

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Bradley, Chair
Senator Margolis, Vice Chair

MEETING DATE: Wednesday, March 4, 2015

TIME: 3:30 —5:30 p.m.

PLACE: *Toni Jennings Committee Room, 110 Senate Office Building*

MEMBERS: Senator Bradley, Chair; Senator Margolis, Vice Chair; Senators Abruzzo, Bean, Braynon, Diaz de la Portilla, Flores, Latvala, Negron, Richter, Sachs, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 612 Brandes (Identical H 673)	Cosmetic Product Registration; Removing the requirement that a person who manufactures, packages, repackages, labels, or relabels a cosmetic in this state must register such cosmetic biennially with the Department of Business and Professional Regulation, etc. RI 03/04/2015 Fav/CS AGG AP	Fav/CS Yeas 12 Nays 0
2	SB 466 Flores (Similar CS/H 413)	Low-voltage Alarm Systems; Revising the definition of the term "low-voltage alarm system project" and adding the definition of the term "wireless alarm system"; providing that a permit is not required to install, maintain, inspect, replace, or service a wireless alarm system and its ancillary components; reducing the maximum price for permit labels for alarm systems, etc. RI 03/04/2015 Fav/CS CA RC	Fav/CS Yeas 11 Nays 1
3	SB 558 Stargel (Identical CS/H 401)	Public Lodging and Public Food Service Establishments; Revising the frequency at which the Division of Hotels and Restaurants of the Department of Business and Professional Regulation must reassess the inspection frequency of public food service establishments; authorizing the division to deliver lodging inspection reports and food service inspection reports by electronic means; requiring an operator of a public food service establishment to make available a copy of the latest food service inspection report at the time of a division inspection, etc. RI 03/04/2015 Favorable AGG FP	Favorable Yeas 12 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Regulated Industries

Wednesday, March 4, 2015, 3:30 —5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 608 Stargel (Identical H 707)	Real Estate Brokers and Appraisers; Requiring the Florida Real Estate Commission to adopt certain rules pertaining to broker registration on a temporary, emergency basis; requiring an appraiser to prepare and retain a work file in certain circumstances; providing that duly authorized agents and employees of the department may inspect an appraisal management company at all reasonable hours, etc. RI 03/04/2015 Fav/CS AGG FP	Fav/CS Yeas 12 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: CS/SB 612

INTRODUCER: Regulated Industries Committee and Senator Brandes

SUBJECT: Cosmetic Product Registration

DATE: March 6, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	Fav/CS
2.			AGG	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 612 eliminates the product registration filing requirements for each separate and distinct cosmetic product, including registrations of identical products that may differ as to color. New cosmetic products and identical products are currently registered every two years. The Department of Business and Professional Regulation estimates that elimination of the associated fees will impact the Professional Regulation Trust Fund by reducing revenue by approximately \$176,000 in Fiscal Year 2015-2016, reducing payments to General Revenue by approximately \$14,000 in Fiscal Year 2015-2016, and creating a deficit in the Drugs, Devices, and Cosmetics regulatory program in Fiscal Year 2016-2017.

II. Present Situation:

State and Federal Regulation

Section 499.003(12), F.S., defines “cosmetic” as an article other than soap, which is either:

- Intended to be rubbed, poured, sprinkled, or sprayed on; introduced into; or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering appearance; or
- Intended for use as a component of the article.

The regulation of cosmetics is addressed in ch. 499, F.S., which regulates drugs, devices, and cosmetics by the Department of Business and Professional Regulation (department).¹ The Florida Drug and Cosmetic Act (the act),² is intended to safeguard public health and promote public welfare by protecting against injuries and merchandising deceit involving drugs, devices, and cosmetics or the use of such products.

Further, administration of the act must conform with the Federal Food, Drug, and Cosmetic Act (the federal act)³ and the applicable portions of the Federal Trade Commission Act⁴ which prohibit the false advertising of drugs, devices, and cosmetics. According to an industry representative, 8 billion personal care products are sold in the United States annually, constituting over \$60 billion in annual sales.⁵

Florida law requires any person who manufactures, packages, repackages, labels, or relabels a cosmetic in Florida to register “each separate and distinct” cosmetic every 2 years.⁶ The administrative rules of the department impose a \$30 fee for product registrations,⁷ and a fee of \$15 for each identical product registration.⁸ Because registration is a prerequisite to sales of a cosmetic, Florida’s registration system is a pre-market reporting system that is handled by the department’s Division of Drugs, Devices and Cosmetics (division).⁹

This is contrasted with the system of the United States Food and Drug Administration (FDA), which is a post-market reporting system for use by manufacturers, packers, and distributors of cosmetic products that are in commercial distribution in the United States.¹⁰ Under the FDA’s system, any representation in labeling or advertising that creates an impression of official approval because of registration or possession of a registration number is considered misleading. Misleading labeling makes a cosmetic misbranded, and marketing a misbranded cosmetic violates federal law.¹¹ Enforcement of the federal act is initiated by a complaint by a consumer, which may be accomplished by mail, fax, through their health provider, pharmacist, or via an

¹ The Drug, Device, and Cosmetic program was transferred to the Department of Business and Professional Regulation from the Department of Health effective November 1, 2012. See ch. 2012-184, L.O.F., s. 122, at <http://laws.flrules.org/2012/184> (last visited Mar. 3, 2015) and ch. 2012-143, L.O.F., s. 3, at <http://laws.flrules.org/2012/143> (last visited Mar. 3, 2015).

² See ss. 499.001-499.081, F.S.

³ Section 499.003(20), F.S., defines the federal act referencing 21 U.S.C. ss. 301 *et seq.* and 52 Stat. 1040 *et seq.*

⁴ See 15 U.S.C. §§ 41-58, as amended.

⁵ Conversation with John Ray on behalf of the Florida Cosmetic Manufacturers Coalition (November 12, 2014).

⁶ See s. 499.015, F.S., and Application for Product Registration - Cosmetics, Form No.: DBPR-DDC-228 at <http://www.myfloridalicense.com/dbpr/ddc/documents/ProductRegistrationCosmetics.pdf> (last accessed Mar. 3, 2015).

⁷ See s. 499.041, F.S.

⁸ See Rule 61N-1.018(4)(f), F.A.C. It should be noted subsection (4) of the rule refers to “Miscellaneous OTHER fees” and does not indicate the \$30 product registration fee is to be collected every 2 years (a biennial fee); references to biennial fees appear only in subsections (1), (2)(a) and (3) of the rule.

⁹ See <http://www.myfloridalicense.com/dbpr/ddc/index.html> (last visited Mar. 3, 2015).

¹⁰ See the FDA’s description of its Voluntary Cosmetics Registration Program and its benefits at <http://www.fda.gov/Cosmetics/RegistrationProgram/default.htm> (last visited Mar. 3, 2015). The program does not apply to cosmetic products for professional use only, such as products used in beauty salons, spas, or skin care clinics, nor to products that are not for sale, such as hotel samples, free gifts, or cosmetic products made at home and given to family and friends.

¹¹ *Id.*

online report.¹² The division, in a Helpful Links and Resources section on its website,¹³ provides a link to the FDA website.

Identical Products

The department's rules also provide that a formula marketed under different brand names, sizes, quantities, or distributors is not a separate and distinct product that must be registered.¹⁴ The adding of color, flavor, or scents to a formula does not create a separate and distinct product for registration purposes, even for fragrance preparations where the scent is the primary product.¹⁵ The department requires by rule that the different variations be listed and registered on an Identical Product Certification form.¹⁶ Section 499.015, F.S., regarding registration of cosmetics, and s. 499.041(6), F.S., regarding registration fees, which are limited to registration of "separate and distinct" products, do not address registration of identical products. The division has stated that in lieu of its rule mandating registration of identical products for a reduced fee (currently 50% of the new product registration fee of \$30), it "could require each "separate and distinct" product to be registered at \$30 per product.¹⁷ Further, since each cosmetic has a label that is different, if only for the color, each cosmetic with any difference in the label is therefore a "separate and distinct" product.¹⁸

Renewal Registrations

According to the division, cosmetic product renewals are not reviewed by the department for compliance with the FDA's regulations, because the cosmetic products were "initially reviewed, compared with the FDA regulations, and approved for registration."¹⁹

Certificates of Free Sale

The department issues certificates of free sale (COFS)²⁰ to certify that a cosmetic that is registered with the department may be legally sold in Florida. A COFS is required by many foreign countries before a product may be sent into the country. A COFS need not be obtained from the department, but may be obtained from the FDA,²¹ and other organizations, including the Miami Beach Chamber of Commerce.²²

¹² See <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm354560.htm> (last visited Mar. 3, 2015).

¹³ See http://www.myfloridalicense.com/dbpr/ddc/ddc_helpful_links.html (last visited Mar. 3, 2015).

¹⁴ See Rule 61N-1.016, F.A.C.

¹⁵ *Id.*

¹⁶ See Rule 61N-1.016(1)(b), F.A.C., and Application for Identical Product Registration, Form No.: DBPR-DDC-230 at <http://www.myfloridalicense.com/dbpr/ddc/documents/IdenticalProductRegistration.pdf> (last accessed Mar. 3, 2015).

¹⁷ See Letter from Reginald D. Dixon, Director, Division of Drugs, Devices and Cosmetics to Florida Cosmetic Manufacturers Coalition c/o John Ray (November 26, 2014 (on file with the Senate Committee on Regulated Industries) at paragraph 5.

¹⁸ *Id.*

¹⁹ *Id.* at paragraph 4.

²⁰ Section 499.041(7), F.S., uses the term "free-sale certificate," and imposes a fee of \$25, with \$2 for each copy obtained at the same time that the certificate is issued by the department.

²¹ See http://www.fda.gov/Cosmetics/InternationalActivities/Exporters/ucm129593.htm#Are_there_other (last visited Mar. 3, 2015).

²² According to the FDA, some foreign governments accept certificates issued by a state or local health department, board of trade, or trade association. Due to limited resources, the FDA recommends that firms pursue such alternative sources for

III. Effect of Proposed Changes:

The bill eliminates the existing requirement that a cosmetic be registered with the Department of Business and Professional Regulation by any person who manufactures, packages, repackages, labels, or relabels a cosmetic in Florida prior to its sale.²³ The bill eliminates all registration and renewal fees for new cosmetics and for identical products.²⁴ The bill eliminates the authorization to the department to issue a “certificate of free sale” certifying that a cosmetic is registered with the department and may be legally sold in Florida.²⁵ All references to “cosmetic products” are amended in favor of “cosmetic,” which is a defined term in current law.²⁶

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill eliminates fees for cosmetic product registrations and renewals, as well as fees for the issuance of certificates of free sale for cosmetic products.

B. Private Sector Impact:

The elimination of premarket registration requirements in Florida may require manufacturers who have relied upon issuance by the Department of Business and Professional Regulation of certificates of free sale to obtain that service from third parties. The elimination of the fees associated with registration of new and identical cosmetic products will impact manufacturers based on the volume of their cosmetic registrations, renewals, and certificates of free sale.

export certificates whenever possible, provided they are acceptable to the country requiring a certificate. *See* http://www.fda.gov/Cosmetics/InternationalActivities/Exporters/ucm129593.htm#Are_there_other (last visited Mar. 3, 2015). These online sites offer certificates of free sale services: <http://icmad.org/programs/certificates-of-free-sale> (last visited Mar. 3, 2015), <http://www.personalcarecouncil.org/member-industry-resources/certificates-free-sale> (last visited Mar. 3, 2015), and <http://www.miamibeachchamber.com/Certificate-of-Free-Sale.php> (last visited Mar. 3, 2015).

²³ *See* s. 499.015, F.S.

²⁴ *See* s. 499.041(6), F.S.

²⁵ *See* s. 499.003(6), F.S.

²⁶ *See* s. 499.003(12), F.S.

