authorized insurer, to an arrangement which is exempt from state insurance regulation in accordance with Pub. L. No. 93-406, the Employee Retirement Income Security Act, or to the state group health insurance program administered pursuant to s. 110.123, F.S.

<sup>14</sup> Section 627.438, F.S.

<sup>15</sup> *Id.*

<sup>16</sup> 42 U.S.C. § 18022.

requires insurers and HMOs that offer qualified health plans to provide ten categories of essential health coverage.<sup>17</sup> The PPACA preempts any state law that prevents the application of a provision of PPACA.<sup>18</sup>

In 2017, the federal Tax Cuts and Jobs Act<sup>19</sup> reduced the tax penalty for individuals who fail to comply with PPACA's individual mandate to maintain minimum essential health coverage to zero beginning tax year 2019.<sup>20</sup> However, the act did not repeal the individual mandate.

### ***Federal Regulation of Short-Term Limited Duration Plans***

Federal law<sup>21</sup> defines individual health insurance coverage as health insurance coverage offered to individuals in the individual market, but does not include short-term limited duration insurance. STLDI policies do not need to meet the essential health benefits requirements, and are not subject to the prohibitions on preexisting condition exclusions or lifetime and annual dollar limits. An STLDI policy is also not subject to requirements regarding guaranteed availability, guaranteed renewability, and rating requirements based on health status. As a result, an insurer would be able to offer short-term limited duration insurance policies to individuals who are in good health at substantially lower premium than available in the individual market.

The U.S. Department of Health and Human Services adopted final rules,<sup>22</sup> effective for policies issued after October 1, 2019, that revised the definition of STLDI to specify that a STLDI policy is health coverage provided pursuant to a contract with an issuer that has an expiration date specified in the contract that is less than 12 months after the original effective date of the contract and, taking into account renewals or extensions, has a duration of no longer than 36 months in total.<sup>23</sup> Previously, the policy term of a STLDI policy was limited to 3 months.<sup>24</sup> The rule requires disclosures in the STLDI insurance contract regarding the scope of the coverage.

### ***Federal Regulation of Association Health Plans***

The federal Employee Retirement Income Security Act (ERISA) gives states regulatory authority over self-insured MEWAs and some authority over fully insured MEWAs to ensure solvency, require state licensure, and require financial reporting. An AHP is one type of MEWA. Further, ERISA authorizes the U.S. Department of Labor to require fully insured and self-insured MEWAs to register with the department.

---

<sup>17</sup> See Center for Consumer Information & Insurance Oversight, *Information on Essential Health Benefits (EHB) Benchmark Plans* <https://www.cms.gov/ccio/resources/data-resources/ehb.html> (last viewed Mar. 22, 2019) for Florida's benchmark plan.

<sup>18</sup> The PPACA preempts any state law that prevents the application of a provision of the PPACA. The PPACA effectively allows states to adopt and enforce laws that provide greater consumer protections than the PPACA, but any state law that does not meet the federal minimum standards will be preempted. Pub. L. No. 111-148, s. 1321(d).

<sup>19</sup> Public L. No. 115-97, Stat. 2054 (2017).

<sup>20</sup> Prior to tax year 2019, the PPACA required that, for each month during the year, an individual must have minimum essential coverage or individual mandate; qualify for an exemption; or pay a penalty or shared responsibility payment when filing the federal income tax return. 26 U.S.C. § 5000A. See Internal Revenue Service, *Individual Shared Responsibility Provision*, <https://www.irs.gov/taxtopics/tc561> (last viewed Mar. 22, 2019).

<sup>21</sup> Section 2791(b)(5) of the PHS Act.

<sup>22</sup> 45 CFR § 144, 146, and 148.

<sup>23</sup> 83 FR 38212.

<sup>24</sup> 81 FR 75316.

Under current federal law and regulations, health insurance coverage offered or provided through an employer trade association, chamber of commerce, or similar organization, to individuals and small employers, is generally regulated under the same federal standards that apply to insurance coverage sold by health insurance issuers<sup>25</sup> directly to these individuals and small employers, unless the coverage sponsored by the group or association constitutes a single ERISA covered plan.

