

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

**REGULATED INDUSTRIES**  
**Senator Bradley, Chair**  
**Senator Margolis, Vice Chair**

**MEETING DATE:** Tuesday, March 31, 2015

**TIME:** 1:30 —3:30 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	<b>SB 736</b> Stargel (Similar CS/CS/H 611)	Residential Properties; Providing requirements relating to the request for an estoppel certificate by a unit or parcel owner; providing that the association waives the right to collect any moneys owed in excess of the amounts set forth in the estoppel certificate under certain conditions; providing that the association waives any claim against a person or entity who would have relied in good faith upon the estoppel certificate under certain conditions; providing and revising fee and supplemental fee requirements, etc.  RI 03/24/2015 RI 03/31/2015 Fav/CS JU FP	Fav/CS Yeas 9 Nays 2
2	<b>CS/SB 1390</b> Health Policy / Hays (Similar CS/H 1219)	Public Food Service Establishments; Revising the definition of the term "public food service establishment" to exclude certain events for the purposes of exemption from licensure and inspection, etc.  HP 03/17/2015 Fav/CS RI 03/31/2015 Fav/CS FP	Fav/CS Yeas 11 Nays 0
3	<b>SB 796</b> Evers (Identical H 4021)	Financial Reporting; Deleting provisions with respect to the preparation by certain condominium associations, cooperative associations, and homeowners' associations of annual reports of cash receipts and expenditures in lieu of certain financial statements, etc.  RI 03/31/2015 Favorable JU RC	Favorable Yeas 10 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Regulated Industries

Tuesday, March 31, 2015, 1:30 —3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>CS/SB 614</b> Health Policy / Grimsley (Compare CS/H 547)	Drug Prescription by Advanced Registered Nurse Practitioners and Physician Assistants; Expanding the categories of persons who may prescribe brand drugs under the prescription drug program when medically necessary; exempting controlled substances prescribed by an advanced registered nurse practitioner or a physician assistant from the disqualifications for certification or licensure, and for continued certification or licensure, as a deputy or state pilot; applying existing penalties for violations relating to the prescribing or dispensing of controlled substances to an advanced registered nurse practitioner, etc.  HP 03/17/2015 Fav/CS RI 03/31/2015 Fav/CS RC	Fav/CS Yeas 8 Nays 2
5	<b>CS/SB 656</b> Judiciary / Latvala (Similar CS/CS/H 305)	Unlawful Detention by a Transient Occupant; Defining the term "transient occupant"; providing factors that establish a transient occupancy; providing for removal of a transient occupant by a law enforcement officer; providing a cause of action for wrongful removal; limiting actions for wrongful removal; providing a civil action for removal of a transient occupant, etc.  JU 03/10/2015 Fav/CS RI 03/31/2015 Fav/CS RC	Fav/CS Yeas 11 Nays 0
6	<b>SB 418</b> Richter (Compare CS/CS/H 87)	Construction Defect Claims; Providing additional requirements for a notice of claim; providing that actions making claims for certain previously resolved claims be deemed frivolous; providing for sanctions for such frivolous claims; providing for sanctions for claims that were solely the fault of the claimant or its agents, etc.  RI 03/31/2015 Fav/CS BI FP	Fav/CS Yeas 11 Nays 0
7	<b>SB 636</b> Latvala (Compare CS/H 373)	Public Accountancy; Revising the definition of the term "licensed audit firm"; revising which firms are required to hold a public accounting license; revising the definition of the term "quality review" to include a peer review, etc.  RI 03/31/2015 Fav/CS FP	Fav/CS Yeas 11 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.)

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

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BILL: CS/SB 736

INTRODUCER: Regulated Industries Committee and Senators Stargel and Detert

SUBJECT: Residential Properties

DATE: March 31, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	<b>Fav/CS</b>
2.			JU	
3.			FP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 736 revises the following requirements for estoppel certificates for condominium, cooperative, and homeowners' associations. When an ownership interest in a condominium unit, cooperative unit, or parcel in a homeowners' association is transferred, the new owner is jointly and severally liable with the previous owner for unpaid assessments owed to a condominium or homeowners' association. Unpaid assessments may also become a lien on the property. To protect against undisclosed financial obligations and to transfer title that is free of any lien or encumbrance, buyers may request that the seller provide an estoppel certificate from the condominium or homeowners' association. An estoppel certificate certifies the amount of any total debt owed to the association for unpaid monetary obligations by a unit or parcel owner as of a specified date.

The bill:

- Reduces the period of time in which an association must respond to a request for an estoppel certificate from 15 days to 10 days;
- Requires that estoppel certificates must be delivered by mail, hand, or electronic means, dated as of the date it is delivered and valid for 30 days;
- Requires that estoppel certificates state all assessments and other moneys owed to the association by the unit owner, as reflected in the official records of the association, through at least 30 days after the date of the estoppel certificate.
- Provides that an association waives the right to collect any moneys owed in excess of the amounts set forth in the estoppel certificate from any person and their successors and assigns who in good faith rely upon the certificate, or if the association fails to respond to a written request for a certificate;

The bill deletes the right of condominium unit owners and parcel owners in a homeowners' association to compel compliance with the provisions governing the issuance of an estoppel by bringing a summary procedure pursuant to s. 51.011, F.S.

For cooperative associations, the bill authorize the cooperative associations to charge a fee for the estoppel certificate if the fee is established by a written resolution adopted by the board or provided by a written management, book, keeping, or maintenance contract. This provision is comparable to authority provided to condominium and homeowners' associations.

The bill takes effect July 1, 2015.

## **II. Present Situation:**

### **Condominium**

A condominium is a “form of ownership of real property created pursuant to [ch. 718, F.S.,] which is comprised entirely of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements.”<sup>1</sup> A condominium is created by recording a declaration of condominium in the public records of the county where the condominium is located.<sup>2</sup> A declaration is like a constitution in that it:

Strictly governs the relationships among condominium unit owners and the condominium association. Under the declaration, the Board of the condominium association has broad authority to enact rules for the benefit of the community.<sup>3</sup>

A declaration “may include covenants and restrictions concerning the use, occupancy, and transfer of the units permitted by law with reference to real property.”<sup>4</sup> A declaration of condominium may be amended as provided in the declaration.<sup>5</sup> If the declaration does not provide a method for amendment, it may generally be amended as to any matter by a vote of not less than the owners of two-thirds of the units.<sup>6</sup> Condominiums are administered by a board of directors referred to as a “board of administration.”<sup>7</sup>

Section 718.103(3), F.S., defines the term “association property” to mean:

that property, real and personal, which is owned or leased by, or is dedicated by a recorded plat to, the association for the use and benefit of its members.

Section 718.103(8), F.S., defines the term “common elements” to mean the portions of the condominium property not included in the units.

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<sup>1</sup> Section 718.103(11), F.S.

<sup>2</sup> Section 718.104(2), F.S.

<sup>3</sup> *Neuman v. Grandview at Emerald Hills*, 861 So. 2d 494, 496-97 (Fla. 4th DCA 2003) (internal citations omitted).

<sup>4</sup> Section 718.104(5), F.S.

<sup>5</sup> See s. 718.110(1)(a), F.S.

<sup>6</sup> Section 718.110(1)(a), F.S. *But see*, s. 718.110(4) and (8), F.S., which provides exceptions to the subject matter and procedure for amendments to a declaration of condominium.

<sup>7</sup> Section 718.103(4), F.S.

Section 718.103(13), F.S., defines the term “condominium property” to mean:

the lands, leaseholds, and personal property that are subjected to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the condominium.

Section 718.103(16), F.S., defines a developer as one “who creates a condominium or offers condominium [units] for sale or lease in the ordinary course of business . . . .” There are two classes of developers: those who create the condominium by executing and recording the condominium documents and those who offer condominium units for sale or lease in the ordinary course of business. Current law excludes a bulk assignee and a bulk buyer from the definition of developer.

### **Cooperative Associations**

Section 719.103(12), F.S., defines a “cooperative” to mean:

that form of ownership of real property wherein legal title is vested in a corporation or other entity and the beneficial use is evidenced by an ownership interest in the association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property.

A cooperative differs from a condominium because, in a cooperative, no unit is individually owned. Instead, a cooperative unit’s occupants receive an exclusive right to occupy the unit. The cooperative holds the legal title to the unit and all common elements. The cooperative association may assess costs for the maintenance of common expenses.<sup>8</sup>

### **Homeowners’ Associations**

Florida law provides statutory recognition to corporations that operate residential communities in this state and procedures for operating homeowners’ associations. These laws protect the rights of association members without unduly impairing the ability of such associations to perform their functions.<sup>9</sup>

A “homeowners’ association” is defined as a “Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel.”<sup>10</sup> Unless specifically stated to the contrary, homeowners’ associations are also governed by ch. 607, F.S., relating to for-profit corporations or by ch. 617, F.S., relating to not-for-profit corporations.<sup>11</sup>

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<sup>8</sup> See ss. 719.106(1)(g) and 719.107, F.S.

<sup>9</sup> See s. 720.302(1), F.S.

<sup>10</sup> Section 720.301(9), F.S.

<sup>11</sup> Section 720.302(5), F.S.

Homeowners' associations are administered by a board of directors whose members are elected.<sup>12</sup> The powers and duties of homeowners' associations include the powers and duties provided in ch. 720, F.S., and in the governing documents of the association, which include recorded declaration of covenants, bylaws, articles of incorporation, and duly adopted amendments to these documents.<sup>13</sup>

### **Assessments and Foreclosures**

The liability provisions in condominium, cooperative, and homeowners' associations for unpaid assessments for present and previous unit and parcel owners are comparable.

Section 718.103(1), F.S., defines the term "assessment" to mean "a share of the funds which are required for the payment of common expenses, which from time to time is assessed against the unit owner."<sup>14</sup>

"Special assessment" is defined to mean "any assessment levied against a unit owner other than the assessment required by a budget adopted annually."<sup>15</sup>

An owner is jointly and severally liable with the previous owner for all unpaid assessments that come due up to the time of transfer of title.<sup>16</sup> This liability is without prejudice to any right the owner may have to recover from the previous owner the amounts paid by the owner.<sup>17</sup>

In a condominium association, if a first mortgagee, (e.g., the mortgage lending bank) or its successor or assignee, acquires title to a condominium unit by foreclosure or by deed in lieu of foreclosure, the first mortgagee's liability for unpaid assessments is limited to the amount of assessments that came due during the 12 months immediately preceding the acquisition of title or one percent of the original mortgage debt, whichever is less.<sup>18</sup> However, this limitation applies only if the first mortgagee joined the association as a defendant in the foreclosure action.<sup>19</sup> This gives the association the right to defend its claims for unpaid assessments in the foreclosure proceeding.

Section 720.3085(2), F.S., provides a comparable limitation of liability relating to parcels in homeowners' associations. Chapter 719, F.S., does not provide a comparable provision for cooperative associations.

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<sup>12</sup> See ss. 720.303 and 720.307, F.S.

<sup>13</sup> See ss. 720.301 and 720.303, F.S.

<sup>14</sup> See also s. 719.103(1), F.S., for a comparable definition of "assessment" in a cooperative association, and s. 720.301(1), F.S., for a comparable definition of "assessment" in a homeowners' association.

<sup>15</sup> Section 718.103(24), F.S.; see also s. 719.103(23), F.S., for a comparable definition of "assessment" in a cooperative association,

<sup>16</sup> Section 718.116(1)(a), F.S., s. 719.108(1), F.S., and s. 720.8085(2)(b), F.S.

<sup>17</sup> *Id.* The term "without prejudice" means "without loss of any rights; in a way that does not harm or cancel the legal rights or privileges of a party." Black's Law Dictionary 770 (2d pocket ed. 2001).

<sup>18</sup> Sections 718.116(1)(b), F.S.

<sup>19</sup> *Id.*

Regarding the accrual of interest on unpaid assessments in condominium, cooperative and homeowners' associations, unpaid assessments and installments on assessments accrue interest at the rate provided in the governing documents from the due date until paid. The rate may not exceed the rate allowed by law.<sup>20</sup> If no rate is specified in the declaration, the interest accrues at the rate of 18 percent per year. The association may also charge an administrative late fee of up to the greater of \$25 or 5 percent of each installment of the assessment for each delinquent installment for which the payment is late. Payments are applied first to the interest accrued, then the administrative late fee, then to any reasonable attorney's fees incurred in collection, and then to the delinquent assessment.<sup>21</sup>

### **Estoppel Certificates**

The community association is required to keep accounting records for the association and separate accounting records.<sup>22</sup> All accounting records must be kept for at least 7 years. The accounting records must be accurate, itemized, and detailed records of all receipts and expenditures. They must contain a current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid on the account, and the balance due.<sup>23</sup>

Within 15 days after receiving a written request from an owner or his or her designee, or a mortgagee or his or her designee, the association is required to provide a certificate signed by an officer or agent of the association stating all assessments and other moneys owed to the association by the owner with respect to the unit or parcel.<sup>24</sup>

The certificate protects any person other than the owner who relies upon it.<sup>25</sup>

The authority to charge a fee for the certificate must be established by a written resolution adopted by the board or provided by a written management, bookkeeping, or maintenance contract. The fee is payable upon the preparation of the certificate.