C. Government Sector Impact:

The Department of Business and Professional Regulation (department) estimates that implementation of CS/SB 612 will result in a revenue reduction in Fiscal Year 2015-2016 of approximately \$176,000,²⁷ which will accelerate the timeline for a deficit to occur in the separate account associated with the Drugs, Devices, and Cosmetics program division in the Professional Regulation Trust Fund (formerly the Drug, Device, and Cosmetic Trust Fund)²⁸ by Fiscal Year 2016-2017. The department also notes that due to the revenue reduction, there will be a reduced service charge²⁹ amount payable to the General Revenue Fund of approximately \$14,100 in Fiscal Year 2015-2016.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The committee substitute incorporates language amending a reference in s. 499.051(2), F.S.,³⁰ to the term “cosmetic product,” in favor of the term “cosmetic.” The term “cosmetic product” is not defined in ch. 499, F.S.; but the term “cosmetic” is defined in s. 499.003(12), F.S.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 499.015, 499.003, 499.041, and 499.051.

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

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

CS by Regulated Industries on March 4, 2015:

CS/SB 612 addresses a conforming change in a cross-reference, for consistent use of the defined term “cosmetic” in existing law, rather than the undefined term “cosmetic product.”

²⁷ The total amount of cosmetic products revenue to the Department, \$176,115.50, is the sum of \$93,637.50 (annual renewal fees), \$72,450.00 (initial product registration fees), and \$10,028.00 (fees for issuance of certificates of free sale (COFS)). *See 2015 Department of Business and Professional Regulation Legislative Bill Analysis for SB 612*, February 23, 2015 (on file with Senate Committee on Regulated Industries) at pages 4-5.

²⁸ See ch. 2012-143, L.O.F., s. 8, at <http://laws.flrules.org/2012/143> (last visited Mar. 3, 2015).

²⁹ The service charge to the Department is 8%, representing the estimated pro rata share of the cost of general government paid from the General Revenue Fund, that is appropriated from all revenue not otherwise exempted. *See s. 215.20, F.S.* regarding the service charge, and *s. 215.37, F.S.*, regarding the Professional Regulation Trust Fund. Section 215.37(2), F.S., provides that the regulation of professions defined in *s. 455.01, F.S.* be solely financed from fees and charges deposited in the Professional Regulation Trust Fund, but that each profession operate within its anticipated fees (last visited Mar. 3, 2015).

³⁰ Section 499.051, F.S., addresses the authority granted to the Department of Business and Professional Regulation and its employees to inspect any establishment to determine compliance with ch. 499, F.S.

B. Amendments:

None.

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



307314

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2015	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Negron) recommended the following:

Senate Amendment (with title amendment)

Between lines 120 and 121
insert:

Section 4. Subsection (2) of section 499.051, Florida
Statutes, is amended to read:

499.051 Inspections and investigations.—

(2) In addition to the authority set forth in subsection
(1), the department and any duly designated officer or employee



307314

of the department may enter and inspect any other establishment
for the purpose of determining compliance with this chapter and
rules adopted under this chapter regarding any drug, device, or
cosmetic ~~product~~.

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

And the title is amended as follows:

Delete line 8

and insert:

499.003, 499.041, and 499.051(2), F.S.; conforming
provisions to

By Senator Brandes

22-00649-15

2015612__

A bill to be entitled

An act relating to cosmetic product registration; amending s. 499.015, F.S.; removing the requirement that a person who manufactures, packages, repackages, labels, or relabels a cosmetic in this state must register such cosmetic biennially with the Department of Business and Professional Regulation; amending ss. 499.003 and 499.041, F.S.; conforming provisions to changes made by this act; providing an effective date.

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

Section 1. Section 499.015, Florida Statutes, is amended to read:

499.015 Registration of drugs and devices, ~~and cosmetics~~; issuance of certificates of free sale.—

(1) (a) Except for those persons exempted from the definition of manufacturer in s. 499.003, any person who manufactures, packages, repackages, labels, or relabels a drug or device, ~~or cosmetic~~ in this state must register such drug or device, ~~or cosmetic~~ biennially with the department; pay a fee in accordance with the fee schedule provided by s. 499.041; and comply with this section. The registrant must list each separate and distinct drug or device, ~~or cosmetic~~ at the time of registration.

(b) The department may not register any product that does not comply with the Federal Food, Drug, and Cosmetic Act, as amended, or Title 21 C.F.R. Registration of a product by the department does not mean that the product does in fact comply

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

22-00649-15

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with all provisions of the Federal Food, Drug, and Cosmetic Act, as amended.

(2) The department may require the submission of a catalog and specimens of labels at the time of application for registration of drugs or devices, ~~and cosmetics~~ packaged and prepared in compliance with the federal act, which submission constitutes a satisfactory compliance for registration of the products. With respect to all other drugs and devices, ~~and cosmetics~~, the department may require the submission of a catalog and specimens of labels at the time of application for registration, but the registration will not become effective until the department has examined and approved the label of the drug or device, ~~or cosmetic product~~. This approval or denial must include written notification to the manufacturer.

(3) Except for those persons exempted from the definition of manufacturer in s. 499.003, a person may not sell any product that he or she has failed to register in conformity with this section. Such failure to register subjects such drug or device, ~~or cosmetic product~~ to seizure and condemnation as provided in s. 499.062, and subjects such person to the penalties and remedies provided in this part.

(4) Unless a registration is renewed, it expires 2 years after the last day of the month in which it was issued. The department may issue a stop-sale notice or order against a person that is subject to the requirements of this section and that fails to comply with this section within 31 days after the date the registration expires. The notice or order shall prohibit such person from selling or causing to be sold any drugs or devices, ~~or cosmetics~~ covered by this part until he or

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she complies with the requirements of this section.

(5) A product regulated under this section which is not included in the biennial registration may not be sold until it is registered and complies with this section.

(6) The department may issue a certificate of free sale for any product that is required to be registered under this part.

(7) A product registration is valid only for the company named on the registration and located at the address on the registration. A person whose product is registered by the department under this section must notify the department before any change in the name or address of the establishment to which the product is registered. If a person whose product is registered ceases conducting business, the person must notify the department before closing the business.

(8) Notwithstanding any requirements set forth in this part, a manufacturer of medical devices that is registered with the federal Food and Drug Administration is exempt from this section and s. 499.041(6) if:

(a) The manufacturer's medical devices are approved for marketing by, or listed with the federal Food and Drug Administration in accordance with federal law for commercial distribution; or

(b) The manufacturer subcontracts with a manufacturer of medical devices to manufacture components of such devices.

(9) However, the manufacturer must submit evidence of such registration, listing, or approval with its initial application for a permit to do business in this state, as required in s. 499.01 and any changes to such information previously submitted at the time of renewal of the permit. Evidence of approval,

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

22-00649-15

2015612__

listing, and registration by the federal Food and Drug Administration must include:

(a) For Class II devices, a copy of the premarket notification letter (510K);

(b) For Class III devices, a federal Food and ~~Federal~~ Drug Administration premarket approval number;

(c) For a manufacturer who subcontracts with a manufacturer of medical devices to manufacture components of such devices, a federal Food and ~~Federal~~ Drug Administration registration number; or

(d) For a manufacturer of medical devices whose devices are exempt from premarket approval by the federal Food and ~~Federal~~ Drug Administration, a federal Food and ~~Federal~~ Drug Administration registration number.

Section 2. Subsection (6) of section 499.003, Florida Statutes, is amended to read:

499.003 Definitions of terms used in this part.—As used in this part, the term:

(6) "Certificate of free sale" means a document prepared by the department which certifies a drug or device, ~~or cosmetic,~~ that is registered with the department, as one that can be legally sold in the state.

Section 3. Subsection (6) of section 499.041, Florida Statutes, is amended to read:

499.041 Schedule of fees for drug, device, and cosmetic applications and permits, product registrations, and free-sale certificates.—

(6) A person that is required to register drugs or devices, ~~or cosmetic products~~ under s. 499.015 shall pay an

Page 4 of 5

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

22-00649-15

2015612__

117 annual product registration fee of not less than \$5 or more than
118 \$15 for each separate and distinct product in package form. The
119 registration fee is in addition to the fee charged for a free-
120 sale certificate.

121 Section 4. This act shall take effect July 1, 2015.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: February 11, 2015

I respectfully request that **Senate Bill #612**, relating to **Cosmetic Product Registration**, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", is written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 22

THE FLORIDA SENATE
APPEARANCE RECORD

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

March 4, 2015

Meeting Date

SB 612

Bill Number (if applicable)

Topic Cosmetic Product Registration

Amendment Barcode (if applicable)

Name John Ray

Job Title _____

Address P.O. Box 7683

Phone (850) 445-5044

Street

Tallahassee

FL

32314

Email jray@johnrayconsulting.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Seychelles Organics

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)

3/4/15
Meeting Date

612
Bill Number (if applicable)

Topic Cosmetic Regulation

Amendment Barcode (if applicable)

Name Alan Suskey

Job Title Consultant

Address Po Box 102
Street

Phone _____

Tallahassee FL 32302
City State Zip

Email ase@suskeyconsulting.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Dermazone 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)

The Florida Senate COMMITTEE VOTE RECORD

COMMITTEE: Regulated Industries
ITEM: SB 612
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Wednesday, March 4, 2015
TIME: 3:30 —5:30 p.m.
PLACE: 110 Senate Office Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

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 Regulated Industries

BILL: CS/SB 466

INTRODUCER: Regulated Industries Committee and Senator Flores

SUBJECT: Low-voltage Alarm Systems

DATE: March 6, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u> </u>	<u> </u>	<u>CA</u>	<u> </u>
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 466 amends the definition of Low-voltage Alarm Systems, reduces the maximum permit fee for those systems, and eliminates permit requirements for wireless burglar alarms and smoke detectors. Any electrical device or signaling device used to signal or detect a burglary, fire, robbery, or medical emergency is an alarm system. A system that is hardwired and operates at low voltage (with or without home-automation equipment, thermostats, and video cameras) is a low-voltage alarm system. The bill excludes wireless alarm systems (burglar alarms and smoke detectors) from all permitting requirements of any local enforcement agency with jurisdiction over building inspections and code enforcement, such as a local government, school board, community college, or university.

In addition to providing that permits may not be required in order to install, maintain, inspect, replace or service wireless alarm systems, the bill reduces the maximum charge for a uniform basic permit for a hardwired, low-voltage alarm system from \$55 to \$40. The bill deletes permit fee provisions that expired on January 1, 2015. The bill prohibits a local enforcement agency from requiring the payment of any additional amount associated with the installation or replacement of a hardwire, low-voltage alarm system. The bill authorizes local enforcement agencies to coordinate inspections with the owner or customer of low-voltage alarm system projects to ensure compliance with applicable codes and standards. However, the obligation to take corrective action if a project fails an inspection remains with the alarm system contractor.

The bill provides a July 1, 2015 effective date.

II. Present Situation:

Part II of ch. 489, F.S., regulates electrical and alarm system contracting. An alarm system is any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency.¹ Licensure of electrical and alarm systems contractors is required, and applicants must have sufficient technical experience and be tested on technical and business matters.

Section 489.505, F.S., contains references to various types of contractors that may lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace or service alarm systems. An alarm system contractor means a person whose business includes the execution of contracts requiring the ability, experience, science, knowledge, and skill to conduct all alarm services for compensation, for all types of alarm systems for all purposes.² The term also means any person, firm, or corporation that engages in the business of alarm contracting under an expressed or implied contract or that undertakes, offers to undertake, or submits a bid to engage in the business of alarm contracting.³

An alarm system contractor whose business includes all types of alarm systems for all purposes is designated as an alarm system contractor I (contractor I); the business of an alarm system contractor II (contractor II) is identical except that it does not include fire alarm systems.⁴

Alarm system contractors may also hold certificates of competency from the Department of Business and Professional Regulation (department), which are geographically unlimited.⁵ Holders of those certificates are certified alarm system contractors, and the scope of certification is limited to specific alarm circuits and equipment.⁶ There is no mandatory licensure requirement created by the availability of certification.⁷

A certified electrical contractor, a certified fire alarm system contractor, a registered fire alarm system contractor, a journeyman electrician licensed by any local jurisdiction, or an alarm technician licensed by a local jurisdiction that requires an examination and experience or training as licensure qualifications, is not required to complete the training required for fire alarm system agents, and a registered electrical contractor is not required to complete that training, provided he or she is only doing electrical work up to the alarm panel.⁸

¹ See Section 489.505(1), F.S.