Generally, unless the arrangement sponsored by the group or association constitutes a single ERISA covered plan, the current regulatory framework disregards the group or association in determining whether the coverage obtained by any particular participating individual or employer is individual, small group, or large group market coverage. Instead, the test for determining the type of coverage focuses on whether the coverage is offered to individuals or employers. If the coverage is offered to employers, whether the group coverage is large group or small group coverage depends on the number of employees of the particular employer obtaining the coverage. As a result, associations that want to form AHPs and existing AHPs currently face a complex and costly compliance environment, insofar as the various employer members of the association and the association's health insurance coverage arrangement may simultaneously be subject to large group, small group, and individual market regulation, which undermines one of the core purposes and advantages of an association forming and its employer members joining an AHP.

In June 2018, the U.S. Department of Labor issued its final rule on the regulation of AHPs.<sup>26</sup> The final rule maintained the existing regulatory framework but also created a second option for both new and existing AHPs/MEWAs that may elect to follow the new regulations. The second option contains the following key differences with the previous federal regulations:

- Allows for AHPs/MEWAs to be based on a common geography area or a common industry.
- Allows small employers to join together to form an AHP/MEWA and be treated as a large employer for the purposes of buying insurance. Current federal law has a look-through provision that treats small employers that are part of an AHP/MEWA as part of the small employer market, and are subject to coverage requirements of the PPACA. Insurance purchased by large employers is not subject to essential health benefit requirements (such as providing mental health, maternity benefits, etc.).
- The rules provide non-discrimination protections that prohibit associations from conditioning membership based on a health factor but does not prohibit other factors such as gender, age, geography, and industry. The association may not charge higher premiums or deny coverage to people because of preexisting conditions, or cancel coverage because an employee becomes ill.
- Self-funded MEWAs that are recognized as bona fide associations or groups under previously issued guidance from the U.S. Department of Labor remain eligible under federal law in accordance with parts 2510.3-5(a) of the Federal Labor Code.

---

<sup>25</sup>A “health insurance issuer” or “issuer” is an insurance company, insurance service, or insurance organization (including an HMO) that is required to be licensed to engage in the business of insurance in a State and that is subject to State law that regulates insurance (within the meaning of section 514(b)(2) of ERISA). Such term does not include a group health plan. 29 CFR § 2590.701–2. The terms “health insurance issuer” and “issuer” are used interchangeably in this preamble.

<sup>26</sup>29 CFR § 2510, available at <https://www.govinfo.gov/content/pkg/FR-2018-06-21/pdf/2018-12992.pdf> (last viewed Mar. 22, 2019).

- Self-employed individuals with no other employees can also join an AHP, along with their families. Self-employed individuals who employ other individuals have always been eligible to join an AHP.
- The new rule eliminates a provision that required a group or association acting as an employer to exist for purposes other than providing health benefits. The rule requires that a group or association of employers have at least one substantial business purpose unrelated to offering and providing health coverage or other employee benefits to its employer members and their employees, even if the primary purpose of the group or association is to offer such coverage to its members
- States will continue to have regulatory oversight of AHPs and share enforcement authority with the federal government.

The new rule does not affect previously existing AHPs, which were authorized under prior guidance. Such plans can continue to operate as before, or elect to follow the new requirements if they want to expand within a geographic area, regardless of industry, or to cover the self-employed. New plans can also form and elect to follow either the old guidance or the new rules. New and existing plans may use experience rating by underwriting premiums for individual employer members based on health status. However, the AHPs that wish to do so must continue to meet the prior federal regulations, which are more stringent standards in areas such as commonality of interest; and they could not enroll working owners in an AHP coverage.

Many experts are evaluating the impact of the new federal rules. Four million Americans, including 400,000 who otherwise would lack insurance, are expected to join an AHP by 2023 according to a Congressional Budget Office report.<sup>27</sup> Some large employers could be a part of an AHP; however, it is anticipated that many AHPs will draw the majority of their membership primarily from the small-group market and, to a lesser extent, the individual market. Both markets have shown a high degree of price sensitivity, particularly in the unsubsidized segment of the individual market (i.e. those individuals with income above 400 percent of the federal poverty level) who pay full costs with no employer contribution or government subsidy.<sup>28</sup> Low price will still be a key consideration and AHPs will need to have comprehensive strategies that produce the best chance of being competitive with the small-group PPACA market as well as with other alternative offerings, such as small group level-funded (self-insured) products. Price will be a significant consideration for employers, but features unrelated to price, such as payment reform, benefits, value-added features, and branding may be significant factors in the choice between AHP coverage and other options.