In a condominium or homeowners' association, if the certificate is requested in conjunction with the sale or mortgage of a unit but the closing does not occur, the preparer of the certificate must refund the fee to a payor that is not a unit-owner within 30 days after receipt of the request for refund. A written request for a refund must be made no later than 30 days after the closing date for which the certificate was sought, and include reasonable documentation that the sale did not occur.<sup>26</sup>

The refund is the obligation of the owner, and the association may collect it from that owner in the same manner as an assessment.<sup>27</sup>

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<sup>20</sup> Section 687.02(2), F.S., prohibits as usurious interest rates that are higher than the equivalent of 18 percent per annum simple interest.

<sup>21</sup> See s. 718.116(3), F.S., s. 719.108(3), F.S., and s. 720.3085(3), F.S.

<sup>22</sup> Section 718.111(12)(a)11., s. 719.104(2)(a)9., F.S., and s. 720.303.(4)(j), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> Section 718.116(8), F.S., s. 719.108(6), F.S., and s. 720.30851, F.S.

<sup>25</sup> Section 718.116(8)(a), F.S., s. 719.108(6), F.S., and s. 720.30851(1), F.S.

<sup>26</sup> Section 718.116(8)(c), F.S., and s. 720.30851(3), F.S.

<sup>27</sup> Section 718.116(8)(d), F.S., and s. 720.30851(3), F.S.

After a series of public meetings in 2014, the Community Association Living Study Council,<sup>28</sup> by unanimous vote, made the following recommendations to the Legislature:

- That a reasonable cap be established for estoppel certificate fees and that such fees be tiered;
- The amount of the fee should depend on whether or not the owner is current in fees, delinquent in fees, or if it is a bulk purchase.<sup>29</sup>

A condominium unit or parcel owner in a homeowners' association may compel compliance with the provisions governing the issuance of an estoppel certificate from a homeowners' or condominium association by bringing a summary procedure pursuant to s. 51.011, F.S.<sup>30</sup> The prevailing party is entitled to recover reasonable attorney's fees and costs.<sup>31</sup> Current law does not provide a comparable provision for cooperative associations.

### **Cooperatives - Estoppel Certificates**

Section 719.108(6), F.S., F.S., provides that, within 15 days after request by a unit owner or mortgagee, the association is required to provide a certificate stating all assessments and other moneys owed to the association by the unit owner with respect to the cooperative parcel. It provides that “any person other than the unit owner who relies upon such certificate shall be protected thereby.” It permits the association or its authorized agent to charge a reasonable fee for the preparation of the certificate.

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

The bill amends ss. 718.116(8), 719.108(6), and 720.30851, F.S., to revise the requirements for estoppel certificates for condominium, cooperative, and homeowners' associations, respectively.

### **Form and Delivery of Estoppel Certificates**

The bill reduces the period of time in which an association must respond to a request for an estoppel certificate from 15 days to 10 days.

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<sup>28</sup> The Community Association Living Study Council was created by the Legislature in 2008 to receive input from the public regarding issues of concern with respect to community association living and to advise the Legislature concerning revisions and improvements to the laws relating to community associations. The council consisted of 7 members appointed by the President of the Senate, the Speaker of the House of Representatives, and the Governor. An ex officio nonvoting member was appointed by the Director of the Division of Florida Condominiums, Timeshares, and Mobile Homes. The Council was abolished by the Legislature in 2014. *See* Ch. 2014-133, L.O.F.

<sup>29</sup> *See* Community Association Living Study Council, *Final Report*, March 31, 2014, available at <http://www.myfloridalicense.com/Dbpr/lsc/documents/2014CALSCReport.pdf> (last visited March 21, 2015).

<sup>30</sup> Sections 718.116(8)(b) and 720.30851(2), F.S.; Section 51.011, F.S., specifies a summary procedure for actions that specifically provide for this procedure by statute or rule. Under the summary procedure, all defenses of law or fact are required to be contained in the defendant's answer which must be filed within five days after service of process of the plaintiff's complaint. If the answer incorporates a counterclaim, the plaintiff must include all defenses of law or fact in his or her answer to the counterclaim and serve it within five days after service of the counterclaim. (Fla. R. Civ. Pro. 1.140, requires an answer, including any counterclaims, within 20 days after service of the complaint.) No other pleadings are permitted, and all defensive motions, including motions to quash, are heard by the court prior to trial. Postponements are not permitted for discovery and the procedure also provides for an immediate trial, if requested.

<sup>31</sup> *Id.*



The bill requires that estoppel certificates from condominium and homeowners' associations must:

- Be delivered by mail, hand, or electronic means;
- Be dated as of the date it is delivered;
- Be valid for at least 30 days; and
- State all assessments and other moneys owed to the association by the unit owner with respect to the unit, as reflected in the official records of the association, through at least 30 days after the date of the estoppel certificate.

The requirement that the estoppel certificate must be dated as of the date delivered is unclear. It is not clear whether the applicable date is the date the certificate is sent or the date the certificate is received.

The bill deletes the provisions in ss. 718.116(8)(b) and 720.30851(2), F.S., that permits condominium unit owners and parcel owners in a homeowners' association to compel compliance with the provisions governing the issuance of an estoppel by bringing a summary procedure pursuant to s. 51.011, F.S.

The bill provides that an association waives the right to collect any moneys owed in excess of the amounts set forth in the estoppel certificate from any person, and from that person's successors and assigns, who in good faith rely upon the certificate.

The bill provides that the association waives any claim from any person, and from that person's successors and assigns, if it fails to deliver an estoppel certificate upon a written request from a unit owner or his or her designee, or a unit mortgagee or his or her designee, or any person and their successors and assigns who would have in good faith relied upon that certificate had it been so delivered.

The bill provides that when an estoppel certificate is requested in conjunction with the sale or refinancing of a unit or parcel, the fee and any supplemental fees are due and payable to an association no earlier than the closing and must be paid from the closing settlement proceeds. The bill prohibits the preparation and delivery of the estoppel certificate to be contingent on the payment of any other fees. The bill maintains the requirement in current law that, if the sale does not occur, the fee is the obligation of the owner and may be collected by an association in the same manner as an assessment. However, the bill increases from 30 days to 60 days after the delivery of the estoppel certificate for the sale to occur in order for the unit or parcel owner not to be obligated to pay the fee for the estoppel certificate if the sale does not occur.

The bill creates s. 719.108(6)(d), F.S., to authorize the cooperative associations to charge a fee for the estoppel certificate if the fee is established by a written resolution adopted by the board or provided by a written management, bookkeeping, or maintenance contract. This provision is comparable to authority provided to condominium and homeowners' associations in ss. 718.116(8)(d) and 720.30851(4), F.S., respectively.

**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 authorizes cooperative associations to charge a fee for the estoppel certificate if the fee is established by a written resolution adopted by the board or provided by a written management, book, keeping, or maintenance contract.

**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: 718.116, 719.108 and 720.30851.

**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 24, 2015:**

The committee substitute (CS):

- Amends s. 719.108(6), F.S., to provide for the issuance of estoppel certificates by cooperative associations in the same manner as provided in the bill for condominium and homeowners' associations;
- Amends ss. 718.116(8) and 720.30851, F.S., to provide that the moneys owed are as reflected in the records maintained pursuant to ss. 718.111(12) and 720.303 (4), F.S., respectively;
- Amends s. 718.116(8)(a) and (b), F.S., and s. 720.30851(1), F.S., to provide that any waiver of claim extends to the successor and assigns of any person who in good faith relied on an estoppel certificate;
- Does not amend ss. 718.116(8)(b) and 720.30851(2), F.S., to provide that the waiver includes any claim for its lien against the unit or parcel, and any moneys owed to the association by the unit owner or parcel owner with respect to the unit or parcel for 40 days after the date of receipt of the request;
- Amends ss. 718.116(8)(c) and 720.30851(3), F.S., to decrease the time from 120 days to 60 days after the delivery of the estoppel certificate for the sale to occur in order for the unit or parcel owner not to be obligated to pay the fee for the estoppel certificate if the sale does not occur;
- Does not amend ss. 718.116(8)(c) and 720.30851(3), F.S., to provide a maximum fee of \$100 for the preparation and delivery of an estoppel certificate, and maximum fees of up to \$50 for specified events;
- Does not create ss. 718.116(8)(d) and 720.30851(4), F.S., to provide maximum fee amounts for simultaneous requests for the estoppel certificate for multiple units owned by the unit or parcel owner when there are no past due monetary obligations; and
- Creates s. 718.108(6)(d), F.S., to authorize the cooperative association to charge a fee for the estoppel certificate if the fee is established by a written resolution adopted by the board or provided by a written management, bookkeeping, or maintenance contract.

**B. Amendments:**

None.

By Senator Stargel

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1 A bill to be entitled  
2 An act relating to residential properties; amending  
3 ss. 718.116 and 720.30851, F.S.; providing  
4 requirements relating to the request for an estoppel  
5 certificate by a unit or parcel owner; providing that  
6 the association waives the right to collect any moneys  
7 owed in excess of the amounts set forth in the  
8 estoppel certificate under certain conditions;  
9 providing that the association waives any claim  
10 against a person or entity who would have relied in  
11 good faith upon the estoppel certificate under certain  
12 conditions; providing and revising fee and  
13 supplemental fee requirements; providing an effective  
14 date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18 Section 1. Subsection (8) of section 718.116, Florida  
19 Statutes, is amended to read:

20 718.116 Assessments; liability; lien and priority;  
21 interest; collection.—

22 (8) Within 10 ~~15~~ days after receiving a written request for  
23 an estoppel certificate ~~therefor~~ from a unit owner or his or her  
24 designee, or a unit mortgagee or his or her designee, the  
25 association shall deliver by mail, hand, or electronic means an  
26 estoppel ~~provide a~~ certificate signed by an officer or agent of  
27 the association. The estoppel certificate must be dated as of  
28 the date it is delivered and must state ~~stating~~ all assessments  
29 and other moneys owed to the association by the unit owner with

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respect to the unit, as reflected in records maintained pursuant to s. 718.111(12), through a date that is at least 30 days after the date of the estoppel certificate ~~condominium parcel~~.

(a) An association waives the right to collect any moneys owed in excess of the amounts set forth in the estoppel certificate from any person or entity who in good faith relies upon that certificate ~~Any person other than the owner who relies upon such certificate shall be protected thereby.~~

(b) If an association has received a written request for an estoppel certificate from a unit owner or his or her designee, or a unit mortgagee or his or her designee, and fails to deliver an estoppel certificate as required by this section, the association waives any claim, including a claim for its lien against the unit, against any person or entity who would have in good faith relied upon that certificate, had it been so delivered, for any moneys owed to the association by the unit owner with respect to the unit for 40 days after the date of receipt of the request ~~A summary proceeding pursuant to s. 51.011 may be brought to compel compliance with this subsection, and in any such action the prevailing party is entitled to recover reasonable attorney's fees.~~

(c) Notwithstanding any limitation on transfer fees contained in s. 718.112(2)(i), an ~~the~~ association or its authorized agent may charge a ~~reasonable~~ fee as provided in this paragraph for the preparation and delivery of the estoppel certificate. The amount of the fee must be included on the estoppel certificate. If the estoppel certificate is requested in conjunction with the sale or refinancing of a unit, the fee and any supplemental fees pursuant to this paragraph shall be

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59 due and payable no earlier than the closing of the sale or  
60 refinancing, and shall be paid from closing settlement proceeds.  
61 If the closing does not occur within 120 days after the date the  
62 estoppel certificate is delivered, the fee for the estoppel  
63 certificate is the obligation of the unit owner and the  
64 association may collect the fee only in the same manner as an  
65 assessment against the unit owner as set forth in this section.  
66 The preparation and delivery of an estoppel certificate may not  
67 be conditioned upon the payment of any other fees. The  
68 association may collect reasonable attorney fees and costs in  
69 connection with the collection of past due moneys. The amount of  
70 the fee may not exceed \$100. However, one or more of the  
71 following supplemental fees may be added:

72 1. If the unit owner is delinquent with respect to moneys  
73 owed to the association, and the association has referred the  
74 account to an attorney or other agent for collection, an  
75 additional fee not to exceed \$50 may be charged.