² See Section 489.505(2), F.S.

³ *Id.*

⁴ *Id.*

⁵ See Sections 489.505(4) and 489.505(5), F.S.

⁶ Section 489.505(7), F.S., describes the limitations as those circuits originating in alarm control panels, equipment governed by the Articles 725, 760, 770, 800, and 810 of the National Electrical Code, Current Edition, and National Fire Protection Association Standard 72, Current Edition, as well as the installation, repair, fabrication, erection, alteration, addition, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, and conduit, or any part thereof not to exceed 98 volts (RMS), when those items are for the purpose of transmitting data or proprietary video (satellite systems that are not part of a community antenna television or radio distribution system) or providing central vacuum capability or electric locks.

⁷ *Id.*

⁸ See Section 489.5185(2), F.S.

Part II of ch. 553, F.S., constitutes the Florida Building Codes Act (act). The act provides a mechanism for the uniform adoption, updating, amendment, interpretation, and enforcement of the Florida Building Code, consisting of a single set of documents that apply to the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities, and to the enforcement of such requirements, for effective and reasonable protection for public safety, health, and general welfare at the most reasonable cost to the consumer.⁹

Pursuant to s. 553.88, F.S., the current edition of the following standards are in effect for the purpose of establishing minimum electrical and alarm standards in Florida:

- National Electrical Code, NFPA¹⁰ No. 70;
- Underwriters' Laboratories, Inc. (UL), Standards for Safety, Electrical Lighting Fixtures, and Portable Lamps, UL 57 and UL 153;
- Underwriters' Laboratories, Inc., Standard for Electric Signs, UL 48;
- The provisions of the following which prescribe minimum electrical and alarm standards:
 - NFPA No. 56A, Inhalation Anesthetics;
 - NFPA No. 56B, Respiratory Therapy;
 - NFPA No. 56C, Laboratories in Health-related Institutions;
 - NFPA No. 56D, Hyperbaric Facilities;
 - NFPA No. 56F, Nonflammable Medical Gas Systems;
 - NFPA No. 72, National Fire Alarm Code;
 - NFPA No. 76A, Essential Electrical Systems for Health Care Facilities;
- The rules and regulations of the Department of Health, entitled "Nursing Homes and Related Facilities Licensure; and
- The minimum standards for grounding of portable electric equipment, ch. 8C-27, F.A.C., as recommended by the Division of Workers' Compensation, Department of Financial Services.

Section 553.71(5), F.S., provides that a local enforcement agency¹¹ is an agency with jurisdiction to make inspections of buildings and to enforce the codes which establish standards for design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities. A number of local governments require permitting or registration of burglar alarm systems, often to address the volume of false alarms reported to law enforcement. According to an Internet search, these local governments were identified as requiring permits for burglar alarm systems:

- the Counties of Alachua, Lee, Martin, Palm Beach, and St. Lucie; and
- the Cities of Boca Raton, Cape Coral, Clearwater, Cutler Bay, Deerfield Beach, Doral, Gainesville, Hollywood, Largo, Miami, Miami Beach, Miami Gardens, Miramar, North

⁹ See Section 553.72(1), F.S.

¹⁰ NFPA is the acronym for the National Fire Protection Association, which is an international nonprofit organization established in 1896. Its mission is to reduce the worldwide burden of fire and other hazards on the quality of life by providing and advocating consensus codes, standards, research, training and education. NFPA develops, publishes, and disseminates more than 300 consensus codes and standards intended to minimize the possibility and effects of fire and other risks. See <http://www.nfpa.org/about-nfpa> (last visited Feb. 26, 2015).

¹¹ Section 553.71(5), F.S., of the Florida Building Codes Act defines local enforcement agency as an agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the codes which establish standards for design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities.

Lauderdale, North Miami Beach, Palatka, Palm Bay, Pembroke Pines, Plantation, Pompano Beach, Riviera Beach, St. Petersburg, Sarasota, Sunny Isles, and West Palm Beach.

Many of these local governments require a permit to be submitted to the local law enforcement agency. For example, the County of Palm Beach requires a permit to be submitted to the Palm Beach County Sheriff's Office with a \$25 application fee. The permit must be renewed annually. Failure to submit an application for a permit results in a "no response" to the alarm system and a fine of \$260.00 per "incident."¹² The purpose of these types of permits is to:

In concert with the county sheriff's office commitment to problem solving policing, the purpose of this article is to prevent false alarm activations that require the sheriff's office to respond. Deputies responding to false alarms are more wisely utilized preventing crime and solving neighborhood crime problems. This article is a cooperative effort among the board of county commissioners, the Alarm Association of Florida and the county sheriff's office to prevent false alarm activations in the most effective manner.¹³

One industry company report on fees for basic hardwire installation reflected that as of 2013, permitting fees ranged from \$25 to fees of several thousand dollars.¹⁴ In accordance with the provisions of ch. 2013-203, Laws of Florida, as of October 1, 2013, the charges that could be made for low-voltage alarm system permits were limited. For local enforcement agencies that charged:¹⁵

- More than \$55 for those permits before January 1, 2013, the same amount could still be charged but only until January 1, 2015; and
- More than \$175 for those permits before January 1, 2013, only a maximum of \$175 could still be charged, but only until January 1, 2015.

After January 1, 2015, the maximum charge that may be imposed by any local enforcement agency is \$55.¹⁶

III. Effect of Proposed Changes:

The definition of a low-voltage alarm system project is amended to exclude wireless burglar alarm and smoke detector systems. The bill amends the requirements for permitting by a local enforcement agency, by providing that permits for the installation, maintenance, inspection, replacement or servicing of wireless burglar alarm and smoke detector systems are not required.

¹² See http://www.pbso.org/documents/Burglar_Alarm_Permit_Form.pdf (Last visited Feb. 26, 2015) and Palm Beach County Ordinance 2008-038, codified at art. III, s. 16-51 et seq., Code of Ordinances, Palm Beach County, at https://www.municode.com/library/fl/palm_beach_county/codes/code_of_ordinances?searchRequest=%7B%22searchText%22%22part%20III.%20section%2016%22.%22pageNum%22%22%22resultsPerPage%22%22%22booleanSearch%22%22%22stemming%22%22true.%22fuzzy%22%22false.%22synonym%22%22false.%22contentTypes%22%22%5B%22CODES%22%5D.%22productIds%22%22%5B%5D%7D&nodeId=PABECOCO_CH16LAEN_ARTIII.AL. (Last visited Feb. 26, 2015).

¹³ Section 16-52, Purpose, Code of Ordinances, Palm Beach County.

¹⁴ E-mail from Jorge Chamizo, Floridian Partners, LLC to B. Imhof, Staff Director (Apr. 7, 2013) (on file with the Senate Committee on Regulated Industries).

¹⁵ See s. 553.793(4), F.S.

¹⁶ *Id.*

Local enforcement agencies may not charge more than \$40 for a permit, and may not require any other charge, for installation or replacement of new or existing hardwired, low-voltage alarm system. The bill deletes permit fee provisions that expired on January 1, 2015.

The bill provides that a local enforcement agency may not request “any” information for issuance of labels for purchase by a contractor other than identification information and proof of registration or licensure as a contractor. Existing law states that local enforcement agencies may not require “the submission of information other than,” but the meaning of the phrase has been disputed, according to industry representatives.

The bill provides that a local enforcement agency may coordinate with the owner or customer to inspect a low-voltage alarm system project to ensure compliance with applicable codes and standards, but leaves intact the requirement that if the project fails inspections, corrective action must be undertaken by the alarm system contractor.

The bill provides that a municipality, county, district, or other entity of local government may not adopt or maintain in effect “any” ordinance or rule regarding a low-voltage alarm system project inconsistent with s. 553.793, F.S. Existing law states that those entities may not adopt or maintain in effect “an” ordinance or rule inconsistent with s. 553.793, F.S., but the meaning of the phrase has also been disputed, according to industry representatives.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill reduces the maximum amount that may be charged for a permit for a hardwired, low-voltage alarm system by \$15 (from \$55 to \$40), and prohibits any other charges for installation or replacement of such systems. The bill provides that no permits are required for burglar alarm systems or smoke detectors that are not hardwired (wireless alarms and

detectors). This will reduce or eliminate permitting costs associated with these systems and detectors.

C. Government Sector Impact:

Revenues of local enforcement agencies may be impacted by the elimination of permitting fees for wireless alarm systems (burglar alarms and smoke detectors), and the reduction in the maximum charge (from \$55 to \$40 each) that may be made for a permit for a hardwired low-voltage alarm system. The Department of Business and Professional Regulation estimates no fiscal impact to state government.¹⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

A possible conflict with the requirements of the Florida Building Code regarding smoke detectors has been noted by the Department of Business and Professional Regulation.¹⁸ The Florida Building Code, 5th Edition (2014) (the 2014 Florida Building Code), as updated by the Florida Building Commission on November 13, 2014, has been adopted as the building code for the State of Florida, with an effective date of June 30, 2015.¹⁹ The 2014 Florida Building Code is copyrighted, but is available for public inspection and examination at the Department of State.²⁰

Part IV of ch. 553, F.S., is the Florida Building Codes Act.²¹ The bill does not eliminate the requirements set forth in the current or forthcoming 2014 Florida Building Code regarding smoke alarms, as to whether they must be hardwired or may be powered by battery. In the event that a wireless alarm system is installed by an alarm systems contractor, no permit fee may be imposed by the local enforcement agency. However, the local enforcement agency has jurisdiction to regulate building construction and may determine that a wireless alarm system does not meet the requirements of the Florida Building Code in effect.²²

VIII. Statutes Affected:

This bill substantially amends section 553.793 of the Florida Statutes.

¹⁷ See 2015 Department of Business and Professional Regulation Legislative Bill Analysis for HB 413, February 9, 2015 (on file with Senate Committee on Regulated Industries) at page 3.

¹⁸ *Id.* at page 2, referencing the “2010 Florida Building Code, Residential.”

¹⁹ See Rule 61G20-1.001 F.A.C., at <https://www.flrules.org/gateway/ruleNo.asp?id=61G20-1.001> (last visited Feb. 26, 2015).

²⁰ *Id.* A draft of the 2014 Florida Building Code has been made available in a read-only format by the International Code Council, Inc. (ICC) at http://ecodes.biz/ecodes_support/free_resources/14FloridaDraft/Building/14FL_Building_Draft.html (last visited Feb. 26, 2015). The ICC was founded in 1994 by the Building Officials and Code Administrators International, Inc. (BOCA), International Conference of Building Officials (ICBO), and Southern Building Code Congress International, Inc. (SBCCI). As regional building codes began to lose their usefulness in a national context, the ICC developed International Codes, which are a set of comprehensive, coordinated building safety and fire prevention codes.

²¹ See ss. 553.70 through 553.898, F.S. at http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0500-0599/0553/0553PARTIVContentsIndex.html (last visited Feb. 26, 2015).

²² See s. 553.80, F.S.

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 Regulated Industries on March 4, 2015:

CS/SB 466 prohibits a local enforcement agency from requiring the payment of any additional amount associated with the installation or replacement of a hardwire, low-voltage alarm system.

- B. **Amendments:**

None.