With the implementation of the new federal rule, all associations (new or existing) may establish a fully-insured AHP on September 1, 2018. Existing associations that sponsored an AHP on or before the date the Final Rule was published may establish a self-funded AHP on January 1, 2019. All other associations (new or existing) may establish a self-funded AHP on April 1, 2019.

---

<sup>27</sup> U.S. Congressional Budget Office, *Federal Subsidies for Health Insurance Coverage for People Under Age 65: 2018 to 2028* (May 2018), available at <https://www.cbo.gov/system/files?file=2018-06/53826-healthinsurancecoverage.pdf> (last viewed Mar. 22, 2019).

<sup>28</sup> Milliman, Inc., *Association health plans after the final rule*, (Aug. 22, 2018), <http://www.milliman.com/insight/2018/Association-health-plans-after-the-final-rule/> (last viewed Mar. 22, 2019).

### III. Effect of Proposed Changes:

**Section 1** amends s. 624.438, F.S., to revise the eligibility requirements for a MEWA to codify the new, expanded eligibility requirements contained in federal rule. The section removes provisions relating to eligibility requirements that were in effect prior to the adoption of the new federal rules, including the requirement that a MEWA have been organized and maintained in good faith for a continuous period of 1 year for purposes other than obtaining or providing insurance, and commonality of trades or profession.

**Section 2** amends s. 624.6045, F.S., to provide that short-term health insurance policies are not required to cover preexisting conditions. Currently, short-term policies that are renewable for a term longer than 6 months cannot exclude preexisting conditions for more than 24 months.

**Section 3** amends s. 627.6425, F.S., to require that individual short-term policies be guaranteed renewable at the option of the individual by including such policies in the definition of health insurance.

**Sections 4 and 5** amend ss. 627.6426 and 627.654, F.S., to define “short term health insurance” to mean health insurance coverage provided by an issuer with an expiration date that is less than 12 months after the original effective date of the contract and, taking into account renewals or extensions, has a duration not to exceed 36 months. Section 4 applies the new definition of short-term health insurance to the individual market; Section 5 applies it to group, blanket, or franchise policies of health insurance. Sections 4 and 5 each codify the federal disclosure notice requirement for short-term policies for individual and group policies into state law, which would allow the OIR to enforce this provision.

**Section 6** amends s. 627.654, F.S., to codify the federal rule that allows an association to be insured under a group policy purchased from a licensed insurer. The section also removes the requirements that an association may not have less than 25 members and have been organized and maintained in good faith for a period of 1 year. Lastly, it removes the requirement that a small group health alliance be organized as a not-for-profit corporation under ch. 617, F.S., and meet other requirements.

**Section 7** provides that the bill takes effect July 1, 2019.

### 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.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Consumers and employers will have a greater choice of health insurance options with lower costs. Many consumers unable to afford major medical insurance coverage may be able to afford other coverage options now available.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

Self-funded MEWAs that were recognized to be bona fide associations or groups under previously issued guidance from the United States Department of Labor remain eligible under federal law in accordance with sections 2510.3-5(a) of the Federal Labor Code. However, this provision is not included in Section 1 of the bill. It may be beneficial to include such groups under Section 1 as the two currently licensed MEWAs are organized under this prior federal guidance and new MEWAs have the option under federal law to follow this guidance rather than the recently expanded federal definition of bona fide group or association.

There is an apparent conflict between sections 3 and 4 of the bill. In particular, Section 3 requires guaranteed renewability for short-term plans at the option of the individual whereas Section 4 limits short-term plans to 36 months as required by federal law. It is unclear what would happen if a consumer has had a short-term plan for 36 months and wants to renew as Section 3 would require an insurer to renew the same policy but would be prohibited from renewing the same policy by Section 5 and federal law.

It appears that the primary purpose of adding a bona fide group or association of employers as defined in 2510.3-5(a) of the Federal Labor Code to Section 6 is to allow health insurers to sell comprehensive, major medical policies to these types of groups. However, as written, the bill would allow health insurers to offer other types of health insurance products to these newly included groups such as accident policies, hospital indemnity policies, and specified disease policies.