76 2. If a request to expedite delivery of the estoppel  
77 certificate is made and the estoppel certificate is delivered no  
78 later than the date requested, an additional fee not to exceed  
79 \$50 may be charged.

80 3. If an additional estoppel certificate is requested  
81 within 30 days after the most recently delivered estoppel  
82 certificate, an additional fee not to exceed \$50 for each such  
83 estoppel certificate may be charged.

84 4. If an estoppel certificate is issued to correct an error  
85 or omission in a previously issued estoppel certificate, no  
86 additional fee may be charged.

87 (d) If estoppel certificates for multiple units owned by

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the same unit owner are simultaneously requested from the same association and there are no past due monetary obligations owed to the association, the statement of moneys due for those units may be delivered in one or more estoppel certificates, and, though the fee for each unit shall be computed as set forth in paragraph (c), the total fee that the association may charge for the preparation and delivery of the estoppel certificate or estoppel certificates may not exceed, in the aggregate:

1. For 25 or fewer units, \$750.

2. For 26 to 50 units, \$1,000.

3. For 51 to 100 units, \$1,500.

4. For more than 100 units, \$2,500.

~~(e)-(d) The authority to charge a fee for the estoppel certificate shall be established by a written resolution adopted by the board or provided by a written management, bookkeeping, or maintenance contract and is payable upon the preparation of the certificate. If the certificate is requested in conjunction with the sale or mortgage of a unit but the closing does not occur and no later than 30 days after the closing date for which the certificate was sought the preparer receives a written request, accompanied by reasonable documentation, that the sale did not occur from a payor that is not the unit owner, the fee shall be refunded to that payor within 30 days after receipt of the request. The refund is the obligation of the unit owner, and the association may collect it from that owner in the same manner as an assessment as provided in this section.~~

(f) A summary procedure pursuant to s. 51.011 may be brought to compel compliance with this subsection, and in any such action the prevailing party is entitled to recover

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reasonable attorney fees.

Section 2. Section 720.30851, Florida Statutes, is amended to read:

720.30851 Estoppel certificates.—Within 10 ~~45~~ days after the date on which a request for an estoppel certificate is received from a parcel owner or mortgagee, or his or her designee, the association shall deliver by mail, hand, or electronic means an estoppel ~~provide a~~ certificate signed by an officer or authorized agent of the association. The estoppel certificate must be dated as of the date it is delivered and must state ~~stating~~ all assessments and other moneys owed to the association by the parcel owner or mortgagee with respect to the parcel, as reflected in records maintained pursuant to s. 720.303(4), through a date that is at least 30 days after the date of the estoppel certificate. ~~An association may charge a fee for the preparation of such certificate, and the amount of such fee must be stated on the certificate.~~

(1) An association waives the right to collect any moneys owed in excess of the amounts set forth in the estoppel certificate from any person or entity who in good faith relies upon that certificate ~~Any person other than a parcel owner who relies upon a certificate receives the benefits and protection thereof.~~

(2) If an association has received a written request for an estoppel certificate from a parcel owner or his or her designee, or a mortgagee or his or her designee, and fails to deliver an estoppel certificate as required by this section, the association waives any claim, including a claim for its lien against the parcel, against any person or entity who would have



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146 in good faith relied upon that certificate, had it been so  
147 delivered, for any moneys owed to the association by the parcel  
148 owner with respect to the parcel for 40 days after the date of  
149 receipt of the request ~~A summary proceeding pursuant to s.~~  
150 ~~51.011 may be brought to compel compliance with this section,~~  
151 ~~and the prevailing party is entitled to recover reasonable~~  
152 ~~attorney's fees.~~

153 (3) An association or its authorized agent may charge a fee  
154 as provided in this subsection for the preparation and delivery  
155 of the estoppel certificate. The amount of the fee must be  
156 included on the estoppel certificate. If the estoppel  
157 certificate is requested in conjunction with the sale or  
158 refinancing of a parcel, the fee and any supplemental fees  
159 pursuant to this subsection shall be due and payable no earlier  
160 than the closing of the sale or refinancing, and shall be paid  
161 from the closing settlement proceeds. If the closing does not  
162 occur within 120 days after the date the estoppel certificate is  
163 delivered, the fee for the estoppel certificate is the  
164 obligation of the parcel owner and the association may collect  
165 the fee only in the same manner as an assessment against the  
166 parcel owner as set forth in s. 720.3085. The preparation and  
167 delivery of an estoppel certificate may not be conditioned upon  
168 the payment of any other fees. The association may collect  
169 reasonable attorney fees and costs in connection with the  
170 collection of past due moneys. The amount of the fee may not  
171 exceed \$100. However, one or more of the following supplemental  
172 fees may be added:

173 (a) If the parcel owner is delinquent with respect to  
174 moneys owed to the association, and the association has referred

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the account to an attorney or other agent for collection, an additional fee not to exceed \$50 may be charged.

(b) If a request to expedite delivery of the estoppel certificate is made and the estoppel certificate is delivered no later than the date requested, an additional fee not to exceed \$50 may be charged.

(c) If an additional estoppel certificate is requested within 30 days after the most recently delivered estoppel certificate, an additional fee not to exceed \$50 for each such estoppel certificate may be charged.

(d) If an estoppel certificate is issued to correct an error or omission in a previously issued estoppel certificate, no additional fee may be charged.

(4) If estoppel certificates for multiple parcels owned by the same parcel owner are simultaneously requested from the same association and there are no past due monetary obligations owed to the association, the statement of moneys due for those parcels may be delivered in one or more estoppel certificates, and, though the fee for each parcel shall be computed as set forth in subsection (3), the total fee that the association may charge for the preparation and delivery of the estoppel certificate or estoppel certificates may not exceed, in the aggregate:

(a) For 25 or fewer parcels, \$750.

(b) For 26 to 50 parcels, \$1,000.

(c) For 51 to 100 parcels, \$1,500.

(d) For more than 100 parcels, \$2,500.

(5) The authority to charge a fee for the estoppel certificate shall be established by a written resolution adopted

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204 by the board or provided by a written management, bookkeeping,  
205 or maintenance contract ~~and is payable upon the preparation of~~  
206 ~~the certificate. If the certificate is requested in conjunction~~  
207 ~~with the sale or mortgage of a parcel but the closing does not~~  
208 ~~occur and no later than 30 days after the closing date for which~~  
209 ~~the certificate was sought the preparer receives a written~~  
210 ~~request, accompanied by reasonable documentation, that the sale~~  
211 ~~did not occur from a payor that is not the parcel owner, the fee~~  
212 ~~shall be refunded to that payor within 30 days after receipt of~~  
213 ~~the request. The refund is the obligation of the parcel owner,~~  
214 ~~and the association may collect it from that owner in the same~~  
215 ~~manner as an assessment as provided in this section.~~

216 (6) A summary procedure pursuant to s. 51.011 may be  
217 brought to compel compliance with this section, and in any such  
218 action the prevailing party is entitled to recover reasonable  
219 attorney fees.

220 Section 3. This act shall take effect July 1, 2015.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### 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

**SENATOR KELLI STARGEL**  
15th District

March 10, 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 736, related to *Residential Properties*, 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 black ink that reads "Kelli Stargel". The signature is fluid and cursive, with a large loop at 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](http://www.flsenate.gov)

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

## APPEARANCE RECORD

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

3/31/15

Meeting Date

SB 736

Bill Number (if applicable)

Topic SB 736

Amendment Barcode (if applicable)

Name Mark Anderson

Job Title \_\_\_\_\_

Address 106 S. Monroe St  
StreetPhone 813-705-0658Tallahassee  
CityFL  
State32303  
ZipEmail mark@consultanderson.comSpeaking: ☐ For ☒ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)Representing Chief Executive Office of Management Companies (CEOMC)Appearing at request of Chair: ☐ Yes ☒ NoLobbyist 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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31/15

Meeting Date

736

Bill Number (if applicable)

Topic Estoppel Certificates

Amendment Barcode (if applicable)

Name Travis Moore

Job Title \_\_\_\_\_

Address P.O. Box ~~2020~~ 2020

Phone 727.421.6902

Street

St. Petersburg

City

FL

State

33731

Zip

Email mooreta@tampabay.rr.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Community Associations Institute (CAI)

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

3.31.15

Meeting Date

736

Bill Number (if applicable)

Topic ESTOPPEL CERTIFICATES

Amendment Barcode (if applicable)

Name TREY GOLDMAN

Job Title LEGISLATIVE COUNSEL

Address 200 SOUTH MONROE

Street

Phone 850/224-1400

TAUNTINGSSIE FL 32501

City

State

Zip

Email treygo@floridarealtors.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA REALTORS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

3/31/15

*Meeting Date*

736

*Bill Number (if applicable)*

Topic Residential Properties

*Amendment Barcode (if applicable)*

Name Warren Husband

Job Title Attorney

Address 215 S. Monroe Street, Suite 505

Phone 205-9000

*Street*

Tallahassee

FL

32301

Email whh@metzlaw.com

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Attorneys Title Fund Services

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

3/31/15

Meeting Date

736

Bill Number (if applicable)

Topic Estoppel Certificates

Amendment Barcode (if applicable)

Name Yeline Goin

Job Title Executive Director

Address 204 S. Monroe St

Phone 850-284-2460

Street

Tallahassee

FL 32312

City

State

Zip

Email ygoine@plegal.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing CALL- Community Association Leadership Lobby

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

3/31/15  
Meeting Date

SB736  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Julie Fishman

Job Title Governmental Affairs & Community Outreach Director

Address 5297 W Copans Rd Phone 954-213-0979  
Margate FL 33063 Email fishman@candl.com  
City State Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Community Advocacy Network

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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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)

3/31/15

Meeting Date

SB 736

Bill Number (if applicable)

Topic ESTOPPEL PROCESS REFORM

Amendment Barcode (if applicable)

Name DAVID DANIEL

Job Title \_\_\_\_\_

Address 311 EAST PARK AVE

Street

Phone 204-4729

TALLAHASSEE

City

FL

State

32301

Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

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

Representing AGENTS SECTION - FLORIDA LAND TITLE ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

8/31

Meeting Date

SB 736

Bill Number (if applicable)

Topic Estoppels

Amendment Barcode (if applicable)

Name John Krueger

Job Title VP

Address 5401 N. Central Expwy

Phone 770-570-7871

Street

Dallas

TX

75205

City

State

Zip

Email john.krueger@

associaonline.com

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Associa

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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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)

3/31/15

Meeting Date

SB 736

Bill Number (if applicable)

Topic Estoppel Process Reform

Amendment Barcode (if applicable)

Name ALEXANDRA OVERHOFF

Job Title As EXECUTIVE DIRECTOR

Address 249 E. VIRGINIA ST

Street

Phone 513-519-2121

TALLAHASSEE FL 32301

City

State

Zip

Email alex@flta.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA LAND TITLE ASSOCIATION

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

3/31/15

Meeting Date

SB 736

Bill Number (if applicable)

Topic ESTOPPEL REFORM

Amendment Barcode (if applicable)

Name BEVERLY J. McREYNOLDS

Job Title REGIONAL PRESIDENT

Address 700 NW 107 AVE STE 100  
Street

Phone 305-588-5603

MIAMI FL 33172  
City State Zip

Email bmcreeynolds@NAT.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing NORTH AMERICAN TITLE CO. / FLORIDA LAND TITLE ASSOC

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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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)

3/30/15

Meeting Date

736

Bill Number (if applicable)

Topic Estoppels

Amendment Barcode (if applicable)

Name ANTHONY KALLICHE

Job Title Exec VP/General Counsel - First Service Residential

Address 2956 N. 28<sup>th</sup> Ave  
Street  
Hollywood FL 33020  
City State Zip

Phone 954-378-2289

Email tony.kalliche@fsresidential.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing First Service Residential - CAM Firm managing 380,000 units

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.*

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S-001 (10/14/14)

## APPEARANCE RECORD

3.31.15

Meeting Date

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

736

Bill Number (if applicable)

Topic cotoppel

Amendment Barcode (if applicable)

Name Ashley Kalifich (ca-leafy)Job Title attorney - Cap City ConsultingAddress 101 E. College Ave #302

Street

Tallahassee FL

City

State

32301

Zip

Phone 222-9075Email AKalifich@capcityconsulting.comSpeaking: ☒ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)Representing Old Republic TitleAppearing at request of Chair: ☐ Yes ☒ NoLobbyist 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.

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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)

3/31/15  
Meeting Date

736  
Bill Number (if applicable)

Topic ESTOPPEL CERT.