961214

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2015	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Flores) recommended the following:

Senate Amendment (with title amendment)

Delete line 45
and insert:
per unit. The local enforcement agency may not require the
payment of any additional fees, charges, or expenses associated
with the installation or replacement of a new or existing alarm
system. ~~However, a local enforcement agency charging more than~~

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



961214

11 And the title is amended as follows:
12 Between lines 9 and 10
13 insert:
14 prohibiting a local enforcement agency from requiring
15 the payment of any additional fees, charges, or
16 expenses associated with the installation or
17 replacement of a new or existing alarm system;

By Senator Flores

37-00587A-15

2015466__

A bill to be entitled

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

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

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

553.793 Streamlined low-voltage alarm system installation permitting.—

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

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

(b) "Low-voltage alarm system project" means a project related to the installation, maintenance, inspection, replacement, or service of a new or existing alarm system, as defined in s. 489.505, that is hardwired and operating at low voltage, as defined in the National Electrical Code Standard 70,

Page 1 of 3

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

37-00587A-15

2015466__

Current Edition, and ancillary components or equipment attached to such a system, including, but not limited to, home-automation equipment, thermostats, and video cameras.

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

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

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

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

(b) A label is valid for 1 year after the date of purchase and may only be used within the jurisdiction of the local

Page 2 of 3

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

37-00587A-15

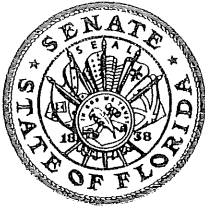
2015466__

59 enforcement agency that issued the label. A contractor may
60 purchase labels in bulk for one or more unspecified current or
61 future projects.

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

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

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



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: February 3, 2015

I respectfully request that **Senate Bill #466**, relating to Low-voltage Alarm Systems, be placed on the:

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

A handwritten signature in black ink, appearing to read "Anitere Flores", is written over a horizontal line.

Senator Anitere Flores
Florida Senate, District 37

THE FLORIDA SENATE
APPEARANCE RECORD

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

3.4.15

Meeting Date

SB 4666

Bill Number (if applicable)

Topic Low-voltage Alarm Systems

Amendment Barcode (if applicable)

Name Tracy Mayernick

Job Title lobbyist

Address 110 E. Jefferson St.
Street

Phone 850.445.3000

Tallahassee FL 32301
City State Zip

Email tracy@themayernickgroup.com

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)

3.4.15

Meeting Date

SB 464

Bill Number (if applicable)

Topic LOW VOLTAGE ALARM SYSTEMS

Amendment Barcode (if applicable)

Name MEGAN SIRYANE-SAMPLES

Job Title LEGISLATIVE ADVOCATE

Address P.O. BOX 1757
Street

Phone 850.701.3455

TALLAHASSEE, FL 32301
City State Zip

Email MSIRYANESAMPLES@FLCITIES.COM

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FLORIDA LEAGUE OF CITIES

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)

3/4/15

Meeting Date

466

Bill Number (if applicable)

Topic Alarm Systems

Amendment Barcode (if applicable)

Name Brian Musselwhite

Job Title Vice President State Gov't Affairs - Comcast

Address 300 West Pensacola Street
Street

Phone 850-201-9458

Tallahassee
City

FL
State

32301
Zip

Email brian-musselwhite@cable.comcast.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Comcast

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)

Meeting Date _____

466
Bill Number (if applicable)

Topic Low Voltage Alarm Systems

Amendment Barcode (if applicable) _____

Name Casey Reed

Job Title Leg. Affairs Director

Address 150 College Ave

Phone (850) 591-6002

Street

Tallahassee FL 32301

City

State

Zip

Email CR8243@ATL.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing AT&T

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)

3/4/2015

Meeting Date

466

Bill Number (if applicable)

Topic Low Voltage Alarm Permitting

Amendment Barcode (if applicable)

Name Jorge Chamizo

Job Title Attorney

Address 108 South Monroe St.

Phone (850) 681-0024

Street

Tallahassee FL 32301

Email jorge@flapartners.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing ADT

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)

COMMITTEE: Regulated Industries
ITEM: SB 466
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Wednesday, March 4, 2015
TIME: 3:30 —5:30 p.m.
PLACE: 110 Senate Office Building

FINAL VOTE			3/04/2015 Amendment 961214 ¹ Flores					
Yea	Nay	SENATORS	Yea	Nay	Yea	Nay	Yea	Nay
X		Abruzzo						
X		Bean						
X		Braynon						
X		Diaz de la Portilla						
X		Flores						
	X	Latvala						
X		Negron						
X		Richter						
X		Sachs						
X		Stargel						
X		Margolis, VICE CHAIR						
X		Bradley, CHAIR						
11	1		RCS	-				
Yea	Nay	TOTALS	Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

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 Regulated Industries

BILL: SB 558

INTRODUCER: Senator Stargel

SUBJECT: Public Lodging and Public Food Service Establishments

DATE: March 4, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Favorable
2.			AGG	
3.			FP	

I. Summary:

SB 558 deletes the July 1, 2014 date by which the Division of Hotels and Restaurants (division) with the Department of Business and Professional Regulation was required to adopt a rule for risk-based inspection of public food service establishments. The number or frequency of risk-based inspections is based on several risk factors, including the type of food utilized, food preparation methods, and inspection and compliance history. The division adopted the risk-based inspection frequency rule on July 4, 2013. The bill requires the division to reassess the inspection frequency at least annually instead of annually.

The bill deletes the requirement that the division must provide each inspected public food service establishment and temporary food service event sponsor of the availability of the food recovery brochure. Instead it must notify the establishments that the brochure is available. The food recovery brochure is developed by the Department of Agriculture and Consumer Services to provide information about food recovery programs that provide surplus food to governmental agencies and local volunteer and nonprofit organizations for distribution to those in need. The division maintains an electronic copy of this brochure on its website.

The bill permits currently-licensed public food service establishments to operate at a temporary food service event for the duration of the event without obtaining an additional temporary food service event license if the event exceeds three days. The bill permits the division to deliver inspection reports to operators of public food service and public lodging establishments by electronic transmittal. The bill requires public food service establishments to maintain a copy of the inspection report and to make the copy of the inspection report available to the division upon inspection. However, it deletes the requirement that the establishment maintain a duplicate copy of the inspection report on the premises. According to the division, this would permit establishments to maintain the inspection report in any format or electronic location, such as in cloud storage or a corporate computer system, rather than as a physical, duplicate copy on

premises. The bill maintains the requirement that establishments must to make a copy of the inspection report available to the public upon request.

The bill deletes the \$100 delinquent fee for public food service establishments and public lodging establishments that file for renewal more than 30 but not more than 60 days after the expiration date of the license. Licensees who fail to file a license renewal for 30 days or less after the date the license expires would be assessed a \$50 delinquent fee.

The division estimates that the bill would reduce revenues by a total of \$461,420.

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

II. Present Situation:

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (department) is the state agency charged with enforcing the provisions of part I of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare.

Public Food Service Establishments

At the end of FY 2013-2014, there were 87,083 licensed public food service establishments, including seating, permanent non-seating, hotdog carts, and mobile food dispensing vehicles.¹ During FY 2013-2014, the division also issued 7,718 temporary food service event licenses.²

Section 509.013(5)(a), F.S., defines the term “public food service establishment” to mean:

any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.

Section 509.013(5)(b), F.S., exempts the following from the definition of the term “public food service establishment:

1. Any place maintained and operated by a public or private school, college, or university:
 - a. For the use of students and faculty; or
 - b. Temporarily to serve such events as fairs, carnivals, and athletic contests.
2. Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization:

¹ *Annual Report, Fiscal Year 2013-2014*, Division of Hotels and Restaurants, Department of Business and Professional Regulation. A copy is available at: http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/hr_annual_reports.html (last visited February 20, 2015).

² *Id.*

- a. For the use of members and associates; or
- b. Temporarily to serve such events as fairs, carnivals, or athletic contests.
3. Any eating place located on an airplane, train, bus, or watercraft which is a common carrier.
4. Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place that is regulated under s. 381.0072.
5. Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12.
6. Any place of business where the food available for consumption is limited to ice, beverages with or without garnishment, popcorn, or prepackaged items sold without additions or preparation.
7. Any theater, if the primary use is as a theater and if patron service is limited to food items customarily served to the admittees of theaters.
8. Any vending machine that dispenses any food or beverages other than potentially hazardous foods, as defined by division rule.
9. Any vending machine that dispenses potentially hazardous food and which is located in a facility regulated under s. 381.0072.
10. Any research and development test kitchen limited to the use of employees and which is not open to the general public.

Public Lodging Establishments

At the end of FY 2013-2014, there were 38,472 licensed public lodging establishments, including hotels, motels, nontransient and transient rooming houses, and resort condominiums and dwellings.³

The term “public lodging establishments” includes transient and nontransient public lodging establishments.⁴ The principal differences between transient and nontransient public lodging establishments are the number of times that the establishments are rented in a calendar year and the length of the rentals.

Section 509.013(4)(a)1., F.S., defines a “transient public lodging establishment” to mean:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

Section 509.013(4)(a)2., F.S., defines a “nontransient public lodging establishment” to mean:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public

³ *Id.*

⁴ Section 509.013(4)(a), F.S.

as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

A nontransient apartment is a building or complex of buildings in which 75 percent or more of the units are available for rent to nontransient tenants.⁵ A transient apartment is a building or complex of buildings in which more than 25 percent of the units are advertised or held out to the public as available for transient occupancy.⁶

Section 509.013(4)(b), F.S., exempts dormitories, hospital and medical establishments, residential units, migrant labor camps, and establishments inspected by the Department of Health from the definition of “public lodging establishment.”

Public lodging establishments are classified as a hotel, motel, vacation rental, nontransient apartment, transient apartment, bed and breakfast inn, and timeshare project.⁷

The 38,472 public lodging establishments that were licensed by the division at the end of FY 2013-2014 were divided as follows:⁸

- Hotels - 1,720 licenses;
- Motels - 2,691 licenses;
- Nontransient apartments - 17,501 licenses;
- Transient apartments - 960 licenses;
- Bed and Breakfasts – 260 licenses;
- Vacation Rentals, Condominiums – 3,904 licenses; and
- Vacation Rentals, Dwellings – 11,436 licenses.

Inspections

The division, no later than July 1, 2014, was required to adopt by rule a risk-based inspection frequency for each licensed public food service establishment. The division’s rule must require at least one, but not more than four, routine inspections that must be performed annually, and may include guidelines that consider the inspection and compliance history of a public food service establishment, the type of food and food preparation, and the type of service.

On July 4, 2013, the division adopted a risk-based inspection frequency rule. Beginning July 1, 2014, all public food service establishments regulated by the division are required to have one to four unannounced inspections each year. The division bases the number of inspections on several risk factors, including the type of food utilized, food preparation methods, and inspection and compliance history.⁹

⁵ Section 509.242(1)(d), F.S.

⁶ Section 509.242(1)(e), F.S.

⁷ Section 509.242(1), F.S.

⁸ *Supra* note 1.

⁹ Rule 61C-1.002(8)(d)2., L.O.F., and *supra* note 1.

The division is required to inspect each licensed public lodging establishment at least biannually. However, transient and nontransient apartments must be inspected at least annually.¹⁰ In Fiscal Year 2013-14, the division completed 160,720 food service and lodging inspections.¹¹

The division has adopted the following inspection schedule:

- One inspection – Vending machines, annual temporary event vendors, and establishments that do not cook raw animal food or that cook and serve raw animal food but do not cool cooked or heated food;
- Two inspections – Establishments that cook raw animal food and cool any cooked or heated food; conduct special processes that increase food borne illness risk that are outlined in the Food Code; or serve raw or undercooked animal food that requires a consumer advisory;
- Three inspections – Establishments with three or more disciplinary Final Orders filed with the Agency Clerk within the previous two annual inspection cycles (which coincides with the Fiscal Year) or that serve a highly susceptible population; and
- Four inspections – Establishments with a confirmed foodborne illness within the previous calendar year.