Under federal law, employee leasing companies, also known as professional employer organizations or PEOs, are considered a type of MEWA. Employee leasing companies are licensed under s. 468.529, F.S. Section 468.529(1), F.S., states in part that “no licensed employee leasing company shall sponsor a plan of self-insurance for health benefits, except as may be permitted by the provisions of the Florida Insurance Code.” Employee leasing companies are typically comprised of employers from disparate trades or industries. Since the bill would allow MEWAs that consist of employers from disparate trades or industries, it would be beneficial to clarify the OIR’s role in the regulation of health plans of self-insured employee leasing organizations.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 624.438, 627.6045, 627.6425, and 627.654.

This bill creates the following sections of the Florida Statutes: 627.6426 and 627.6525.

**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.



By Senator Gruters

23-01636-19

20191422\_\_

A bill to be entitled

An act relating to health plans; amending s. 624.438, F.S.; revising eligibility requirements for multiple-employer welfare arrangements; amending s. 627.6045, F.S.; revising applicability of requirements relating to preexisting conditions; revising the font size for a certain disclosure; amending s. 627.6425, F.S.; revising the definition of the term "individual health insurance" relating to renewability of individual coverage; creating ss. 627.6426 and 627.6525, F.S.; defining the term "short-term health insurance"; providing disclosure requirements for short-term individual, group, blanket, and franchise health insurance policies; amending s. 627.654, F.S.; revising requirements for, and applicability relating to, association and small employer policies; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 624.438, Florida Statutes, is amended to read:

624.438 General eligibility.-

(1) To meet the requirements for issuance of a certificate of authority and to maintain a multiple-employer welfare arrangement, an arrangement:

(b) ~~1-~~ Must be established by a bona fide group trade association, industry association, or professional association of employers as defined in 29 C.F.R. s. 2510.3-5 ~~or~~

Page 1 of 7

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

23-01636-19

20191422\_\_

~~professionals~~ which has a constitution or bylaws specifically stating its purpose and which has been organized ~~and maintained in good faith for a continuous period of 1 year~~ for purposes in addition to other than that of obtaining or providing insurance.

~~2. Must not combine member employers from disparate trades, industries, or professions as defined by the appropriate licensing agencies, and must not combine member employers from more than one of the employer categories defined in sub-subparagraphs a.-c.~~

~~a. A trade association consists of member employers who are in the same trade as recognized by the appropriate licensing agency.~~

~~b. An industry association consists of member employers who are in the same major group code, as defined by the Standard Industrial Classification Manual issued by the Federal Office of Management and Budget, unless restricted by sub-subparagraph a. or sub-subparagraph e.~~

~~c. A professional association consists of member employers who are of the same profession as recognized by the appropriate licensing agency.~~

The requirements of this paragraph ~~subparagraph~~ do not apply to an arrangement licensed ~~before~~ prior to April 1, 1995, regardless of the nature of its business. However, an arrangement exempt from the requirements of this paragraph ~~subparagraph~~ may not expand the nature of its business beyond that set forth in the articles of incorporation of its sponsoring association as of April 1, 1995, except as authorized in this paragraph ~~subparagraph~~.

Page 2 of 7

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

23-01636-19

20191422\_\_

59 Section 2. Subsection (3) of section 627.6045, Florida  
60 Statutes, is amended to read:

61 627.6045 Preexisting condition.—A health insurance policy  
62 must comply with the following:

63 (3) This section does not apply to short-term, ~~nonrenewable~~  
64 ~~health insurance policies of no more than a 6-month policy term,~~  
65 provided that it is clearly disclosed to the applicant in the  
66 advertising and application, in ~~14-point 10-point~~ contrasting  
67 type, that "This policy does not meet the definition of  
68 qualifying previous coverage or qualifying existing coverage as  
69 defined in s. 627.6699. As a result, if purchased in lieu of a  
70 conversion policy or other group coverage, you may have to meet  
71 a preexisting condition requirement when renewing or purchasing  
72 other coverage."

73 Section 3. Subsection (1) of section 627.6425, Florida  
74 Statutes, is amended to read:

75 627.6425 Renewability of individual coverage.—

76 (1) Except as otherwise provided in this section, an  
77 insurer that provides individual health insurance coverage to an  
78 individual shall renew or continue in force such coverage at the  
79 option of the individual. For the purpose of this section, the  
80 term "individual health insurance" means health insurance  
81 coverage, as described in s. 624.603, offered to an individual  
82 in this state, including certificates of coverage offered to  
83 individuals in this state as part of a group policy issued to an  
84 association outside this state, but the term does not include  
85 ~~short-term limited duration insurance or~~ excepted benefits  
86 specified in s. 627.6513(1)-(14).