Amendment Barcode (if applicable)

Name Roger Kesselbach

Job Title PRESIDENT

Address 401 Hwy A1A  
Street

Phone 321-215-7273

SATELLITE BLVD FL 32937  
City State Zip

Email president@SCCA-online.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing SCCA SPACE COAST COMMUNITIES ASSOC.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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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)

3/31/15  
Meeting Date

SB 736  
Bill Number (if applicable)

Topic Estoppel not for closings

Amendment Barcode (if applicable)

Name Donna Coggin

Job Title Paralegal

Address 5297W. Copans Rd  
Street

Phone 954-213-0979

Margate FL 33063  
City State Zip

Email dcoggin@likeyourlawyer.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Community Advocacy Network & Katzman Garfinkel

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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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)

3/31/15

Meeting Date

136

Bill Number (if applicable)

Topic Estoppe Fees

Amendment Barcode (if applicable)

Name Rusty Payton

Job Title CEO

Address 2600 Centennial Blvd.

Phone 567-1073

Street

Tallahassee FL 32308

City

State

Zip

Email rpayton@hbsa.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Home Builders

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.

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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)

5/31  
Meeting Date

736  
Bill Number (if applicable)

Topic RESIDENTIAL PRO

Amendment Barcode (if applicable)

Name DOUGLAS MANG

Job Title \_\_\_\_\_

Address 1424 PIEDMONT DR  
Street

Phone 850-222-7710

THU FL 32208  
City State Zip

Email DMANG@MANHATTAN  
City

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FIRST AMERICAN TITLE INS. CO

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.

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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)

3-31-15

Meeting Date

SB 736

Bill Number (if applicable)

Topic Residential Properties  
Estoppel Process Reform

Amendment Barcode (if applicable)

Name Shelley Stewart

Job Title President

Address 2335 Buville Road

Street

Phone 386-760-9010

Daytona Beach Fl 32119

City

State

Zip

Email SStewart@Stitle.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Title Agents; Southern Title; FUTA; FABA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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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)

3/31/15  
Meeting Date

736  
Bill Number (if applicable)

Topic Estoppel letter

Amendment Barcode (if applicable)

Name Manny Reyes

Job Title Lobbyist

Address 200 West College Ave #204  
Street  
Tallahassee FL 32301  
City State Zip

Phone 850-222-9911

Email MReyes@LopezBarry.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing ALMOS / Association Financial Services

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)

5.31.15  
Meeting Date

736  
Bill Number (if applicable)

Topic REAL ESTATE

Amendment Barcode (if applicable)

Name RON RICHMOND

Job Title LOBBYIST

Address 1394 MILLSTREAM ROAD  
Street

Phone 545-5964

TALL. FL 32312  
City State Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☒ Information

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

Representing SELF

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 736  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Tuesday, March 31, 2015  
**TIME:** 1:30 —3:30 p.m.  
**PLACE:** 110 Senate Office Building

FINAL VOTE			3/24/2015 Amendment 525938  Stargel		1	3/24/2015 Motion to vote at a time certain of 3:29 PM  Latvala		2	3/24/2015 Temporarily Postponed/Time Expired		3
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									
		Richter									
	X	Sachs									
X		Stargel									
X		Margolis, VICE CHAIR									
X		Bradley, CHAIR									
9	2	TOTALS	FAV	-		FAV	-				
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 COMMITTEE VOTE RECORD

**COMMITTEE:** Regulated Industries  
**ITEM:** SB 736  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Tuesday, March 31, 2015  
**TIME:** 1:30 —3:30 p.m.  
**PLACE:** 110 Senate Office Building

	3/31/2015 Amendment 525938							
SENATORS	Stargel							
	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay
Abruzzo								
Bean								
Braynon								
Diaz de la Portilla								
Flores								
Latvala								
Negron								
Richter								
Sachs								
Stargel								
Margolis, VICE CHAIR								
Bradley, CHAIR								
TOTALS	RCS	-						
	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable  
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RCS=Replaced by Committee Substitute  
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525938

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2015	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (8) of section 718.116, Florida  
Statutes, is amended to read:

718.116 Assessments; liability; lien and priority;  
interest; collection.—

(8) Within 10 ~~15~~ days after receiving a written request for  
an estoppel certificate ~~therefor~~ from a unit owner or his or her



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designee, or a unit mortgagee or his or her designee, the association shall deliver by mail, hand, or electronic means an estoppel ~~provide a~~ certificate signed by an officer or agent of the association. The estoppel certificate must be dated as of the date it is delivered, must be valid for at least 30 days, and must state ~~stating~~ all assessments and other moneys owed to the association by the unit owner with respect to the unit, as reflected in records maintained pursuant to s. 718.111(12), through a date that is at least 30 days after the date of the estoppel certificate ~~condominium parcel.~~

(a) An association waives the right to collect any moneys owed in excess of the amounts set forth in the estoppel certificate from any person who in good faith relies upon the estoppel certificate and from that person's successors and assigns ~~Any person other than the owner who relies upon such certificate shall be protected thereby.~~

(b) If an association receives a written request for an estoppel certificate from a unit owner or his or her designee, or a unit mortgagee or his or her designee, and fails to deliver an estoppel certificate as required by this section, the association waives, as to any person who would have in good faith relied on the estoppel certificate and as to that person's successors and assigns, any claim, including a claim for a lien against the unit, for any amounts owed to the association that should have been shown on the estoppel certificate ~~A summary proceeding pursuant to s. 51.011 may be brought to compel compliance with this subsection, and in any such action the prevailing party is entitled to recover reasonable attorney's fees.~~



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(c) Notwithstanding any limitation on transfer fees contained in s. 718.112(2)(i), ~~an the~~ association or its ~~authorized~~ agent may charge a reasonable estoppel certificate a reasonable fee as determined by the cost of providing such information for the preparation and delivery of the estoppel certificate. The amount of the estoppel certificate fee must be included on the estoppel certificate. If the estoppel certificate is requested in conjunction with the sale or refinancing of a unit, the estoppel certificate fee shall be due and payable no earlier than the closing of the sale or refinancing, and shall be paid from closing settlement proceeds. If the closing does not occur within 60 days after the date the estoppel certificate is delivered, the estoppel certificate fee is the obligation of the unit owner and the association may collect the estoppel certificate fee only in the same manner as an assessment against the unit owner as set forth in this section. The preparation and delivery of an estoppel certificate may not be conditioned upon the payment of any other fees.

(d) The authority to charge a fee for the estoppel certificate shall be established by a written resolution adopted by the board or provided by a written management, bookkeeping, or maintenance contract ~~and is payable upon the preparation of the certificate. If the certificate is requested in conjunction with the sale or mortgage of a unit but the closing does not occur and no later than 30 days after the closing date for which the certificate was sought the preparer receives a written request, accompanied by reasonable documentation, that the sale did not occur from a payor that is not the unit owner, the fee shall be refunded to that payor within 30 days after receipt of~~



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~~the request. The refund is the obligation of the unit owner, and the association may collect it from that owner in the same manner as an assessment as provided in this section.~~

Section 2. Subsection (6) of section 719.108, Florida Statutes, is amended to read:

719.108 Rents and assessments; liability; lien and priority; interest; collection; cooperative ownership.—

(6) Within 10 15 days after receiving a written request for an estoppel certificate from by a unit owner or his or her designee, or a unit mortgagee or his or her designee, the association shall deliver by mail, hand, or electronic means an estoppel provide a certificate signed by an officer or agent of the association. The estoppel certificate must be dated as of the date it is delivered, must be valid for at least 30 days, and must state stating all assessments and other moneys owed to the association by the unit owner with respect to the cooperative parcel, as reflected in records maintained pursuant to s. 719.104(2), through a date that is at least 30 days after the date of the estoppel certificate.

(a) An association waives the right to collect any moneys owed in excess of the amounts set forth in the estoppel certificate from any person who in good faith relies upon the estoppel certificate, and from that person's successors and assigns Any person other than the unit owner who relies upon such certificate shall be protected thereby.

(b) If an association receives a written request for an estoppel certificate from a unit owner or his or her designee, or a unit mortgagee or his or her designee, and fails to deliver an estoppel certificate as required by this section, the



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association waives, as to any person who would have in good faith relied on the estoppel certificate and as to that person's successors and assigns, any claim, including a claim for a lien against the unit, for any amounts owed to the association that should have been shown on the estoppel certificate.

(c) Notwithstanding any limitation on transfer fees contained in s. 719.106(1)(i), ~~an the~~ association or its ~~authorized~~ agent may charge a reasonable estoppel certificate a reasonable fee as determined by the cost of providing such information for the preparation and delivery of the estoppel certificate. The amount of the estoppel certificate fee must be included on the estoppel certificate. If the estoppel certificate is requested in conjunction with the sale or refinancing of a unit, the estoppel certificate fee shall be due and payable no earlier than the closing of the sale or refinancing, and shall be paid from closing settlement proceeds. If the closing does not occur within 60 days after the date the estoppel certificate is delivered, the estoppel certificate fee is the obligation of the unit owner and the association may collect the estoppel certificate fee only in the same manner as an assessment against the unit owner as set forth in this section. The preparation and delivery of an estoppel certificate may not be conditioned upon the payment of any other fees.

(d) The authority to charge a fee for the estoppel certificate shall be established by a written resolution adopted by the board or provided by a written management, bookkeeping, or maintenance contract.

Section 3. Section 720.30851, Florida Statutes, is amended to read:



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720.30851 Estoppel certificates.—Within 10 ~~15~~ days after receiving ~~the date on which~~ a written request for an estoppel certificate ~~is received~~ from a parcel owner or his or her designee, or a parcel mortgagee, ~~or his or her designee~~, the association shall deliver by mail, hand, or electronic means an estoppel ~~provide a~~ certificate signed by an officer or ~~authorized~~ agent of the association. The estoppel certificate must be dated as of the date it is delivered, must be valid for at least 30 days, and must state ~~stating~~ all assessments and other moneys owed to the association by the parcel owner or parcel mortgagee with respect to the parcel, as reflected in records maintained pursuant to s. 720.303(4), through a date that is at least 30 days after the date of the estoppel certificate. ~~An association may charge a fee for the preparation of such certificate, and the amount of such fee must be stated on the certificate.~~

(1) An association waives the right to collect any moneys owed in excess of the amounts set forth in the estoppel certificate from any person who in good faith relies upon the estoppel certificate, and from that person's successors and assigns ~~Any person other than a parcel owner who relies upon a certificate receives the benefits and protection thereof.~~

(2) If an association receives a written request for an estoppel certificate from a parcel owner or his or her designee, or a parcel mortgagee or his or her designee, and fails to deliver an estoppel certificate as required by this section, the association waives, as to any person who would have in good faith relied on the estoppel certificate and as to that person's successors and assigns, any claim, including a claim for a lien



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156 against the parcel, for any amounts owed to the association that  
157 should have been shown on the estoppel certificate ~~A summary~~  
158 ~~proceeding pursuant to s. 51.011 may be brought to compel~~  
159 ~~compliance with this section, and the prevailing party is~~  
160 ~~entitled to recover reasonable attorney's fees.~~

161       (3) An association or its agent may charge a reasonable  
162 estoppel certificate fee as determined by the cost of providing  
163 such information for the preparation and delivery of the  
164 estoppel certificate. The amount of the estoppel certificate fee  
165 must be included on the estoppel certificate. If the estoppel  
166 certificate is requested in conjunction with the sale or  
167 refinancing of a parcel, the estoppel certificate fee shall be  
168 due and payable no earlier than the closing of the sale or  
169 refinancing, and shall be paid from the closing settlement  
170 proceeds. If the closing does not occur within 60 days after the  
171 date the estoppel certificate is delivered, the estoppel  
172 certificate fee is the obligation of the parcel owner and the  
173 association may collect the estoppel certificate fee only in the  
174 same manner as an assessment against the parcel owner as set  
175 forth in s. 720.3085. The preparation and delivery of an  
176 estoppel certificate may not be conditioned upon the payment of  
177 any other fees.

178       (4) The authority to charge a fee for the estoppel  
179 certificate shall be established by a written resolution adopted  
180 by the board or provided by a written management, bookkeeping,  
181 or maintenance contract ~~and is payable upon the preparation of~~  
182 ~~the certificate. If the certificate is requested in conjunction~~  
183 ~~with the sale or mortgage of a parcel but the closing does not~~  
184 ~~occur and no later than 30 days after the closing date for which~~





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~~the certificate was sought the preparer receives a written request, accompanied by reasonable documentation, that the sale did not occur from a payor that is not the parcel owner, the fee shall be refunded to that payor within 30 days after receipt of the request. The refund is the obligation of the parcel owner, and the association may collect it from that owner in the same manner as an assessment as provided in this section.~~

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

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

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled

An act relating to residential properties; amending  
ss. 718.116, 719.108, and 720.30851, F.S.; providing  
requirements relating to the request for an estoppel  
certificate by a unit or parcel owner or a unit or  
parcel mortgagee; providing that the association  
waives the right to collect any moneys owed in excess  
of the amounts set forth in the estoppel certificate  
under certain conditions; providing that the  
association waives any claim against a person or  
entity who would have relied in good faith upon the  
estoppel certificate under certain conditions;  
deleting provisions regarding expedited court action  
to compel issuance of an estoppel certificate;  
providing an effective date.