All establishments licensed by the division shall be inspected at such other times as the division determines is necessary to ensure the public's health, safety, and welfare.¹²

During an inspection, the division is required to provide each public food service establishment a copy of the food-recovery brochure¹³ developed under s. 595.420, F.S. Section 595.420(7), F.S., provides for the Department of Agriculture and Consumer Services to develop a public information brochure that details the need of food recovery programs, the benefit of food recovery programs, the manner in which such organizations may become involved in food recovery programs, the protection afforded to such programs under s. 768.136, and the food recovery entities or food banks that exist in the state. The Department of Agriculture and Consumer Services must annually update this brochure. Food recovery programs provide surplus food to governmental agencies and local volunteer and nonprofit organizations for distribution to those in need, rather than continuing to see it destroyed.¹⁴

Section 509.091, F.S., requires the division to serve public lodging establishment and public food service establishment notices in writing by personal service or registered mail, including all inspection reports. If the operator of the establishment refuses to accept service or evades service, the division can post the notice in a conspicuous place at the establishment. The division prints the inspection report following each inspection and provides a copy to the operator. The operator of a public food service establishment is required to maintain the latest inspection report or a duplicate copy on the premises and make it available to the public upon request.¹⁵

¹⁰ Section 509.032(2)(a), F.S.

¹¹ *Supra* note 1. This total includes initial inspections and call-back inspections conducted by the division.

¹² Section 509.032(2)(a), F.S.

¹³ The department maintains a copy of the food recovery brochure on its website at: <http://www.myfloridalicense.com/dbpr/hr/forms/hr-publications.html> (last visited February 20, 2015).

¹⁴ *See* 595.420(1), F.S.

¹⁵ Section 509.101(1), F.S.

Temporary Food Service Event Licenses

Section 509.032(3)(c)3.b., F.S., permits licensed public food service establishments to receive a temporary permit to operate under their license at temporary food service events of three days or less.

License Renewal

Public food service establishments and public lodging establishments are required to renew their licenses annually.¹⁶ Delinquent fees are assessed if the license is not renewed by the expiration date.¹⁷ The division is required to adopt delinquent fees by rule and to prescribe a maximum late fee of \$50 for licenses that are renewed within 30 days of the expiration date. Licenses that are renewed more than 30 but not more than 60 days after the expiration date must be assessed a delinquent fee not to exceed \$100.¹⁸ Licenses expire that are not renewed within 60 days after the expiration date are subject to an administrative complaint and a fine ranging from \$250 to \$1,000.¹⁹

According to the division, in FY 2013-14, the division licensed 87,083 public food service establishments and public lodging establishments and collected \$895,224 in delinquent fees. From 2007 through 2012, the division collected an average of \$849,669 in delinquent fees annually from 10,378 delinquent licensees. The \$100 delinquent fee accounted for approximately three-quarters, or more than \$660,000, of the average delinquent fees collected.²⁰

III. Effect of Proposed Changes:

Risk Based Inspection Frequency

The bill amends s. 509.032(2)(a), F.S., to delete the July 1, 2014 date by which the division was required to adopt a rule for risk based inspection frequency. The division adopted the rule on July 4, 2013.²¹

The bill also amends s. 509.032(2)(a), F.S., to require the division to reassess the inspection frequency at least annually instead of annually. According to the division, this would permit the department to reassess a public food service establishment's inspection frequency as frequently as the circumstances require.

Food Recovery Brochure

The bill amends s. 509.032, F.S., to permit the division to notify each inspected public food service establishment and temporary food service event sponsor of the availability of the food recovery brochure. The bill deletes the requirement that the division must provide each inspected

¹⁶ Section 509.251(1), F.S., for public lodging establishments, and s. 509.251(2), F.S., for public food service establishments.

¹⁷ *Id.*

¹⁸ See rule 61C-1.008(5), F.A.C.

¹⁹ See rule 61C-1.005(6)(f), F.A.C.

²⁰ 2015 Department of Business and Professional Regulation Legislative Bill Analysis for SB 558, February 20, 2015.

²¹ Rule 61C-1.001(31), F.A.C.

establishment with a copy of the brochure. The bill does not specify how the division must make the brochure available.

Temporary Food Service Event Licenses

The bill amends s. 509.032(3)(c)3.b., to delete the three-day temporary license restriction for currently-licensed public food service establishments operating under their license at temporary food service events lasting up to three days. The bill would permit currently-licensed public food service establishments to operate at a temporary food service event for the duration of the event without obtaining an additional temporary food service event license even if the event exceeds three days.

Inspection Reports

The bill amends s. 509.091, F.S., to permit the division to deliver inspection reports to operators of public food service and public lodging establishments by electronic transmittal.

The bill amends s. 509.101(1), F.S., to require public food service establishments to maintain a copy of the inspection report and to make the copy of the inspection report available to the division upon inspection. It deletes the requirement that the establishment maintain a duplicate copy of the inspection report on the premises. According to the division, the bill permits establishments to maintain the inspection report in any format or electronic location, such as in cloud storage or a corporate computer system, rather than as a physical, duplicate copy on premises. The bill maintains the requirement that establishments must make a copy of the inspection report available to the public upon request.

Delinquent Fees

The bill amends s. 509.251, F.S., to delete the \$100 delinquent fee for public food service establishments and public lodging establishments that file for renewal more than 30 but not more than 60 days after the expiration date of the license. Licensees who fail to file a license renewal for 30 days or less after the date the license expires would be assessed a \$50 delinquent fee.

Effective Date

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill deletes the \$100 delinquent fee for public food service establishments and public lodging establishments that file for renewal more than 30 but not more than 60 days after the expiration date of the license. Licensees who fail to timely renew their license within 30 days after the expiration date of the license would pay a reduced delinquent fee, saving \$50 per establishment. However, they would also be subject to an administrative complaint and a fine ranging from \$250 to \$1,000.

The bill would permit currently-licensed public food service establishments to operate at a temporary food service event for the duration of the event and would save them the expense of obtaining an additional temporary food service event license if the event exceeds three days.

C. Government Sector Impact:

The bill permits the division to notify each inspected public food service establishment and temporary food service event sponsor of the availability of the food recovery brochure. The division anticipates an indeterminate decrease in expenses relating to deleting the requirement that the division must provide each inspected establishment with a copy of the brochure. The department also anticipates an indeterminate reduction in expenses due the provision in the bill that permits the department to deliver copies of inspection reports electronically to licensees.

The bill deletes the \$100 delinquent fee for public food service establishments and public lodging establishments that file for renewal more than 30 but not more than 60 days after the expiration date of the license. The division anticipates that repeal of the \$100 late delinquent fee will reduce the division's revenue from delinquent fees. However the division does not expected that this decrease will to impact operations. The division anticipates a \$330,800 reduction in revenue.

The bill would permit currently-licensed public food service establishments to operate at a temporary food service event for the duration of the event and would save them the expense of obtaining an additional temporary food service event license if the event exceeds three days. The department anticipates a \$130,620 reduction in revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 509.032, 509.091, 509.101, and 509.251.

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 Stargel

15-00570A-15

2015558__

A bill to be entitled

An act relating to public lodging and public food service establishments; amending s. 509.032, F.S.; removing an obsolete date; revising the frequency at which the Division of Hotels and Restaurants of the Department of Business and Professional Regulation must reassess the inspection frequency of public food service establishments; removing the requirement that the department provide the food-recovery brochure to each inspected public food service establishment or temporary food service event sponsor; requiring the department to notify an inspected establishment or event sponsor of the food-recovery brochure's availability; removing the limitation on the period that a licensed public food service establishment may operate at a temporary food service event; amending s. 509.091, F.S.; authorizing the division to deliver lodging inspection reports and food service inspection reports by electronic means; amending s. 509.101, F.S.; requiring an operator of a public food service establishment to make available a copy of the latest food service inspection report at the time of a division inspection; amending s. 509.251, F.S.; revising the assessment of the delinquent fee for the license renewal of a public lodging establishment and public food service establishment; providing an effective date.

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

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

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Section 1. Paragraphs (a) and (g) of subsection (2) and paragraph (c) of subsection (3) of section 509.032, Florida Statutes, are amended to read:

509.032 Duties.—

(2) INSPECTION OF PREMISES.—

(a) The division has jurisdiction and is responsible for all inspections required by this chapter. The division is responsible for quality assurance. The division shall inspect each licensed public lodging establishment at least biannually, except for transient and nontransient apartments, which shall be inspected at least annually. Each establishment licensed by the division shall be inspected at such other times as the division determines is necessary to ensure the public's health, safety, and welfare. The division shall, ~~by no later than July 1, 2014,~~ adopt by rule a risk-based inspection frequency for each licensed public food service establishment. The rule must require at least one, but not more than four, routine inspections that must be performed annually, and may include guidelines that consider the inspection and compliance history of a public food service establishment, the type of food and food preparation, and the type of service. The division shall ~~annually~~ reassess the inspection frequency of all licensed public food service establishments at least annually. Public lodging units classified as vacation rentals or timeshare projects are not subject to this requirement but shall be made available to the division upon request. If, during the inspection of a public lodging establishment classified for renting to transient or nontransient tenants, an inspector

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

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identifies vulnerable adults who appear to be victims of neglect, as defined in s. 415.102, or, in the case of a building that is not equipped with automatic sprinkler systems, tenants or clients who may be unable to self-preserve in an emergency, the division shall convene meetings with the following agencies as appropriate to the individual situation: the Department of Health, the Department of Elderly Affairs, the area agency on aging, the local fire marshal, the landlord and affected tenants and clients, and other relevant organizations, to develop a plan that improves the prospects for safety of affected residents and, if necessary, identifies alternative living arrangements such as facilities licensed under part II of chapter 400 or under chapter 429.

(g) In inspecting public food service establishments, the department shall notify ~~provide~~ each inspected establishment of the availability of ~~with~~ the food-recovery brochure developed under s. 595.420.

(3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD SERVICE EVENTS.—The division shall:

(c) Administer a public notification process for temporary food service events and distribute educational materials that address safe food storage, preparation, and service procedures.

1. Sponsors of temporary food service events shall notify the division not less than 3 days before the scheduled event of the type of food service proposed, the time and location of the event, a complete list of food service vendors participating in the event, the number of individual food service facilities each vendor will operate at the event, and the identification number of each food service vendor's current license as a public food

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service establishment or temporary food service event licensee. Notification may be completed orally, by telephone, in person, or in writing. A public food service establishment or food service vendor may not use this notification process to circumvent the license requirements of this chapter.

2. The division shall keep a record of all notifications received for proposed temporary food service events and shall provide appropriate educational materials to the event sponsors and notify the event sponsors of the availability of, ~~including~~ the food-recovery brochure developed under s. 595.420.

3.a. A public food service establishment or other food service vendor must obtain one of the following classes of license from the division: an individual license, for a fee of no more than \$105, for each temporary food service event in which it participates; or an annual license, for a fee of no more than \$1,000, that entitles the licensee to participate in an unlimited number of food service events during the license period. The division shall establish license fees, by rule, and may limit the number of food service facilities a licensee may operate at a particular temporary food service event under a single license.

b. Public food service establishments holding current licenses from the division may operate under the regulations of such a license at temporary food service events ~~of 3 days or less in duration~~.

Section 2. Section 509.091, Florida Statutes, is amended to read:

509.091 Notices; form and service.—

(1) Each notice served by the division pursuant to this

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chapter must be in writing and must be delivered personally by an agent of the division or by registered letter to the operator of the public lodging establishment or public food service establishment. If the operator refuses to accept service or evades service or the agent is otherwise unable to effect service after due diligence, the division may post such notice in a conspicuous place at the establishment.

(2) Notwithstanding subsection (1), the division may deliver lodging inspection reports and food service inspection reports to the operator of the public lodging establishment or public food service establishment by electronic means.

Section 3. Subsection (1) of section 509.101, Florida Statutes, is amended to read:

509.101 Establishment rules; posting of notice; food service inspection report; maintenance of guest register; mobile food dispensing vehicle registry.—

(1) Any operator of a public lodging establishment or a public food service establishment may establish reasonable rules and regulations for the management of the establishment and its guests and employees; and each guest or employee staying, sojourning, eating, or employed in the establishment shall conform to and abide by such rules and regulations so long as the guest or employee remains in or at the establishment. Such rules and regulations shall be deemed to be a special contract between the operator and each guest or employee using the services or facilities of the operator. Such rules and regulations shall control the liabilities, responsibilities, and obligations of all parties. Any rules or regulations established pursuant to this section shall be printed in the English

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language and posted in a prominent place within such public lodging establishment or public food service establishment. In addition, any operator of a public food service establishment shall maintain a copy of the latest food service inspection report ~~or a duplicate copy on premises~~ and shall make it available to the division at the time of any division inspection of the establishment and to the public, upon request.