87 Section 4. Section 627.6426, Florida Statutes, is created

Page 3 of 7

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

23-01636-19

20191422\_\_

88 to read:

89 627.6426 Short-term health insurance.—

90 (1) For purposes of this part, the term "short-term health  
91 insurance" means health insurance coverage provided by an issuer  
92 with an expiration date specified in the contract which is less  
93 than 12 months after the original effective date of the contract  
94 and, taking into account renewals or extensions, has a duration  
95 not to exceed 36 months in total.

96 (2) All contracts for short-term health insurance entered  
97 into by an issuer and an individual seeking coverage shall  
98 include the following disclosure:

99  
100 "This coverage is not required to comply with certain federal  
101 market requirements for health insurance, principally those  
102 contained in the Patient Protection and Affordable Care Act. Be  
103 sure to check your policy carefully to make sure you are aware  
104 of any exclusions or limitations regarding coverage of  
105 preexisting conditions or health benefits (such as  
106 hospitalization, emergency services, maternity care, preventive  
107 care, prescription drugs, and mental health and substance use  
108 disorder services). Your policy might also have lifetime and/or  
109 annual dollar limits on health benefits. If this coverage  
110 expires or you lose eligibility for this coverage, you might  
111 have to wait until an open enrollment period to get other health  
112 insurance coverage."

113 Section 5. Section 627.6525, Florida Statutes, is created  
114 to read:

115 627.6525 Short-term health insurance.—

116 (1) For purposes of this part, the term "short-term health

Page 4 of 7

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

23-01636-19

20191422\_\_

117 insurance” means a group, blanket, or franchise policy of health  
 118 insurance coverage provided by an issuer with an expiration date  
 119 specified in the contract which is less than 12 months after the  
 120 original effective date of the contract and, taking into account  
 121 renewals or extensions, has a duration not to exceed 36 months  
 122 in total.

123 (2) All contracts for short-term health insurance entered  
 124 into by an issuer and a party seeking coverage shall include the  
 125 following disclosure:

126  
 127 “This coverage is not required to comply with certain federal  
 128 market requirements for health insurance, principally those  
 129 contained in the Patient Protection and Affordable Care Act. Be  
 130 sure to check your policy carefully to make sure you are aware  
 131 of any exclusions or limitations regarding coverage of  
 132 preexisting conditions or health benefits (such as  
 133 hospitalization, emergency services, maternity care, preventive  
 134 care, prescription drugs, and mental health and substance use  
 135 disorder services). Your policy might also have lifetime and/or  
 136 annual dollar limits on health benefits. If this coverage  
 137 expires or you lose eligibility for this coverage, you might  
 138 have to wait until an open enrollment period to get other health  
 139 insurance coverage.”

140 Section 6. Subsection (1) of section 627.654, Florida  
 141 Statutes, is amended to read:

142 627.654 Labor union, association, and small employer health  
 143 alliance groups.—

144 (1) (a) A bona fide group or association of employers, as  
 145 defined in 29 C.F.R. s. 2510.3-5, or a group of individuals may

Page 5 of 7

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

23-01636-19

20191422\_\_

146 be insured under a policy issued to an association, including a  
 147 labor union, which association has a constitution and bylaws ~~and~~  
 148 ~~not less than 25 individual members~~ and which has been organized  
 149 ~~and has been maintained in good faith for a period of 1 year for~~  
 150 purposes in addition to ~~other than that of~~ obtaining insurance,  
 151 or to the trustees of a fund established by such an association,  
 152 which association or trustees shall be deemed the policyholder,  
 153 insuring at least 15 individual members of the association for  
 154 the benefit of persons other than the officers of the  
 155 association, or trustees.