**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.)

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

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BILL: CS/CS/SB 1390

INTRODUCER: Regulated Industries Committee, Health Policy Committee, and Senator Hays

SUBJECT: Public Food Service Establishments

DATE: March 31, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harper	Stovall	HP	<b>Fav/CS</b>
2.	Oxamendi	Imhof	RI	<b>Fav/CS</b>
3.			FP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1390 excludes from the definition of “public food service establishment” any place maintained and operated by a public or private school, college, or university temporarily to serve food contests and cook-offs.

The bill excludes from the definition of “public food service establishment” and licensing requirements any eating place maintained and operated by, or for the benefit of, a church or a religious, nonprofit fraternal, or nonprofit civic organization:

- For the use of members and associates;
- Temporarily to serve such events as fairs, carnivals, food contests, cook-offs, or athletic contests.

Church or a religious, nonprofit fraternal, or nonprofit civic organizations that seek an exemption from licensure as a public food service establishment must provide with documentation of its status when requested by the Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation.

The bill excludes from the definition of “public food service establishment” and licensing requirements eating places maintained and operated by an individual or entity at a food contest, cook-off, or temporary event lasting 1 to 3 days, which is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization by an individual or entity at a temporary event

hosted by the church or organization. The event host must provide the division with documentation of its status when requested by the division

The effective date of the bill is July 1, 2015.

## **II. Present Situation:**

### **Public Food Service Establishments**

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.

At the end of the 2013-2014 fiscal year, there were 87,083 licensed public food service establishments, including seating, permanent non-seating, hotdog carts, and mobile food dispensing vehicles.<sup>1</sup>

The Division of Hotels and Restaurants 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 food service establishments for the purpose of protecting the public health, safety, and welfare.

### ***Exclusions from the definition of Public Food Service Establishments***

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

- Any place maintained and operated by a public or private school, college, or university:
  - For the use of students and faculty; or
  - Temporarily to serve such events as fairs, carnivals, and athletic contests.
- Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization:
  - For the use of members and associates; or
  - Temporarily to serve such events as fairs, carnivals, or athletic contests.
- Any eating place located on an airplane, train, bus, or watercraft which is a common carrier.
- 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, F.S.
- Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12, F.S.

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<sup>1</sup> Department of Business and Professional Regulation, Division of Hotels and Restaurants, *Annual Reports*, Fiscal Year 2013-2014, available at: [http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/hr\\_annual\\_reports.html](http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/hr_annual_reports.html) (last visited Mar. 27, 2015).

- 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.
- 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.
- Any vending machine that dispenses any food or beverages other than potentially hazardous foods, as defined by division rule.
- Any vending machine that dispenses potentially hazardous food and which is located in a facility regulated under s. 381.0072, F.S.
- Any research and development test kitchen limited to the use of employees and which is not open to the general public.

### **Temporary Food Service Event(s)**

In Florida, “temporary food service event” means any event of 30 days or less in duration where food is prepared, served, or sold to the general public.<sup>2</sup> During the 2013-2014 fiscal year, the Division of Hotels and Restaurants issued 7,718 temporary food service event licenses.<sup>3</sup> The division does not license temporary food service events located on the premises of a church, school, or nonprofit fraternal or civic organization. If the temporary food service is operated by a church, school, or nonprofit fraternal or civic organization at an event located elsewhere, no temporary food service event license is required by the division because these types of organizations are excluded from the division’s regulation.<sup>4</sup> The division issues temporary license for 1 to 3 day and 4 to 30 day periods.

The following license fees apply to temporary and annual licenses:<sup>5</sup>

License Type	Number Licenses	License Fee	Total Revenue
1-3 day	2,510	\$91	\$228,410
4-30 day	3,136	\$105	\$329,280
Annual	151	\$456	\$68,856
			\$626,546

### **Food Contests and Cook-offs**

“Food contests” and “cook-offs” are not defined in Florida law.

<sup>2</sup> Section 509.13(8), F.S.

<sup>3</sup> *Supra* note 3.

<sup>4</sup> Florida Department of Business and Professional Regulation, “Do churches, schools, or nonprofit organizations need a temporary food service event license?” (updated June 1, 2012), available at: [http://myfloridalicense.custhelp.com/app/answers/detail/a\\_id/104](http://myfloridalicense.custhelp.com/app/answers/detail/a_id/104) (last visited on Mar. 27, 2015).

<sup>5</sup> Rule 61C-1.008, F.A.C.

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

The bill amends s. 509.0163(5)(b)1.b., F.S., to exclude from the definition of “public food service establishment” any place maintained and operated by a public or private school, college, or university temporarily to serve food contests and cook-offs.

The bill amends s. 509.0163(5)(b)2., F.S., to exclude from the definition of “public food service establishment” any eating place maintained and operated for the benefit of a church or a religious, nonprofit fraternal, or nonprofit civic organization for the use of members and associates.

The bill amends s. 509.0163(5)(b)2.b., F.S., to exclude from the definition of “public food service establishment” any eating place maintained and operated by, or for the benefit of, a church or a religious, nonprofit fraternal, or nonprofit civic organization temporarily to serve food contests or cook-offs.

The terms “food contests” and “cook-offs” are not defined and it is not clear how the department may interpret the term in determining what type of event may be excluded from the definition of public food service establishments.

The bill requires that churches or religious, nonprofit fraternal, or nonprofit civic organization that claim to be excluded from the definition of public food service establishment must provide the division with documentation of its status when requested by the division.

The bill creates s. 509.0163(5)(b)3., F.S., to exempt from the definition of “public lodging establishment eating places maintained and operated by an individual or entity at a food contest, cook-off, or temporary event lasting 1 to 3 days, which is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization by an individual or entity at a temporary event hosted by the church or organization. It also requires that the event host must provide the division with documentation of its status when requested by the division.

The bill amends s. 509.032(3)(c)3.a., F.S., to provide that persons excluded from the definition of public food service establishment in s. 509.013(5)(b), F.S., are not required to obtain, and pay the license fee for, one of the classes of food service or food vendor license specified in this subparagraph.

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:

The department indicates that the additional exclusions to the definition of “public food services establishment” will result in a reduction in license fees for temporary food service vendors who operate for the benefit of a church, religious organization, or nonprofit fraternal or civic organization.

B. Private Sector Impact:

The public food service establishments that are currently required to be licensed would not be required to pay the applicable license fee of \$91 for a 1 to 3 day temporary license, \$105 for 4 to 30 day temporary license, or \$456 for an annual license.

C. Government Sector Impact:

The Division of Hotels and Restaurants estimates a loss of up to 100 percent of temporary event license fees revenue, however, the bill would not impact the number of inspections completed by the division, as the division would focus resources on other required inspections. The department estimates a reduction in revenue of \$626,546 per fiscal year.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The terms “food contests” and “cook-offs” are not defined and it is not clear how the department may interpret the term in determining what type of event may be excluded from the definition of public food service establishments.

**VIII. Statutes Affected:**

This bill substantially amends sections 509.013 and 509.032 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

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

**CS/CS by Regulated Industries Committee on March 31, 2015:**

The committee substitute:

- Amends s. 509.0163(5)(b)1.b., F.S., to exclude from the definition of “public food service establishment” any place maintained and operated by a public or private school, college, or university temporarily to serve cook-offs;
- Amends s. 509.0163(5)(b)3., to require that churches or religious, nonprofit fraternal, or nonprofit civic organization that claim to be excluded from the definition of public food service establishment must provide the division with documentation of its status when requested by the division;
- Does not create s. 509.0163(5)(b)2.c., F.S., to exclude from the definition of “public food service establishment” any eating place maintained and operated by, or for the benefit of, a church or a religious, nonprofit fraternal, or nonprofit civic organization by an individual or entity at a temporary event hosted by the church or organization, provided that the individual or entity guarantees a percentage of the profit to the host and does not generate more than \$2,000 in revenue from the single event or \$4,000 annually from all temporary food service events;
- Creates s. 509.0163(5)(b)3., F.S., to exempt from the definition of “public lodging establishment eating places maintained and operated by an individual or entity at a food contest, cook-off, or temporary event lasting 1 to 3 days, which is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization by an individual or entity at a temporary event hosted by the church or organization. It also requires that the event host must provide the division with documentation of its status when requested by the division; and
- Amends s. 509.032(3)(c)3.a., F.S., to provide that persons excluded from the definition of public food service establishment in s. 509.013(5)(b), F.S., are not required to obtain, and pay the license fee for, one of the classes of food service or food vendor license specified in this subparagraph.

**CS by Health Policy on March 17, 2015:**

The Committee Substitute excludes from the definition of “public food service establishments” certain eating places maintained or operated for the benefit of a church, a religious organization, a nonprofit fraternal organization, or a nonprofit civic organization by an individual or an entity at a temporary event hosted by the church or organization.

**B. Amendments:**

None.

By the Committee on Health Policy; and Senator Hays

588-02387-15

20151390c1

A bill to be entitled  
An act relating to public food service establishments;  
amending s. 509.013, F.S.; revising the definition of  
the term "public food service establishment" to  
exclude certain events for the purposes of exemption  
from licensure and inspection; providing an effective  
date.

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

Section 1. Subsection (5) of section 509.013, Florida  
Statutes, is amended to read:

509.013 Definitions.—As used in this chapter, the term:

(5)(a) "Public food service establishment" means 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.

(b) The following are excluded from the definition in  
paragraph (a):

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,  
food contests, and athletic contests.

2. Any eating place maintained and operated by, or for the  
benefit of, a church or a religious, nonprofit fraternal, or



588-02387-15

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nonprofit civic organization:

a. For the use of members and associates; ~~or~~

b. Temporarily to serve such events as fairs, carnivals, food contests, or athletic contests; or

c. By an individual or entity, at a temporary event hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization, which guarantees a percentage of the profit generated at the event to the nonprofit host, and which does not generate more than \$2,000 in revenue from a single event or \$4,000 annually from all temporary food service events.

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.

588-02387-15

20151390c1

59           9. Any vending machine that dispenses potentially hazardous  
60 food and which is located in a facility regulated under s.  
61 381.0072.

62           10. Any research and development test kitchen limited to  
63 the use of employees and which is not open to the general  
64 public.

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Appropriations Subcommittee on General  
Government, *Chair*  
Governmental Oversight and Accountability,  
*Vice Chair*  
Appropriations  
Environmental Preservation and Conservation  
Ethics and Elections  
Fiscal Policy

### JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining,  
*Alternating Chair*

**SENATOR ALAN HAYS**

11th District

## MEMORANDUM

**To:** Senator Rob Bradley, Chair  
Regulated Industries Committee  
CC: Booter Imhof, Staff Director  
Lynn Koon, Committee Administrative Assistant

**From:** Senator D. Alan Hays

**Subject:** Request to agenda SB 1390 – Public Food Establishments

**Date:** March 17, 2015

---

I respectfully request that you agenda the above referenced bill at your earliest convenience. If you have any questions regarding this legislation, I welcome the opportunity to meet with you one-on-one to discuss it in further detail. Thank you so much for your consideration of this request.

Sincerely,

A handwritten signature in black ink that reads "D. Alan Hays, DMD".

D. Alan Hays, DMD  
State Senator, District 11

### REPLY TO:

- ☐ 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
- ☐ 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011
- ☐ 1104 Main Street, The Villages, Florida 32159 (352) 360-6739 FAX: (352) 360-6748
- ☐ 685 West Montrose Street, Suite 210, Clermont, Florida 34711 (352) 241-9344 FAX: (888) 263-3677

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

March 31, 2015  
Meeting Date

5B 1390  
Bill Number (if applicable)

Topic Public Food Service Establishments

Amendment Barcode (if applicable)

Name Richard Turner

Job Title General Counsel

Address 230 S. Adams  
Street  
Tallahassee FL 32301  
City State Zip

Phone 850 224-2250

Email RTurner@FRLA.ORG

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Restaurant & Lodging Association

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:** CS/SB 1390  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Tuesday, March 31, 2015  
**TIME:** 1:30 —3:30 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



471528

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2015	.	
	.	
	.	
	.	

---

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

**Senate Amendment (with title amendment)**

Delete lines 27 - 64  
and insert:  
food contests, cook-offs, and athletic contests.