Section 4. Subsections (1) and (2) of section 509.251, Florida Statutes, are amended to read:

509.251 License fees.—

(1) The division shall adopt, by rule, a schedule of fees to be paid by each public lodging establishment as a prerequisite to issuance or renewal of a license. Such fees shall be based on the number of rental units in the establishment. The aggregate fee per establishment charged any public lodging establishment may ~~shall~~ not exceed \$1,000; however, the fees described in paragraphs (a) and (b) may not be included as part of the aggregate fee subject to this cap. Vacation rental units or timeshare projects within separate buildings or at separate locations but managed by one licensed agent may be combined in a single license application, and the division shall charge a license fee as if all units in the application are in a single licensed establishment. The fee schedule shall require an establishment which applies for an initial license to pay the full license fee if application is made during the annual renewal period or more than 6 months before ~~prior to~~ the next such renewal period and one-half of the fee if application is made 6 months or less before ~~prior to~~ such period. The fee schedule shall include fees collected for the

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purpose of funding the Hospitality Education Program, pursuant to s. 509.302, which are payable in full for each application regardless of when the application is submitted.

(a) Upon making initial application or an application for change of ownership, the applicant shall pay to the division a fee as prescribed by rule, not to exceed \$50, in addition to any other fees required by law, which shall cover all costs associated with initiating regulation of the establishment.

(b) A license renewal filed with the division ~~within 30 days~~ after the expiration date shall be accompanied by a delinquent fee as prescribed by rule, not to exceed \$50, in addition to the renewal fee and any other fees required by law. ~~A license renewal filed with the division more than 30 but not more than 60 days after the expiration date shall be accompanied by a delinquent fee as prescribed by rule, not to exceed \$100, in addition to the renewal fee and any other fees required by law.~~

(2) The division shall adopt, by rule, a schedule of fees to be paid by each public food service establishment as a prerequisite to issuance or renewal of a license. The fee schedule shall prescribe a basic fee and additional fees based on seating capacity and services offered. The aggregate fee per establishment charged any public food service establishment may not exceed \$400; however, the fees described in paragraphs (a) and (b) may not be included as part of the aggregate fee subject to this cap. The fee schedule shall require an establishment which applies for an initial license to pay the full license fee if application is made during the annual renewal period or more than 6 months before ~~prior to~~ the next such renewal period and

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one-half of the fee if application is made 6 months or less ~~before~~ prior to such period. The fee schedule shall include fees collected for the purpose of funding the Hospitality Education Program, pursuant to s. 509.302, which are payable in full for each application regardless of when the application is submitted.

(a) Upon making initial application or an application for change of ownership, the applicant shall pay to the division a fee as prescribed by rule, not to exceed \$50, in addition to any other fees required by law, which shall cover all costs associated with initiating regulation of the establishment.

(b) A license renewal filed with the division ~~within 30 days~~ after the expiration date shall be accompanied by a delinquent fee as prescribed by rule, not to exceed \$50, in addition to the renewal fee and any other fees required by law. ~~A license renewal filed with the division more than 30 but not more than 60 days after the expiration date shall be accompanied by a delinquent fee as prescribed by rule, not to exceed \$100, in addition to the renewal fee and any other fees required by law.~~

Section 5. This act shall take effect July 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR KELLI STARGEL

15th District

COMMITTEES:

Higher Education, *Chair*
Appropriations Subcommittee on Education
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and Domestic
Security
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

February 20, 2015

The Honorable Rob Bradley
Senate Regulated Industries Committee, Chair
208 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Bradley:

I am respectfully requesting that SB 558, related to *Public Lodging and Food Service*, be placed on the next committee agenda.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in dark ink that reads "Kelli Stargel". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Kelli Stargel
State Senator, District 15

Cc: Booter Imhof/ Staff Director
Lynn Koon/ AA

REPLY TO:

- ☐ 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
- ☐ 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/4/15

Meeting Date

558

Bill Number (if applicable)

Topic Hotels + Restaurants

Amendment Barcode (if applicable)

Name DAVID MICA, Jr

Job Title Deputy Director Legislative Aff., DBPR

Address _____
Street

Phone 850-717-1848

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Dept. of Business + Professional Regulations

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 COMMITTEE VOTE RECORD

COMMITTEE: Regulated Industries
ITEM: SB 558
FINAL ACTION: Favorable
MEETING DATE: Wednesday, March 4, 2015
TIME: 3:30 —5:30 p.m.
PLACE: 110 Senate Office Building

FINAL VOTE								
Yea	Nay	SENATORS	Yea	Nay	Yea	Nay	Yea	Nay
VA		Abruzzo						
X		Bean						
X		Braynon						
X		Diaz de la Portilla						
X		Flores						
X		Latvala						
X		Negron						
X		Richter						
X		Sachs						
X		Stargel						
VA		Margolis, VICE CHAIR						
X		Bradley, CHAIR						
12	0	TOTALS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

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 Regulated Industries

BILL: CS/SB 608

INTRODUCER: Regulated Industries Committee and Senator Stargel

SUBJECT: Real Estate Brokers and Appraisers

DATE: March 4, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Fav/CS
2.			AGG	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 608 authorizes the Florida Real Estate Commission (commission) within the Department of Business and Professional Regulation (department) to adopt rules to permit a real estate brokerage to register a broker on a temporary, emergency basis if a sole broker of a brokerage dies or is unexpectedly unable to remain a broker.

The bill clarifies the exemption to postlicensure education and the education course requirements applies to persons who have received a 4-year degree, or higher, in real estate from an accredited institution of higher education.

The bill authorizes the commission to, at its discretion, to reinstate a license that has become void if the commission determines that the individual failed to comply because of illness or economic hardship, as defined by rule.

The bill specifies the workfile documentation that appraisers and registered appraisal management companies must retain and requires that the appraiser's workfile must meet the standards of the Appraisal Standards Board of The Appraisal Foundation, as established by rule of the Florida Real Estate Appraisal Board (board) within the department. The bill deletes the prohibition that the department cannot inspect or copy the records of an appraisal management company except in connection with a pending investigation or complaint.

The bill deletes the requirement of a written agreement between Florida and other states for the reciprocal licensing of out-of-state appraisers.

II. Present Situation:

The regulation of real estate brokers is overseen by the Florida Real Estate Commission (commission) within the Division of Real Estate in the Department of Business and Professional Regulation (department). The commission administers and enforces the provisions of part I of ch. 475, F.S.

The regulation of the real estate appraisers is overseen by the Florida Real Estate Appraisal Board (board) within the department. The board administers and enforces the provisions of part II of ch. 475, F.S.

Real Estate Brokers - Qualifications

Section 475.17(1), F.S., sets forth the qualifications for practice for a real estate broker. Specifically, an applicant must:

- Be a natural person of at least eighteen years of age;
- Hold a high school diploma or its equivalent;
- Be honest, truthful, trustworthy, of good character, and have a good reputation for fair dealing; and
- Be competent and qualified to make real estate transactions and conduct negotiations.

In addition to the requirements provided in s. 475.17(1)(a), F.S., the applicant must also hold an active real estate sales associate license for a specified period of time,¹ complete a pre-licensing course,² pass the Florida Real Estate Brokers' Examination,³ and participate in post-licensure education.⁴

The commission may require licensees to meet a postlicensure education requirement in order to maintain a valid sales associate's license. The postlicensure education requirement may not exceed 45 classroom hours of 50 minutes each, inclusive of examination, prior to the first renewal following initial licensure. The postlicensure education requirement may consist of one or more commission-approved courses which total at least 45 classroom hours on one or more subjects which include, but are not limited to, property management, appraisal, real estate finance, the economics of real estate management, marketing, technology, sales and listing of properties, business office management, courses teaching practical real estate application skills, development of business plans, marketing of property, and time management. The required postlicensure education courses must be provided by an accredited college, university, or community college, by a career center, by a registered real estate school, or by a commission-approved sponsor.⁵

¹ Section 475.17(2)(b), F.S.

² Section 475.17(2)(a), F.S.

³ Section 475.175, F.S.

⁴ Section 475.17(3)(a), F.S.

⁵ *Id.*

Section 475.17(6), F.S., provides an exemption to the postlicensure education and the education course requirements for an applicant or licensee who has received a 4-year degree in real estate from an accredited institution of higher education.

Section 475.15, F.S., requires that a partnership, limited liability partnership, limited liability company, or corporation that acts as a broker must register with the commission and renew the licenses or registrations of its members, officers, and directors for each license period. For a limited partnership, only the general partners must be licensed brokers or registered brokerage corporation. The registration of a corporation, limited liability company, limited liability partnership, or partnership is canceled automatically during the period of time the entity does not have at least on broker who has an active license or registration.

Real Estate Brokers - Inactive License

Section 475.183, F.S., provides for the activation of licenses that have become voluntarily or involuntarily inactive. Licenses that have been involuntarily inactive for more than 2 years shall automatically expire, and become null and void without any further action by the commission or department. The department is required to give notice to the licensee 90 days prior to expiration of the license. The commission must by rule impose a fee not to exceed \$100 for the late renewal of an involuntarily inactive license.⁶ The commission adopted a \$50 late fee.⁷

The Appraisal Subcommittee

The Appraisal Subcommittee (ASC)⁸ of the Federal Financial Institutions Examination Council was created in 1989, pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).⁹ The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) amended several sections of Title 11 of FIRREA.

The Appraisal Subcommittee is the federal agency charged with oversight of the states' appraisal regulatory programs.¹⁰ It is responsible for monitoring and reviewing the activities of the Appraisal Foundation and its three boards.¹¹ The Appraisal Subcommittee oversees Florida's appraiser regulatory program.

The Appraisal Subcommittee has six members, designated by the heads of the following agencies:

- Board of Governors of the Federal Reserve System (FRB);
- Federal Deposit Insurance Corporation (FDIC);
- Office of the Comptroller of the Currency (OCC);
- Office of Thrift Supervision (OTS);

⁶ Section 475.183(2)(b), F.S.

⁷ Rule 61J2-1.011(5)(c), L.O.F.

⁸ For information about the Appraisal Subcommittee (ASC): <https://www.asc.gov/About-the-ASC/ASCHistory.aspx> (last visited on February 26, 2015). *See also* s. 475.611(1)(b), F.S.

⁹ *See*, generally: 12 U.S.C. s. 3331-3351.

¹⁰ 12 U.S.C. s. 3332(a).

¹¹ 12 U.S.C. s. 3332(b).

- National Credit Union Administration (NCUA); and
- Department of Housing and Urban Development (HUD).¹²

On September 22, 1997, the ASC adopted the most recent version of the Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers. These policy statements are intended to “assist the States in the continuing development and maintenance of appropriate organizational and regulatory structures for certifying, licensing and supervising real estate appraisers.”¹³

The Appraisal Subcommittee conducts biennial on-site reviews of each state’s appraisal agency, with more frequent visits to states with weak enforcement programs. The Appraisal Subcommittee has the ability to disapprove a state’s appraisal regulatory program, which effectively disqualifies that state’s appraisers from conducting appraisals for federally-related transactions.¹⁴ A “federally-related transaction” is any real estate-related financial transaction which: 1) a federal financial institution’s regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and 2) requires the services of an appraiser.¹⁵ An appraiser must be listed on the National Registry to be eligible to perform appraisals in connection with federally related transactions, which would include mortgage transactions.