156 (b) A small employer, as defined in s. 627.6699 and  
 157 including the employer’s eligible employees and the spouses and  
 158 dependents of such employees, may be insured under a policy  
 159 issued to a small employer health alliance by a carrier as  
 160 defined in s. 627.6699. ~~A small employer health alliance must be~~  
 161 ~~organized as a not-for-profit corporation under chapter 617.~~  
 162 ~~Notwithstanding any other law, if a small employer member of an~~  
 163 ~~alliance loses eligibility to purchase health care through the~~  
 164 ~~alliance solely because the business of the small employer~~  
 165 ~~member expands to more than 50 and fewer than 75 eligible~~  
 166 ~~employees, the small employer member may, at its next renewal~~  
 167 ~~date, purchase coverage through the alliance for not more than 1~~  
 168 ~~additional year. A small employer health alliance shall~~  
 169 ~~establish conditions of participation in the alliance by a small~~  
 170 ~~employer, including, but not limited to:~~

171 ~~1. Assurance that the small employer is not formed for the~~  
 172 ~~purpose of securing health benefit coverage.~~

173 ~~2. Assurance that the employees of a small employer have~~  
 174 ~~not been added for the purpose of securing health benefit~~

Page 6 of 7

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

23-01636-19

20191422\_\_

175 ~~coverage.~~

176 Section 7. This act shall take effect July 1, 2019.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-25

Meeting Date

1422

Bill Number (if applicable)

Topic Health Plans

Amendment Barcode (if applicable)

Name Matt Jordan

Job Title GRD

Address 1922 Dellwood Dr

Phone 850-519-2801

Street

Tallahassee

Email matt.jordan@cancer.org

City

State

Zip

Speaking: [ ] For [ ] Against [x] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

Representing American Cancer Society

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/25/19

Meeting Date

1422

Bill Number (if applicable)

Topic Health Plans

Amendment Barcode (if applicable)

Name Mike Cusick

Job Title Lobbyist

Address 200 W. College Ave.

Phone 850-222-5620

Street

Tallahassee FL 32301

Email mlope@MichaelCusick.com

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [x] In Support [ ] Against (The Chair will read this information into the record.)

Representing Opportunity Solutions

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

# CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Committee on Commerce and Tourism

Judge:

Started: 3/25/2019 1:34:13 PM

Ends: 3/25/2019 2:21:04 PM

Length: 00:46:52

1:34:13 PM Chair Gruters calls the meeting to order  
1:34:19 PM CAA Madeline Reeve calls the roll  
1:34:24 PM Quorum announced  
1:34:30 PM Chair with opening comments  
1:34:44 PM SB 962 and SB 1788 Temporarily Postponed  
1:34:58 PM Tab 1 Confirmation of Ken Lawson, Executive Director, Department of Economic Opportunity  
1:35:10 PM Chair Gruters swears Director in  
1:35:15 PM Director Lawson with brief statement  
1:35:49 PM Chair calls for questions  
1:35:54 PM Director Lawson waives close  
1:35:59 PM Motion to confirm by Vice-Chair Torres  
1:36:10 PM Roll call on affirmation  
1:36:16 PM Affirmation favorable  
1:36:38 PM Tab 4 SB 1692 Corporate Income Tax by Senator Rodriguez  
1:36:53 PM Senator Rodriguez explains the bill  
1:38:43 PM Vice-Chair Torres with question  
1:38:54 PM Senator Rodriguez responds  
1:40:21 PM Appearance Forms  
1:40:26 PM Kurt Wenner Vice-President, Florida Tax Watch in support  
1:40:35 PM Anthony D Marco, Florida Bankers Association waives in opposition  
1:40:39 PM Karen Woodall, Executive Director, Florida Center for Fiscal/Economic Policy speaks in support  
1:42:46 PM French Brown Florida Chamber of Commerce/Florida Retail Federation speaks in opposition  
1:46:15 PM Chair with question  
1:46:21 PM Mr. Brown responds  
1:46:25 PM Bewster Bevis, Associated Industries of Florida waives in opposition  
1:46:43 PM Senator Rodriguez closes on bill  
1:48:59 PM Roll call on SB 1692  
1:50:00 PM SB 1692 reported unfavorably  
1:50:37 PM Tab 2 SB 990 Unemployment Compensation by Senator Gibson  
1:50:42 PM Senator Gibson explains the bill  
1:52:34 PM Appearance Forms  
1:52:41 PM Jasmen Rogers Shaw Miami Workers Center waives in support  
1:52:49 PM Karen Woodall, Executive Director, Florida Center for Fiscal & Economic Policy  
1:52:54 PM Barbara Devane FL Now waives in support  
1:53:02 PM Charo Valero Florida Latina Advocacy Network waives in support  
1:53:19 PM Senator Gibson closes on bill  
1:53:34 PM Roll call on SB 990  
1:54:00 PM SB 990 reported favorably  
1:54:21 PM Tab 5 SR 1808 Film and Television Production by Senator Taddeo  
1:54:25 PM Senator Taddeo explains the Resolution  
1:56:00 PM Appearance Forms  
1:56:06 PM Joseph Salzverb Miami Downtown Development Authority waives in support  
1:56:10 PM Kurt Wenner, Florida Tax Watch in support  
1:56:21 PM Ray Rodriguez, Actor/Producer in support  
1:56:32 PM Phillip Suderman Americans for Prosperity in opposition  
1:56:43 PM Chris Ranung Chair, COMPASS speaks in support  
1:57:52 PM Jack Hebert American Advertising Federation, Fourth District waives in support  
1:58:00 PM John Lux Executive Director, Film Florida speaks in support  
1:58:35 PM Chair with question  
1:58:40 PM Mr. Lux responds  
1:59:01 PM Chair with follow-up  
1:59:05 PM Mr. Lux responds