2. Any eating place maintained and operated by, or for the benefit of, a church or a religious, nonprofit fraternal, or nonprofit civic organization:

a. For the use of members and associates; or

b. Temporarily to serve such events as fairs, carnivals,



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food contests, cook-offs, or athletic contests.

Upon request by the division, a church or a religious, nonprofit fraternal, or nonprofit civic organization claiming an exclusion under this subparagraph must provide the division documentation of its status as a church or religious, nonprofit fraternal, or nonprofit civic organization.

3. Any eating place maintained and operated by an individual or entity at a food contest, cook-off, or a temporary event lasting from 1 to 3 days which is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization.

Upon request by the division, the event host must provide the division documentation of its status as a church or a religious, nonprofit fraternal, or nonprofit civic organization.

4.3- Any eating place located on an airplane, train, bus, or watercraft which is a common carrier.

5.4- 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.

6.5- Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12.

7.6- 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.

8.7- Any theater, if the primary use is as a theater and if patron service is limited to food items customarily served to



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the admittees of theaters.

~~9.8.~~ Any vending machine that dispenses any food or beverages other than potentially hazardous foods, as defined by division rule.

~~10.9.~~ Any vending machine that dispenses potentially hazardous food and which is located in a facility regulated under s. 381.0072.

~~11.10.~~ Any research and development test kitchen limited to the use of employees and which is not open to the general public.

Section 2. Paragraph (c) of subsection (3) of section 509.032, Florida Statutes, is amended to read:

509.032 Duties.—

(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 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





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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, including the food-recovery brochure developed under s. 595.420.

3.a. Unless excluded under s. 509.013(5)(b), 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.

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

And the title is amended as follows:

Delete lines 5 - 6

and insert:

exclude certain events; amending s. 509.032, F.S.;  
conforming provisions to changes made by this act;  
providing an effective

**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 796

INTRODUCER: Senator Evers

SUBJECT: Financial Reporting

DATE: March 31, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	<b>Favorable</b>
2.			JU	
3.			RC	

---

**I. Summary:**

SB 796 deletes the provision that permits condominium, cooperative, and homeowners' associations operating fewer than 50 units or parcels, regardless of the association's annual revenues, to prepare a report of cash receipts and expenditures in lieu of financial statements based on the amount of annual revenue.

**II. Present Situation:**

**Condominium**

A condominium is a "form of ownership of real property created pursuant to [ch. 718, F.S.,] which is comprised entirely of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements."<sup>1</sup> A condominium is created by recording a declaration of condominium in the public records of the county where the condominium is located.<sup>2</sup> A declaration is like a constitution in that it:

Strictly governs the relationships among condominium unit owners and the condominium association. Under the declaration, the Board of the condominium association has broad authority to enact rules for the benefit of the community.<sup>3</sup>

A declaration "may include covenants and restrictions concerning the use, occupancy, and transfer of the units permitted by law with reference to real property."<sup>4</sup> A declaration of condominium may be amended as provided in the declaration.<sup>5</sup> If the declaration does not

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<sup>1</sup> Section 718.103(11), F.S.

<sup>2</sup> Section 718.104(2), F.S.

<sup>3</sup> *Neuman v. Grandview at Emerald Hills*, 861 So. 2d 494, 496-97 (Fla. 4th DCA 2003) (internal citations omitted).

<sup>4</sup> Section 718.104(5), F.S.

<sup>5</sup> See s. 718.110(1)(a), F.S.

provide a method for amendment, it may generally be amended as to any matter by a vote of not less than the owners of two-thirds of the units.<sup>6</sup> Condominiums are administered by a board of directors referred to as a “board of administration.”<sup>7</sup>

### **Cooperative Associations**

Section 719.103(12), F.S., defines a “cooperative” to mean:

that form of ownership of real property wherein legal title is vested in a corporation or other entity and the beneficial use is evidenced by an ownership interest in the association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property.

A cooperative differs from a condominium because, in a cooperative, no unit is individually owned. Instead, a cooperative unit’s occupants receive an exclusive right to occupy the unit. The cooperative holds the legal title to the unit and all common elements. The cooperative association may assess costs for the maintenance of common expenses.<sup>8</sup>

### **Homeowners’ Associations**

Florida law provides statutory recognition to corporations that operate residential communities in this state and procedures for operating homeowners’ associations. These laws protect the rights of association members without unduly impairing the ability of such associations to perform their functions.<sup>9</sup>

A “homeowners’ association” is defined as a “Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel.”<sup>10</sup> Unless specifically stated to the contrary, homeowners’ associations are also governed by ch. 607, F.S., relating to for-profit corporations or by ch. 617, F.S., relating to not-for-profit corporations.<sup>11</sup>

Homeowners’ associations are administered by a board of directors whose members are elected.<sup>12</sup> The powers and duties of homeowners’ associations include the powers and duties provided in ch. 720, F.S., and in the governing documents of the association, which include recorded declaration of covenants, bylaws, articles of incorporation, and duly adopted amendments to these documents.<sup>13</sup>

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<sup>6</sup> Section 718.110(1)(a), F.S. *But see*, s. 718.110(4) and (8), F.S., which provides exceptions to the subject matter and procedure for amendments to a declaration of condominium.

<sup>7</sup> Section 718.103(4), F.S.

<sup>8</sup> *See* ss. 719.106(1)(g) and 719.107, F.S.

<sup>9</sup> *See* s. 720.302(1), F.S.

<sup>10</sup> Section 720.301(9), F.S.

<sup>11</sup> Section 720.302(5), F.S.

<sup>12</sup> *See* ss. 720.303 and 720.307, F.S.

<sup>13</sup> *See* ss. 720.301 and 720.303, F.S.

## Financial Reporting for Community Associations

Sections 718.111(13), 719.104(4), and 720.303(7), F.S., set forth the financial reporting responsibilities of condominium, cooperative, and homeowners' associations. Associations have 90 days after the end of the fiscal year to prepare and complete a financial report for the preceding fiscal year. The type of financial statements or information that must be provided is based on the association's total annual revenues.

If the association has a total annual revenue of \$150,000 or more, but less than \$300,000, the association must prepare compiled financial statements.<sup>14</sup> If the association has a total annual revenue of at least \$300,000 and not less than \$500,000, the association must prepare reviewed financial statements.<sup>15</sup> If the total annual revenue is \$500,000 or more, the association must prepare audited financial statements.<sup>16</sup> If the total annual revenue is less than \$150,000, then a report of cash receipts must be prepared.<sup>17</sup>

An association having less than 50 units ("parcels" for homeowners' associations), regardless of annual revenue, may prepare a report of cash receipt and expenditures instead of financial statements, unless the governing documents provide otherwise.<sup>18</sup>

In a condominium association, the board may use a higher level of reporting without a meeting or approval of the membership. It may not use a lower level of reporting without a majority of the voting interests present at a properly called meeting of the association.<sup>19</sup>

In cooperative and homeowners' association, upon a petition by 20 percent of the voting interests in the association, the level of reporting may be increased or decreased after a majority vote of the voting interests.<sup>20</sup>

## Division of Florida Condominiums, Timeshares, and Mobile Homes

Condominiums and cooperatives are regulated by the Division of Florida Condominiums, Timeshares, and Mobile Homes (division) in accordance with ch. 718, F.S., and ch. 719, F.S. The division is afforded complete jurisdiction to investigate complaints and enforce compliance with ch. 718, F.S., and ch. 719, F.S., with respect to associations that are still under developer

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<sup>14</sup> A compiled financial statement is an accounting service based on information provided by the entity that is the subject of the financial statement. A compiled financial statement is made without a Certified Public Accountant's (CPA) assurance as to conformity with Generally Accepted Accounting Principles (GAAP). Compiled financial statements must conform to the American Institute of Certified Public Accountants (AICPA) Statements on Standards for Accounting and Review Services. J.G. Siegel and J.K. Shim, *Barron's Business Guides, Dictionary of Accounting Terms*, 3<sup>rd</sup> ed. (Barron's 2000).

<sup>15</sup> A reviewed financial statement is an accounting service that provides a board of directors and interested parties some assurance as to the reliability of financial data without the CPA conducting an examination in accordance with GAAP. Reviewed financial statements must comply with AICPA auditing and review standards for public companies or the AICPA review standards for non-public businesses. *Id.*

<sup>16</sup> An audited financial statement by a CPA verifies the accuracy and completeness of the audited entities records in accordance with GAAP. *Id.*

<sup>17</sup> Sections 718.111(13)(a), 719. 104(4)(b), and 720.303(7)(a), F.S.

<sup>18</sup> Sections 718.111(13)(b)2., 719. 104(4)(c)2., and 720.303(7)(b)2., F.S.

<sup>19</sup> Sections 718.111(13)(c) and (d), F.S.

<sup>20</sup> Sections 719.104(4)(d) and (e), and 720.303(7)(c) and (d), F.S.

control.<sup>21</sup> The division also has the authority to investigate complaints against developers involving improper turnover or failure to turnover control to the association, pursuant to s. 718.301, F.S., and 719.301, F.S., respectively.<sup>22</sup> After control of the condominium or cooperative is transferred from the developer to the unit owners, the division's jurisdiction is limited to investigating complaints related to financial issues, elections, and unit owner access to association records.<sup>23</sup>

As part of the division's authority to investigate complaints, s. 718.501(1), F.S., and s. 719.501(1), F.S., authorize the division to subpoena witnesses, take sworn statements from witnesses, issue cease and desist orders, and impose civil penalties (fines) against developers and associations.

The division's jurisdiction regarding homeowners' associations is limited to conducting binding arbitration upon a petition resolve election recall disputes.<sup>24</sup>

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

The bill repeals the provisions in ss. 718.111(13)(b)2., 719. 104(4)(c)2., and 720.303(7)(b)2., F.S., that provide that an association operating fewer than 50 units ("parcels" for homeowners' associations), regardless of the association's annual revenues, must prepare a report of cash receipts and expenditures in lieu of the financial statements based on the amount of annual revenue.

The bill requires that the year-end financial reports be based solely on the level of annual revenues unless waived to a lower or higher standard of reporting by a majority vote of the association.

### **IV. Constitutional Issues:**

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

None.

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

None.

#### **C. Trust Funds Restrictions:**

None.

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<sup>21</sup> Section 718.501(1), F.S., s. 719.501(1), F.S.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *See* ss. 720.303(10)(d) and 720.311(1), F.S.

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

None.

**B. Private Sector Impact:**

Condominium, cooperative, and homeowners' associations of 50 units or parcels may incur additional expense if required to prepare financial statements based on the amount of annual revenue instead of a report of cash receipts.

**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: 718.111, 719.104, and 720.303.

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

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

None.

**B. Amendments:**

None.

By Senator Evers

2-00735-15

2015796\_\_

A bill to be entitled  
An act relating to financial reporting; amending ss.  
718.111, 719.104, and 720.303, F.S.; deleting  
provisions with respect to the preparation by certain  
condominium associations, cooperative associations,  
and homeowners' associations of annual reports of cash  
receipts and expenditures in lieu of certain financial  
statements; providing an effective date.

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

Section 1. Paragraph (b) of subsection (13) of section  
718.111, Florida Statutes, is amended to read:

718.111 The association.—

(13) FINANCIAL REPORTING.—Within 90 days after the end of  
the fiscal year, or annually on a date provided in the bylaws,  
the association shall prepare and complete, or contract for the  
preparation and completion of, a financial report for the  
preceding fiscal year. Within 21 days after the final financial  
report is completed by the association or received from the  
third party, but not later than 120 days after the end of the  
fiscal year or other date as provided in the bylaws, the  
association shall mail to each unit owner at the address last  
furnished to the association by the unit owner, or hand deliver  
to each unit owner, a copy of the financial report or a notice  
that a copy of the financial report will be mailed or hand  
delivered to the unit owner, without charge, upon receipt of a  
written request from the unit owner. The division shall adopt  
rules setting forth uniform accounting principles and standards

2-00735-15

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to be used by all associations and addressing the financial reporting requirements for multicondominium associations. The rules must include, but not be limited to, standards for presenting a summary of association reserves, including a good faith estimate disclosing the annual amount of reserve funds that would be necessary for the association to fully fund reserves for each reserve item based on the straight-line accounting method. This disclosure is not applicable to reserves funded via the pooling method. In adopting such rules, the division shall consider the number of members and annual revenues of an association. Financial reports shall be prepared as follows:

(b)1. An association with total annual revenues of less than \$150,000 shall prepare a report of cash receipts and expenditures.