The Appraisal Foundation

The Appraisal Foundation (TAF)¹⁶ of the Federal Financial Institutions Examination Council is a private, non-profit educational organization that was formed in 1987 to promote professionalism in the valuation industry. The Appraisal Foundation is governed by a Board of Trustees, which oversees three independent boards:

- The Appraisal Standards Board (ASB), which establishes the generally-accepted standards of the profession, known as the Uniform Standards of Professional Appraisal Practice (USPAP);
- The Appraiser Qualifications Board (AQB), which establishes the minimum education, experience, and examination qualifications for appraisers; and
- The Appraisal Practices Board (APB), which is responsible for developing best practices and providing voluntary guidance to professionals.¹⁷

Real Estate Appraisers

Real estate appraisers in Florida are regulated by the Florida Real Estate Appraisal Board (board) within the Division of Real Estate of Department of Business and Professional Regulation (department), which administers and enforces the provisions of part II of ch. 475, F.S. The board is authorized to:

- Regulate the issuance of licenses, certifications, registrations, and permits;
- Discipline appraisers;

¹² 12 C.F.R. 1102.303(b).

¹³ *Supra*, note 8.

¹⁴ *See*, generally: 12 U.S.C. s. 3347 and 12 C.F.R. 1102 Subpart B.

¹⁵ 12 U.S.C. s. 3350(4).

¹⁶ For information about the Appraisal Foundation, *see* <https://netforum.avectra.com/eWeb/DynamicPage.aspx?Site=TAF> (last visited March 2, 2015).

¹⁷ *Id.*

- Establish qualifications for licenses, certifications, registrations, and permits;
- Regulate approved education courses;
- Establish standards for real estate appraisers; and
- Establish standards for and regulate supervisory appraisers.

The board's headquarters is located in Orlando, Florida.

Section 475.611(1), F.S., defines the term "appraisal" or "appraisal services" to mean:

the services provided by certified or licensed appraisers or registered trainee appraisers, and includes:

1. "Appraisal assignment" denotes an engagement for which a person is employed or retained to act, or could be perceived by third parties or the public as acting, as an agent or a disinterested third party in rendering an unbiased analysis, opinion, review, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real property.
2. "Analysis assignment" denotes appraisal services that relate to the employer's or client's individual needs or investment objectives and includes specialized marketing, financing, and feasibility studies as well as analyses, opinions, and conclusions given in connection with activities such as real estate brokerage, mortgage banking, real estate counseling, or real estate consulting.
3. "Appraisal review assignment" denotes an engagement for which an appraiser is employed or retained to develop and communicate an opinion about the quality of another appraiser's appraisal, appraisal report, or work. An appraisal review may or may not contain the reviewing appraiser's opinion of value.

Real Appraiser License Classifications

Section 475.611(1)(u), F.S., defines the term "supervisory appraiser" to mean:

a certified residential appraiser,¹⁸ or a certified general appraiser¹⁹ responsible for the direct supervision of one or more registered trainee appraisers and fully responsible for appraisals and appraisal reports prepared by those registered trainee appraisers.

Section 475.611(1)(q), F.S., defines the term "licensed appraiser" to mean "a person who is licensed by the department as qualified to issue appraisal reports for residential real property of one to four residential units or on such real estate or real property as may be authorized by federal regulation.

Section 475.611(1)(q), F.S., also prohibits, as of July 1, 2003, the department from issuing licenses for the category of licensed appraiser.

¹⁸ Section 475.611(1)(l), F.S., defines the term "certified residential appraiser" to mean "a person who is certified by the department as qualified to issue appraisal reports for residential real property of one to four residential units, without regard to transaction value or complexity, or real property as may be authorized by federal regulation."

¹⁹ Section 475.611(1)(k), F.S., defines the term "certified general appraiser" to mean "a person who is certified by the department as qualified to issue appraisal reports for any type of real property."

Section 475.611(1)(r), F.S., defines the term “registered trainee appraiser” to mean:

a person who is registered with the department as qualified to perform appraisal services only under the direct supervision of a licensed or certified appraiser. A registered trainee appraiser may accept appraisal assignments only from her or his primary or secondary supervisory appraiser.

According to the department, there are remaining licensed appraisers, but the number continues to decline. According to the department, the ASC does not permit licensed appraisers to supervise trainee appraisers.

Real Estate Appraisers Qualifications –

Section 475.615, F.S., provides the qualifications for registration or certification of appraisers, as outlined by the Real Property Appraiser Qualification Criteria of the AQB. In December 2011, the AQB adopted the latest version of the Real Property Appraiser Qualification Criteria with an effective date of January 1, 2015.²⁰ An appraiser applicant must be competent to handle appraisals with safety to those with whom they may undertake a relationship of trust and confidence. If an applicant has been denied a prior registration or certification application, or has had a license, registration, or certification revoked or suspended in any jurisdiction, the applicant is deemed not to be qualified. The board may grant the application if, because of lapse of time and subsequent good conduct and reputation, or other reason deemed sufficient, it appears to the board that the interest of the public is not likely to be endangered by the granting of registration or certification.

Real Estate Appraisers – Retention of Records

Section 475.629, F.S., requires that registered, licensed, or certified appraisers and registered appraisal management companies must retain, for 5 years or the period specified in the Uniform Standards of Professional Appraisal Practice (USPAP),²¹ whichever is greater, original or true copies of any contracts engaging the appraiser's or appraisal management company's services, appraisal reports, and supporting data assembled and formulated by the appraiser or company in preparing appraisal reports or engaging in appraisal management services. The retention period runs from the date of the submission of the appraisal report to the client, unless otherwise specified in the USPAP.

The appraiser or appraisal management company must make the records available for inspection or copying by the department upon reasonable notice to the appraiser or company. The department may not inspect or copy the records of an appraisal management company except in connection with a pending investigation or complaint. If an appraisal has been the subject of or

²⁰ A copy of the AQB's *Real Property Appraiser Qualification Criteria* is available at: <https://netforum.avectra.com/eweb/DynamicPage.aspx?Site=taf&WebCode=RPCriteria> (last visited February 25, 2015).

²¹ Uniform Standards of Professional Appraisal Practice also specifies a five-year records retention period. A copy of the Uniform Standards of Professional Appraisal Practice may be found at <https://netforum.avectra.com/eweb/DynamicPage.aspx?Site=TAF&WebCode=USPAP> (last visited February 25, 2015).

has served as evidence for litigation, reports and records must be retained for at least 2 years after the trial or the period specified in the USPAP, whichever is greater.

The USPAP requires that a workfile of an appraiser must be established and must include:

- The name of the client and the identity, by name or type, of any other intended users;
- True copies of any written reports, documented on any type of media. (A true copy is a replica of the report transmitted to the client. A photocopy or an electronic copy of the entire report transmitted to the client satisfies that requirement of a true copy.);
- Summaries of all oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification;
- All other data, information, and documentation necessary to support the appraiser's opinions and calculations and to show compliance with USPAP, or reference to the location(s) of such other documentation; and
- A workfile in support of a Restricted Appraisal Report must be sufficient for the appraiser to produce an Appraisal Report.

Real Estate Appraisers – Nonresident Licenses and Certifications

Section 475.631, F.S., authorizes the board to enter into written agreements with other states, territories or jurisdictions of the United States that have similar licensing requirements as Florida to ensure that Florida residents have the same opportunity to become licensed in those states that is afforded to their residents in Florida. If the board determines that other jurisdictions requirements do not offer nonresident licensure or certification to Florida-certified appraisers that are substantially comparable to those afforded to certified appraisers or licensees of that jurisdiction, the board must require that certified appraisers or licensees of that jurisdiction who apply for nonresident certification meet the education, experience, and examination requirements substantially comparable to those required by that jurisdiction with respect to Florida-certified appraisers who seek nonresident licensure or certification.

Effective July 1, 2013, F.S., the FIRREA requires states to have in place a policy for issuing a reciprocity certification or license to an appraiser from another state. The state's reciprocity provision must meet the following conditions:

1. The appraiser licensing and certification program of the other State is in compliance with the provisions of FIRREA Title XI; and
2. The appraiser holds a valid certification from a State with requirements for certification or licensing that meet or exceed the certification and licensure standards established by the State where an individual seeks reciprocity.²²

The FIRREA does not require written agreements between states.

Section 475.631(2)(a), F.S., provides that any resident state-certified appraiser who becomes a nonresident must, within 60 days, notify the board of the change in residency

²² 12 U.S.C. s. 3350(4); and Appraisal Subcommittee Policy 6.

and comply with nonresident requirements. Failure to notify and comply is a violation of the license law, subject to the penalties in s. 475.624, F.S.

Section 475.631(2)(b), F.S., authorizes the board to adopt rules for the regulation of nonresident certified appraisers and licensees. The board's rule permits out-of-state certified residential and certified general appraisers to become certified in Florida based upon their education, experience, and national exam grades from other states. Out-of-state appraisers are only required to complete a 40-question Florida supplemental exam on Florida's laws.²³

III. Effect of Proposed Changes:

Real Estate Brokers - Qualifications

The bill amends s. 475.15, F.S., to require the commission to adopt rules that allow a brokerage to register a broker on a temporary, emergency basis if a sole broker of a brokerage dies or is unexpectedly unable to remain a broker.

The bill amends s. 475.17(6), F.S., to clarify that the exemption to the postlicensure education and the education course requirements apply to persons who have received a 4-year degree, or higher, in real estate from an accredited institution of higher education.

Real Estate Brokers - Inactive License

The bill creates s. 475.183(4), F.S., to authorize the commission to, at its discretion, to reinstate a license that has become void if the commission determines that the individual failed to comply because of illness or economic hardship, as defined by rule. To reactivate the license, the individual must apply to the commission for reinstatement within 6 months after the date that the license became void. An individual whose license is reinstated must meet all continuing education requirements prescribed by law, pay appropriate licensing fees, and otherwise be eligible for renewal of licensure.

Real Estate Appraisers

The bill amends ss. 475.611(1)(r) and 475.612(5), F.S., to delete the term "licensed" appraiser in regards to provide that it is a certified appraiser that has direct supervision over the registered trainee appraiser.

The bill amends s. 475.621(2), F.S., to provide that the department must transmit the annual fee that the department must collect from persons who perform or seek to perform appraisals in federally related transactions to the appraisal subcommittee instead of to the Federal Financial Institutions Examinations Council.

²³ Rule 61J1-3.004, F.A.C.

Real Estate Appraisers – Retention of Records

The bill amends s. 475.629, F.S., to provide that registered, licensed, or certified appraisers and registered appraisal management companies must retain a work file for each appraisal, appraisal review, or appraisal consulting assignment. It requires that the appraiser's workfile contain, in addition to the original contract and other records required by current law, all other data, information, and documentation required by the standards for the development or communication of a real estate appraisal as approved and adopted by the Appraisal Standards Board of The Appraisal Foundation, as established by rule of the board.

The bill amends s. 475.629, F.S., to require that appraisal management companies must also retain the company accounts, correspondence, memoranda, papers, books, and other records in accordance with administrative rules adopted by the board.

The bill amends s. 475.6295, F.S., to allow authorized agents and employees of the department to inspect appraisal management companies in addition to the other licensees under ch. 475, F.S.

The bill also amends s. 475.629, F.S., to delete the prohibition that the department cannot inspect or copy the records of an appraisal management company except in connection with a pending investigation or complaint.

Real Appraiser License Classifications

The bill repeals the reciprocity provisions of s. 473.631(1), F.S., that require written agreements between Florida and other states.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

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 substantially amends the following sections of the Florida Statutes: 475.15, 475.17, 475.183, 475.611, 475.612, 475.621, 475.629, 475.6295, and 475.631.

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 Regulated Industries Committee on March 4, 2015:

The committee substitute (CS) amends ss. 475.611(1)(r) and 475.612(5), F.S., to delete the term “licensed” appraiser in regards to provide that it is a certified appraiser that has direct supervision over the registered trainee appraiser.

The CS amends s. 475.621(2), F.S., to provide that the department must transmit the annual fee that the department must collect from persons who perform or seek to perform appraisers in federally related transactions to the appraisal subcommittee instead of to the Federal Financial Institutions Examinations Council.