1:59:06 PM Chair with follow-up  
1:59:09 PM Mr. Lux responds  
1:59:38 PM Chair with follow-up  
1:59:44 PM Mr. Lux responds  
2:00:15 PM Chair with follow-up  
2:00:17 PM Mr. Lux responds  
2:00:29 PM Sandy Lighterman Miami-Dade County Office of Film & Entertainment in support  
2:00:37 PM David Shepp Field Entertainment in support  
2:00:42 PM Todd Roobin, Film Commissioner, Jacksonville Film and TV Office in support  
2:01:03 PM Vice-Chair Torres in debate  
2:02:06 PM Senator Stewart in debate  
2:02:50 PM Chair with comments  
2:03:53 PM Senator Taddeo closes on Resolution  
2:04:10 PM Roll call on SR 1808  
2:04:25 PM SR 1808 reported favorably  
2:04:49 PM Tab 6 SR 1438 Taiwan by Senator Torres  
2:04:51 PM Vice-Chair Torres explains the Resolution  
2:05:52 PM Vice-Chair Torres waives close  
2:05:58 PM Roll call on SR 1438  
2:06:01 PM SR 1438 reported favorably  
2:06:20 PM Chair turns gavel over to Torres  
2:06:32 PM Tab 8 SB 1414 - Public Records/Trade Secrets held by an Agency by Senator Gruters  
2:06:47 PM Senator Gruters explains the bill  
2:07:18 PM Amendment Barcode 205312 by Senator Gruters  
2:07:28 PM Senator Gruters explains the amendment  
2:07:49 PM Senator Gruters waives close on amendment  
2:07:56 PM Amendment adopted  
2:08:07 PM No appearance forms  
2:08:10 PM Nancy Stephens Manufacturers Association of Florida speaks against the bill  
2:11:30 PM Vice-Chair Torres in debate  
2:12:35 PM Senator Stewart in debate  
2:13:25 PM Senator Gruters closes on bill  
2:13:39 PM Roll call on CS/SB 1414  
2:14:08 PM Bill reported favorably  
2:14:21 PM Tab 9 SB 1416 Public Records by Senator Gruters  
2:14:36 PM Senator Gruters with explanation of strike all Amendment Barcode 526826  
2:15:16 PM No appearance forms  
2:15:26 PM Senator Gruters waives close - amendment adopted  
2:15:37 PM Appearance Form  
2:15:41 PM Nancy Stephens waives in opposition  
2:16:00 PM Senator Gruters waives close  
2:16:03 PM Roll call on CS/SB 1416  
2:16:09 PM Bill reported favorably  
2:16:23 PM Tab 10 SB 1422 Health Plans by Senator Gruters  
2:16:33 PM Senator Gruters explains the bill  
2:17:15 PM Senator Torres with question  
2:17:21 PM Senator Gruters responds  
2:17:53 PM Appearance forms  
2:18:11 PM Matt Jordan American Cancer Society with information  
2:19:34 PM Mike Cusick Opportunity Solutions waives in support  
2:19:47 PM Vice-Chair Torres in debate  
2:20:16 PM Senator Gruters waives close  
2:20:21 PM Roll call on SB 1422  
2:20:29 PM Bill reported favorably  
2:20:40 PM Vice-Chair turns gavel back to Chair  
2:20:50 PM Senator Wright moves to adjourn  
2:20:55 PM Meeting adjourned