~~2. An association that operates fewer than 50 units, regardless of the association's annual revenues, shall prepare a report of cash receipts and expenditures in lieu of financial statements required by paragraph (a).~~

2.3. A report of cash receipts and disbursements must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and expense classifications, including, but not limited to, the following, as applicable: costs for security, professional and management fees and expenses, taxes, costs for recreation facilities, expenses for refuse collection and utility services, expenses for lawn care, costs for building maintenance and repair, insurance costs, administration and salary expenses, and reserves accumulated and expended for capital expenditures,



2-00735-15

2015796\_\_

deferred maintenance, and any other category for which the association maintains reserves.

Section 2. Paragraph (c) of subsection (4) of section 719.104, Florida Statutes, is amended to read:

719.104 Cooperatives; access to units; records; financial reports; assessments; purchase of leases.—

(4) FINANCIAL REPORT.—

(c)1. An association with total annual revenues of less than \$150,000 shall prepare a report of cash receipts and expenditures.

~~2. An association in a community of fewer than 50 units, regardless of the association's annual revenues, shall prepare a report of cash receipts and expenditures in lieu of the financial statements required by paragraph (b), unless the declaration or other recorded governing documents provide otherwise.~~

2.3. A report of cash receipts and expenditures must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and expense classifications, including the following, as applicable: costs for security, professional, and management fees and expenses; taxes; costs for recreation facilities; expenses for refuse collection and utility services; expenses for lawn care; costs for building maintenance and repair; insurance costs; administration and salary expenses; and reserves, if maintained by the association.

Section 3. Paragraph (b) of subsection (7) of section 720.303, Florida Statutes, is amended to read:

720.303 Association powers and duties; meetings of board;

2-00735-15

2015796\_\_

88 official records; budgets; financial reporting; association  
89 funds; recalls.—

90 (7) FINANCIAL REPORTING.—Within 90 days after the end of  
91 the fiscal year, or annually on the date provided in the bylaws,  
92 the association shall prepare and complete, or contract with a  
93 third party for the preparation and completion of, a financial  
94 report for the preceding fiscal year. Within 21 days after the  
95 final financial report is completed by the association or  
96 received from the third party, but not later than 120 days after  
97 the end of the fiscal year or other date as provided in the  
98 bylaws, the association shall, within the time limits set forth  
99 in subsection (5), provide each member with a copy of the annual  
100 financial report or a written notice that a copy of the  
101 financial report is available upon request at no charge to the  
102 member. Financial reports shall be prepared as follows:

103 (b)1. An association with total annual revenues of less  
104 than \$150,000 shall prepare a report of cash receipts and  
105 expenditures.

106 ~~2. An association in a community of fewer than 50 parcels,~~  
107 ~~regardless of the association's annual revenues, may prepare a~~  
108 ~~report of cash receipts and expenditures in lieu of financial~~  
109 ~~statements required by paragraph (a) unless the governing~~  
110 ~~documents provide otherwise.~~

111 2.3. A report of cash receipts and disbursement must  
112 disclose the amount of receipts by accounts and receipt  
113 classifications and the amount of expenses by accounts and  
114 expense classifications, including, but not limited to, the  
115 following, as applicable: costs for security, professional, and  
116 management fees and expenses; taxes; costs for recreation

2-00735-15

2015796\_\_

117 facilities; expenses for refuse collection and utility services;  
118 expenses for lawn care; costs for building maintenance and  
119 repair; insurance costs; administration and salary expenses; and  
120 reserves if maintained by the association.

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



The Florida Senate

## Committee Agenda Request

**To:** Chair Senator Bradley  
Committee On Regulated Industries

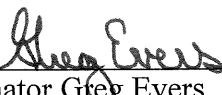
**Subject:** Committee Agenda Request

**Date:** February 18, 2015

---

I respectfully request that **Senate Bill #796**, relating to Financial Reporting, be placed on the:

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

  
\_\_\_\_\_  
Senator Greg Evers  
Florida Senate, District 2

THE FLORIDA SENATE

APPEARANCE RECORD

3-31-15

Meeting Date

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

SB 796

Bill Number (if applicable)

Topic Financial Reporting

Amendment Barcode (if applicable)

Name Justin Thames

Job Title Gov. Affairs Manager

Address 325 W. College Ave

Phone \_\_\_\_\_

Street

Tallahassee FL

City

State

Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

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

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

**COMMITTEE:** Regulated Industries  
**ITEM:** SB 796  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, March 31, 2015  
**TIME:** 1:30 —3:30 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/CS/SB 614

INTRODUCER: Regulated Industries Committee, Health Policy Committee and Senator Grimsley

SUBJECT: Drug Prescription by Advanced Registered Nurse Practitioners and Physician Assistants

DATE: April 1, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Stovall	HP	<b>Fav/CS</b>
2.	Kraemer	Imhof	RI	<b>Fav/CS</b>
3.			RC	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 614 authorizes physician assistants (PAs) and advanced registered nurse practitioners (ARNPs) to prescribe controlled substances under current supervisory standards for PAs and protocols for ARNPs. However, PAs and ARNPs are prohibited from prescribing controlled substances in a pain-management clinic.

The bill requires PAs and ARNPs who prescribe and dispense controlled substances to comply with similar prescribing and dispensing obligations as those required for physicians. These PAs and ARNPs are subject to similar disciplinary or other sanctions as those for physicians.

The bill adds the American Board of Interventional Pain Physicians and the American Association of Physician Specialists to the list of boards in which a medical specialist may be board certified or board eligible in pain medicine in order to be exempted from the statutory standards of practice in s. 456.44, F.S., relating to prescribing controlled substances for the treatment of chronic nonmalignant pain.

Several statutes are amended to recognize that a PA or an ARNP may be a prescriber of controlled substances. These include statutes relating to pilot licensure and criminal probation. Also, a PA and an ARNP are authorized to prescribe brand name drugs when medically necessary under the state employees' prescription drug program.

The bill requires the appointment of a committee to recommend a listing (formulary) of controlled substances that may not be prescribed by ARNPs, or may only be prescribed for certain uses or in limited circumstances. It provides the membership of the committee. If the committee recommends establishment of a controlled substances formulary, the Board of Nursing (board) must initiate rulemaking to adopt it. Future changes to the controlled substances formulary for ARNPs must be justified to the board. If adopted, the formulary will not apply to services that an ARNP may be authorized by the medical staff of a facility to provide, such as the ordering and administration of medication, regional, spinal, and general anesthesia.

The bill requires a hospital to notify each obstetrical physician with privileges at that hospital at least 120 days before it closes its obstetrical department or ceases to provide obstetrical services.

The bill repeals a provision designating certain hospitals as provider hospitals, which have special requirements for cesarean section operations that are paid for by the state, including a review board for such operations.

## **II. Present Situation:**

Unlike all other states, Florida does not allow ARNPs to prescribe controlled substances and is one of two states that does not allow PAs to prescribe controlled substances.<sup>1</sup> The states have varying permissions with respect to the Schedules<sup>2</sup> from which an ARNP or PA may prescribe as well as the additional functions which may be performed, such as dispensing, administering, or handling samples.

According to a recent study commissioned by the Safety Net Hospital Alliance of Florida:<sup>3</sup>

Florida's total current supply of primary care physicians falls short of the number needed to provide a national average level of care by approximately 6 percent. Under a traditional definition of primary care specialties (i.e., general and family practice, general internal medicine, general pediatrics and geriatric medicine) supply falls short of demand by approximately 3 percent. [Based on simulation models, the report concludes that] over the next several years, this shortfall will grow slightly as more people obtain insurance coverage as mandated by the federal Affordable Care Act. However, if current trends continue, this shortfall should disappear within a decade. While supply may be adequate

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<sup>1</sup> DEA Diversion Control, U.S. Department of Justice, *Mid-Level Practitioners Authorization by State*, (last updated March 12, 2015), available at [http://www.deadiversion.usdoj.gov/drugreg/practioners/mlp\\_by\\_state.pdf](http://www.deadiversion.usdoj.gov/drugreg/practioners/mlp_by_state.pdf), (last visited Mar. 28, 2015). Kentucky does not allow PAs to prescribe controlled substances.

<sup>2</sup> Controlled substances are assigned to Schedules I - V based on their accepted medical use and potential for abuse.

<sup>3</sup> IHS Global Inc., *Florida Statewide and Regional Physician Workforce Analysis: Estimating Current and Forecasting Future Supply and Demand*, (January 28, 2015), as presented to the Senate Health Policy Committee on Feb. 17, 2015). The report is available in the committee meeting packet at: [http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HP/MeetingRecords/MeetingPacket\\_2854\\_4.pdf](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HP/MeetingRecords/MeetingPacket_2854_4.pdf), at page 139 (last visited Mar. 28, 2015).



at the state level to provide a national average level of care, there is substantial geographic variation in adequacy of care.

### **Regulation of Physician Assistants in Florida**

Chapter 458, F.S., sets forth the provisions for the regulation of the practice of medicine by the Board of Medicine. Chapter 459, F.S., similarly sets forth the provisions for the regulation of the practice of osteopathic medicine by the Board of Osteopathic Medicine. Physician assistants are regulated by both boards. Licensure of PAs is overseen jointly by the boards through the Council on Physician Assistants.<sup>4</sup> During Fiscal Year 2013-2014, there were 6,118 in-state, actively licensed PAs in Florida.<sup>5</sup>

Physician assistants are trained and required by statute to work under the supervision and control of medical physicians or osteopathic physicians.<sup>6</sup> The Board of Medicine and the Board of Osteopathic Medicine have adopted rules that set out the general principles a supervising physician must use in developing the scope of practice of the PA under both direct<sup>7</sup> and indirect<sup>8</sup> supervision. A supervising physician's decision to permit a PA to perform a task or procedure under direct or indirect supervision must be based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient. The supervising physician must be certain that the PA is knowledgeable and skilled in performing the tasks and procedures assigned.<sup>9</sup> Each physician or group of physicians supervising a licensed PA must be qualified in the medical areas in which the PA is to perform and is individually or collectively responsible and liable for the performance and the acts and omissions of the PA.<sup>10</sup>

Current law allows a supervisory physician to delegate authority to prescribe or dispense any medication used in the physician's practice, except controlled substances, general anesthetics, and radiographic contrast materials.<sup>11</sup> However, the law allows a supervisory physician to delegate authority to a PA to order any medication, which would include controlled substances, general anesthetics, and radiographic contrast materials, during the period a physician's patient stays in a hospital, ambulatory surgical center, or mobile surgical facility licensed under ch. 395, F.S.<sup>12</sup>

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<sup>4</sup> The council consists of three physicians who are members of the Board of Medicine; one physician who is a member of the Board of Osteopathic Medicine; and a physician assistant appointed by the State Surgeon General. *See* s. 458.347(9), F.S., and s. 459.022(9), F.S.

<sup>5</sup> Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long Range Plan Fiscal Year 2013-2014*, p. 14, available at: <http://mqawebteam.com/annualreports/1314/#1/z>, (last visited Mar. 28, 2015).

<sup>6</sup> *See* s. 458.347(4), F.S., and s. 459.022(4), F.S.

<sup>7</sup> "Direct supervision" requires the physician to be on the premises and immediately available. *See* Rules 64B8-30.001(4) and 64B15-6.001(4), F.A.C.

<sup>8</sup> "Indirect supervision" requires the physician to be within reasonable physical proximity and available to communicate by telecommunications. *See* Rules 64B8-30.001(5) and 64B15-6.001(5), F.A.C.

<sup>9</sup> Rules 64B8-30.012(2) and 64B15-6.010(2), F.A.C.

<sup>10</sup> *See* s. 458.347(3) and (15), F.S., and s. 459.022(3) and (15), F.S.

<sup>11</sup> *See* s. 458.347(4)(e) and (f)1., F.S., and s. 459.022(4)(e), F.S.

<sup>12</sup> *See* s. 395.002(16), F.S.

## Regulation of Advanced Registered Nurse Practitioners in Florida

Chapter 464, F.S., governs the licensure and regulation of nurses in Florida. Nurses are licensed by the Department of Health and are regulated by the Board of Nursing.<sup>13</sup> During Fiscal Year 2013-2014, there were 16,887 in-state, actively licensed ARNPs in Florida.<sup>14</sup>

An ARNP is a licensed nurse who is certified in advanced or specialized nursing.<sup>15</sup> Florida recognizes three types of ARNPs: nurse practitioner (NP), certified registered nurse anesthetist (CRNA), and certified nurse midwife (CNM).<sup>16</sup> To be certified as an ARNP, a nurse must hold a current license as a registered nurse<sup>17</sup> and submit proof to the Board of Nursing that he or she meets one of the following requirements:<sup>18</sup>

- Satisfactory completion of a formal post basic educational program of specialized or advanced nursing practice;
- Certification by an appropriate specialty board;<sup>19</sup> or
- Completion of a master's degree program in the appropriate clinical specialty with preparation in specialty-specific skills.