The CS amends s. 475.629, F.S., to require that the appraiser’s workfile contain all other data, information, and documentation required by the standards for the development or communication of a real estate appraisal as approved and adopted by the Appraisal Standards Board of The Appraisal Foundation, as established by rule of the board.

B. Amendments:

None.



435336

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2015	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Stargel) recommended the following:

Senate Amendment (with title amendment)

Between lines 67 and 68
insert:

Section 4. Paragraph (r) of subsection (1) of section
475.611, Florida Statutes, is amended to read:

475.611 Definitions.—

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

(r) "Registered trainee appraiser" means a person who is
registered with the department as qualified to perform appraisal



435336

services only under the direct supervision of a ~~licensed or~~
certified appraiser. A registered trainee appraiser may accept
appraisal assignments only from her or his primary or secondary
supervisory appraiser.

Section 5. Subsection (5) of section 475.612, Florida
Statutes, is amended to read:

475.612 Certification, licensure, or registration
required.—

(5) This section does not apply to any full-time graduate
student who is enrolled in a degree program in appraising at a
college or university in this state, if the student is acting
under the direct supervision of a certified ~~or licensed~~
appraiser and is engaged only in appraisal activities related to
the approved degree program. Any appraisal report by the student
must be issued in the name of the supervising individual who is
responsible for the report's content.

Section 6. Subsection (2) of section 475.621, Florida
Statutes, is amended to read:

475.621 Registry of licensed and certified appraisers.—

(2) The department shall collect from such individuals who
perform or seek to perform appraisals in federally related
transactions, an annual fee as set by and transmitted to, the
appraisal subcommittee ~~to be transmitted to the Federal~~
~~Financial Institutions Examinations Council on an annual basis.~~

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

And the title is amended as follows:

Delete line 10

and insert:



435336

40 license of an individual in certain circumstances;
41 amending s. 475.611, F.S.; revising the supervision
42 requirements for registered trainee appraisers;
43 amending s. 475.612, F.S.; revising the supervision
44 requirements for select graduate students; amending s.
45 475.621, F.S.; providing that the department shall
46 collect annual fees set by and transmitted to the
47 appraisal subcommittee;



285134

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2015	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Stargel) recommended the following:

Senate Amendment

Delete line 82
and insert:
services and all other data, information, and documentation
required by the standards for

By Senator Stargel

15-00569A-15

2015608__

A bill to be entitled

An act relating to real estate brokers and appraisers; amending s. 475.15, F.S.; requiring the Florida Real Estate Commission to adopt certain rules pertaining to broker registration on a temporary, emergency basis; amending s. 475.17, F.S.; clarifying education requirements that apply for postlicensure and initial real estate licensure; amending s. 475.183, F.S.; providing that the commission may reinstate the license of an individual in certain circumstances; amending s. 475.629, F.S.; requiring an appraiser to prepare and retain a work file in certain circumstances; requiring the work file to be retained for a specified period; requiring the work file to contain certain documents; requiring appraisal management companies to retain certain items; removing the prohibition that the Department of Business and Professional Regulation may not inspect or copy the records except in certain circumstances; amending s. 475.6295, F.S.; providing that duly authorized agents and employees of the department may inspect an appraisal management company at all reasonable hours; amending s. 475.631, F.S.; removing the board's authority to enter into written agreements with similar licensing or certification authorities; providing an effective date.

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

Page 1 of 5

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

15-00569A-15

2015608__

Section 1. Section 475.15, Florida Statutes, is amended to read:

475.15 Registration and licensing of general partners, members, officers, and directors of a firm.—Each partnership, limited liability partnership, limited liability company, or corporation which acts as a broker shall register with the commission and shall renew the licenses or registrations of its members, officers, and directors for each license period. However, if the partnership is a limited partnership, only the general partners must be licensed brokers or brokerage corporations registered pursuant to this part. If the license or registration of at least one active broker member is not in force, the registration of a corporation, limited liability company, limited liability partnership, or partnership is canceled automatically during that period of time. The commission shall adopt rules that allow a brokerage to register a broker on a temporary, emergency basis if a sole broker of a brokerage dies or is unexpectedly unable to remain a broker.

Section 2. Subsection (6) of section 475.17, Florida Statutes, is amended to read:

475.17 Qualifications for practice.—

(6) The postlicensure education requirements of this section, and the education course requirements for one to become initially licensed, do not apply to any applicant or licensee who has received a 4-year degree, or higher, in real estate from an accredited institution of higher education.

Section 3. Subsection (4) is added to section 475.183, Florida Statutes, to read:

475.183 Inactive status.—

Page 2 of 5

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

15-00569A-15

2015608

(4) The commission may, at its discretion, reinstate the license of an individual whose license has become void if the commission determines that the individual failed to comply because of illness or economic hardship, as defined by rule. The individual must apply to the commission for reinstatement within 6 months after the date that the license becomes void. Such individual must meet all continuing education requirements prescribed by law, pay appropriate licensing fees, and otherwise be eligible for renewal of licensure under this section.

Section 4. Section 475.629, Florida Statutes, is amended to read:

475.629 Retention of records.—An appraiser registered, licensed, or certified under this part or an appraisal management company registered under this part shall prepare and retain a work file for each appraisal, appraisal review, or appraisal consulting assignment. This work file shall be retained, for 5 years or the period specified in the Uniform Standards of Professional Appraisal Practice, whichever is greater. The work file shall contain original or true copies of any contracts engaging the appraiser's or appraisal management company's services, appraisal reports, and supporting data assembled and formulated by the appraiser or company in preparing appraisal reports or engaging in appraisal management services and all other documents required by the standards for the development or communication of a real estate appraisal as approved and adopted by the Appraisal Standards Board of The Appraisal Foundation, as established by rule of the board. Except as otherwise specified in the Uniform Standards of Professional Appraisal Practice, the period for retention of the

15-00569A-15

2015608

records applicable to each engagement of the services of the appraiser or appraisal management company runs from the date of the submission of the appraisal report to the client. Appraisal management companies shall also retain the company accounts, correspondence, memoranda, papers, books, and other records in accordance with administrative rules adopted by the board. These records must be made available by the appraiser or appraisal management company for inspection and copying by the department upon reasonable notice to the appraiser or company. ~~However, the department may not inspect or copy the records of an appraisal management company except in connection with a pending investigation or complaint.~~ If an appraisal has been the subject of or has served as evidence for litigation, reports and records must be retained for at least 2 years after the trial or the period specified in the Uniform Standards of Professional Appraisal Practice, whichever is greater.

Section 5. Section 475.6295, Florida Statutes, is amended to read:

475.6295 Authority to inspect.—Duly authorized agents and employees of the department shall have the power to inspect in a lawful manner at all reasonable hours any appraisal management company, appraiser or appraisal office certified, registered, or licensed under this chapter, for the purpose of determining if any of the provisions of this chapter, chapter 455, or any rule promulgated under authority of either chapter is being violated.

Section 6. Section 475.631, Florida Statutes, is amended to read:

475.631 Nonresident licenses and certifications.—

~~(1) Notwithstanding the requirements for certification set~~

15-00569A-15

2015608__

117 ~~forth in ss. 475.615 and 475.616, the board may enter into~~
118 ~~written agreements with similar licensing or certification~~
119 ~~authorities of other states, territories, or jurisdictions of~~
120 ~~the United States to ensure for state-certified appraisers~~
121 ~~nonresident licensure or certification opportunities comparable~~
122 ~~to those afforded to nonresidents by this section. Whenever the~~
123 ~~board determines that another jurisdiction does not offer~~
124 ~~nonresident licensure or certification to state-certified~~
125 ~~appraisers substantially comparable to those afforded to~~
126 ~~certified appraisers or licensees of that jurisdiction by this~~
127 ~~section, the board shall require certified appraisers or~~
128 ~~licensees of that jurisdiction who apply for nonresident~~
129 ~~certification to meet education, experience, and examination~~
130 ~~requirements substantially comparable to those required by that~~
131 ~~jurisdiction with respect to state-certified appraisers who seek~~
132 ~~nonresident licensure or certification, not to exceed such~~
133 ~~requirements as are prescribed in ss. 475.615 and 475.616.~~

134 (1)(2)(a) Any resident state-certified appraiser who
135 becomes a nonresident shall, within 60 days, notify the board of
136 the change in residency and comply with nonresident
137 requirements. Failure to notify and comply is a violation of the
138 license law, subject to the penalties in s. 475.624.

139 (2)(b) All nonresident applicants, certified appraisers,
140 and licensees shall comply with all requirements of board rules
141 and this part. The board may adopt rules pursuant to ss.
142 120.536(1) and 120.54 necessary for the regulation of
143 nonresident certified appraisers and licensees.

144 Section 7. This act shall take effect July 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR KELLI STARGEL

15th District

COMMITTEES:

Higher Education, *Chair*
Appropriations Subcommittee on Education
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and Domestic
Security
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

February 20, 2015

The Honorable Rob Bradley
Senate Regulated Industries Committee, Chair
208 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Bradley:

I am respectfully requesting that SB 608, related to *Real Estate Brokers and Appraisers*, be placed on the next committee agenda.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in dark ink that reads "Kelli Stargel". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Kelli Stargel
State Senator, District 15

Cc: Booter Imhof/ Staff Director
Lynn Koon/ AA

REPLY TO:

- ☐ 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
- ☐ 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/4/15

Meeting Date

608

Bill Number (if applicable)

Topic Real Estate

Amendment Barcode (if applicable)

Name DAVID MICA, Jr.

Job Title Deputy Dir. Legislative AFF

Address _____
Street

Phone 850-717-1848

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Dept. Business & Professional Regulation

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 COMMITTEE VOTE RECORD

COMMITTEE: Regulated Industries
ITEM: SB 608
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Wednesday, March 4, 2015
TIME: 3:30 —5:30 p.m.
PLACE: 110 Senate Office Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

CourtSmart Tag Report

Room: EL 110

Case:

Caption: Senate Regulated Industries Committee

Type:

Judge:

Started: 3/4/2015 3:33:48 PM

Ends: 3/4/2015 3:52:42 PM **Length:** 00:18:55

3:33:57 PM	Meeting called to order
3:34:14 PM	Roll call
3:34:38 PM	SB 558 Senator Stargel
3:35:04 PM	Senator Sargel presenting the bill
3:35:53 PM	SB 558 - Passes
3:36:15 PM	SB 608 - Senator Stargel
3:36:30 PM	Senator Stargel presenting the bill
3:36:56 PM	Amendment 435336 Senator Stargel
3:37:35 PM	Amendment adot
3:37:48 PM	pted
3:37:51 PM	Amendment 285134 Senator Stargel
3:38:10 PM	Amendment JAdopted
3:38:52 PM	SB 608 - CS608- Passes
3:40:31 PM	Recognize Senator Bradley family
3:41:02 PM	SB 466 - Senateor Flores
3:41:21 PM	Senator Flores explaining the bill
3:42:03 PM	Senator Braynon Questioning
3:42:18 PM	Senator Flores responding
3:42:58 PM	Amendment 961214
3:43:15 PM	Amendment - Adopted
3:43:58 PM	Megan Slrjane - FL League of Cities
3:45:31 PM	CSSB 466 - Senator Flores commenting
3:46:04 PM	CSSB 466 - Passes
3:46:49 PM	SB 612 - Senator Brandes
3:47:11 PM	Trent Phillips to explain the bill
3:47:37 PM	Amendment Late-filed
3:48:07 PM	Amendment 307314
3:48:23 PM	Amendment Adopted
3:49:09 PM	Senator Bean questioning
3:49:26 PM	Senator Latvala Commenting
3:50:09 PM	Senator Abruzzo commenting
3:50:55 PM	Senator Bean ques
3:51:06 PM	Senator Bean ques
3:51:23 PM	Trent Phillips responding
3:51:35 PM	CSSB 612 - Passes
3:52:23 PM	Meeting adjourned