Advanced or specialized nursing acts may only be performed under protocol of a supervising physician. Within the established framework of the protocol, an ARNP may:<sup>20</sup>

- Monitor and alter drug therapies;
- Initiate appropriate therapies for certain conditions; and

<sup>13</sup> The Board of Nursing is comprised of 13 members appointed by the Governor and confirmed by the Senate who serve 4-year terms. Seven of the 13 members must be nurses who reside in Florida and have been engaged in the practice of professional nursing for at least 4 years. Of those seven members, one must be an advanced registered nurse practitioner, one a nurse educator at an approved nursing program, and one a nurse executive. Three members must be licensed practical nurses who reside in the state and have engaged in the practice of practical nursing for at least 4 years. The remaining three members must be Florida residents who have never been licensed as nurses and are in no way connected to the practice of nursing, any health care facility, agency, or insurer. Additionally, one member must be 60 years of age or older. *See* s. 464.004(2), F.S.

<sup>14</sup> *See supra* note 5. Twenty-four ARNPs are also actively licensed as Certified Nurse Specialists (ARNP/CNS).

<sup>15</sup> Section 464.003(2), F.S., defines advanced specialized nursing practice as the performance of advanced-level nursing acts approved by the Board of Nursing which, by virtue of postbasic specialized education, training and experience, are appropriately performed by an ARNP.

<sup>16</sup> *See* s. 464.003(3), F.S. Florida certifies clinical nurse specialists as a category distinct from ARNPs. (*See* s. 464.003(7), F.S., and s. 464.0115, F.S.).

<sup>17</sup> Section 464.003(20), F.S., defines the practice of professional nursing as actions requiring substantial specialized knowledge, judgment, and nursing skill, based upon psychological, biological, physical, and social sciences principles, including but not limited to the:

(a) Observation, assessment, diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others;

(b) Administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments; and

(c) Supervision and teaching of other personnel in the theory and performance of any of these acts.

<sup>18</sup> *See* s. 464.012(1), F.S.

<sup>19</sup> Specialty boards expressly recognized by the Board of Nursing include: Council on Certification of Nurse Anesthetists, or Council on Recertification of Nurse Anesthetists; American College of Nurse Midwives; American Nurses Association (American Nurses Credentialing Center); National Certification Corporation for OB/GYN, Neonatal Nursing Specialties; National Board of Pediatric Nurse Practitioners and Associates; National Board for Certification of Hospice and Palliative Nurses; American Academy of Nurse Practitioners; Oncology Nursing Certification Corporation; and the American Association of Critical-Care Nurses Adult Acute Care Nurse Practitioner Certification. *See* Rule 64B9-4.002(3), F.A.C.

<sup>20</sup> *See* Section 464.012(3), F.S.

- Order diagnostic tests and physical and occupational therapy.

The statute further describes additional acts that may be performed within an ARNP's specialty certification (CRNA, CNM, and NP).<sup>21</sup>

ARNPs must meet financial responsibility requirements, as determined by rule of the Board of Nursing, and the practitioner profiling requirements.<sup>22</sup> The Board of Nursing requires professional liability coverage of at least \$100,000 per claim with a minimum annual aggregate of at least \$300,000 or an unexpired irrevocable letter of credit in the same amounts payable to the ARNP.<sup>23</sup>

Florida does not authorize ARNPs to prescribe controlled substances.<sup>24</sup> However, s. 464.012(4)(a), F.S., provides express authority for a CRNA to order certain controlled substances "to the extent authorized by established protocol approved by the medical staff of the facility in which the anesthetic service is performed . . . ."

## **Educational Preparation**

### ***Physician Assistants***

The American Academy of Physician Assistants has summarized physician assistant education as follows:<sup>25</sup>

PA program applicants must complete at least two years of college courses in basic science and behavioral science as prerequisites to PA training. This is analogous to premedical studies required of medical students. PA students often take classes and do clinical rotations side by side with medical students.

The average length of PA education programs is about 26 months. Students begin their course of study with a year of basic medical science classes (anatomy, pathophysiology, pharmacology, physical diagnosis, etc.) After the science classroom work, PA students enter the clinical phase of training. This includes classroom instruction and clinical rotations in medical and surgical specialties (family medicine, internal medicine, obstetrics and gynecology, pediatrics, general surgery, emergency medicine and psychiatry). Due to these demanding rotation requirements, PA students will have completed at least 2,000 hours of supervised clinical practice by the time they graduate.

PA education is well-structured and focused; it is recognized as highly innovative, efficient and effective. It is competency-based, meaning that students must demonstrate proficiency in various areas of medical knowledge and must meet behavioral and clinical

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<sup>21</sup> See Section 464.012(4), F.S.

<sup>22</sup> See s. 456.048, F.S., and s. 456.041, F.S.

<sup>23</sup> See Rule 64B9-4.002(5), F.A.C.

<sup>24</sup> See s. 93.02(21), F.S., and s. 893.05(1), F.S.

<sup>25</sup> See American Academy of Physician Assistants, *PA Education - Preparation for Excellence – Issue Brief* (March 2014), (on file with the Senate Committee on Regulated Industries), and American Academy of Physician Assistants, *PAs as Prescribers of Controlled Medications – Issue Brief* (June 2014), (on file with the Senate Committee on Regulated Industries).

learning objectives. Many other professions also offer competency-based degrees, including the MD, DO and DDS.

PA programs are accredited by the independent Accreditation Review Commission on Education for the Physician Assistant (ARC-PA), which is sponsored by the American Medical Association, American Academy of Family Physicians, American College of Surgeons, American Academy of Pediatrics, American College of Physicians, Physician Assistant Education Association and American Academy of Physician Assistants.

Accreditation standards are rigorous, and although all accredited PA programs must meet the same educational standards, they have the flexibility to offer a variety of academic degrees. More than ninety percent of PA programs offer a master's degree. However, graduation from an accredited PA education program remains the definitive credential. Regardless of the degree awarded, only graduates of accredited programs are eligible to sit for the Physician Assistant National Certifying Examination administered by the independent National Commission on Certification of Physician Assistants (NCCPA). PAs must recertify with NCCPA every ten years.

All PA educational programs have pharmacology courses and, nationally, the average amount of required formal classroom instruction in pharmacology is 75 hours. This does not include instruction in pharmacology that students receive during clinical medicine coursework and clinical clerkships. Based on national data, the mean amount of total instruction in clinical medicine (the course focus is patient evaluation and management in cardiology, pediatric medicine, obstetrics and gynecology, orthopedics, etc.) is 358.9 hours, and the average length of required clinical clerkships in PA programs is 48.5 weeks. A significant percentage of time is focused on patient management, including pharmacotherapeutics.

### ***Advanced Registered Nurse Practitioners***<sup>26</sup>

Applicants for Florida licensure who graduated on or after October 1, 1998, must have completed requirements for a master's degree or post-master's degree.<sup>27</sup> Applicants who graduated before that date, may be or may have been eligible through a certificate program.<sup>28</sup>

The curriculum of a program leading to an advanced degree must include, among other things:<sup>29</sup>

- Theory and directed clinical experience in physical and biopsychosocial assessment;
- Interviewing and communication skills relevant to obtaining and maintaining a health history;
- Pharmacotherapeutics, including selecting, prescribing, initiating, and modifying medications in the management of health and illness;
- Selecting, initiating and modifying diets and therapies in the management of health and illness;

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<sup>26</sup> See Rule 64B9-4.003, F.A.C. for the program guidelines.

<sup>27</sup> See Florida Board of Nursing, *ARNP Licensure Requirements* <http://floridasnursing.gov/licensing/advanced-registered-nurse-practitioner/>, (last visited Mar. 28, 2015).

<sup>28</sup> *Id.*, and see s. 464.012(1), F.S.

<sup>29</sup> See Rule 64B9-4.003, F.A.C. respecting all of the program requirements described in this section.

- Performance of specialized diagnostic tests that are essential to the area of advanced practice.
- Differential diagnosis pertinent to the specialty area;
- Interpretation of laboratory findings;
- Management of selected diseases and illnesses;
- Professional socialization and role realignment;
- Legal implications of the advanced nursing practice and nurse practitioner role;
- Health delivery systems, including assessment of community resources and referrals to appropriate professionals or agencies; and
- Providing emergency treatments.

The program must provide a minimum of 500 hours of preceptorship/supervised clinical experience<sup>30</sup> in the performance of the specialized diagnostic procedures that are essential to practice in that specialty area.

The curriculum of a nurse practitioner certificate program is based on the philosophy and objectives of the program. It must be at least one academic year in length and include theory in the biological, behavioral, nursing, and medical sciences relevant to the area of advanced practice. It must also include clinical experience with a qualified preceptor. At a minimum, the program must include:

- Theory and directed clinical experience in comprehensive physical and biopsychosocial assessment;
- Interviewing and communication skills;
- Eliciting, recording, and maintaining a health history;
- Interpretation of laboratory findings;
- Pharmacotherapeutics, to include the initiation, selection, and modification of selected medications;
- Initiation and modification of selected therapies;
- Nutrition, including modifications of diet;
- Providing emergency treatments;
- Assessment of community resources and referrals to appropriate professionals or agencies;
- Role realignment;
- Legal implications of the ARNP role;
- Health care delivery systems; and
- Management of selected diseases and illnesses.

The program must provide a minimum of 500 hours of supervised clinical experience in the performance of the specialized diagnostic procedures that are essential to practice in that specialty area.

### **Drug Enforcement Agency Registration**

The Drug Enforcement Agency (DEA) registration grants practitioners federal authority to handle controlled substances. However, the DEA-registered practitioner may only engage in

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<sup>30</sup> Preceptorship/supervised clinical experience must be under the supervision of a qualified preceptor, who is defined as a practicing certified ARNP, a licensed medical doctor, osteopathic physician, or a dentist. *See* Rule 64B9-4.001(13), F.A.C.

those activities that are authorized under state law for the jurisdiction in which the practice is located.<sup>31</sup>

According to requirements of the DEA, a prescription for a controlled substance may only be issued by a physician, dentist, podiatrist, veterinarian, mid-level practitioner,<sup>32</sup> or other registered practitioner who is:

- Authorized to prescribe controlled substances by the jurisdiction in which the practitioner is licensed to practice;
- Registered with DEA or exempted from registration (that is, Public Health Service, Federal Bureau of Prisons, or military practitioners); or
- An agent or employee of a hospital or other institution acting in the normal course of business or employment under the registration of the hospital or other institution which is registered in lieu of the individual practitioner being registered, provided that these additional requirements are met:<sup>33</sup>
  - The dispensing, administering, or prescribing is in the usual course of professional practice;
  - The practitioner is authorized to do so by the state in which he or she practices;
  - The hospital or other institution has verified that the practitioner is permitted to administer, dispense, or prescribe controlled substances within the state;
  - The practitioner acts only within the scope of employment in the hospital or other institution;
  - The hospital or other institution authorizes the practitioner to administer, dispense, or prescribe under its registration and assigns a specific internal code number for each practitioner; and
  - The hospital or other institution maintains a current list of internal codes and the corresponding practitioner.<sup>34</sup>

### III. Effect of Proposed Changes:

CS/CS/SB 614 authorizes physician assistants (PAs) licensed under the Medical Practice Act<sup>35</sup> or the Osteopathic Medical Practice Act<sup>36</sup> and advanced registered nurse practitioners (ARNPs) certified under the Nurse Practice Act<sup>37</sup> to prescribe controlled substances under current supervisory standards for PAs and protocols for ARNPs.

For PAs, the authorization is accomplished by removing controlled substances from the formulary<sup>38</sup> of medicinal drugs that a PA is prohibiting from prescribing.<sup>39</sup> The Osteopathic Medical Practice Act refers to the formulary in the Medical Practice Act, so no changes are made

<sup>31</sup> See U.S. Department of Justice, Drug Enforcement Administration, *Practitioner's Manual*, 27 (2006), p. 7, available at [http://www.deadiversion.usdoj.gov/pubs/manuals/pract/pract\\_manual012508.pdf](http://www.deadiversion.usdoj.gov/pubs/manuals/pract/pract_manual012508.pdf) (last visited Mar. 28, 2015).

<sup>32</sup> Examples of mid-level practitioners include, but are not limited to: nurse practitioners, nurse midwives, nurse anesthetists, clinical nurse specialists, and physician assistants.

<sup>33</sup> See *supra* note 31, at p. 18.

<sup>34</sup> See *supra* note 31, at p. 12.

<sup>35</sup> See ch. 458, F.S.

<sup>36</sup> See ch. 459, F.S.

<sup>37</sup> See part I, ch. 464, F.S.

<sup>38</sup> See s. 458.347(4)(f), F.S. A formulary is a list of medicines.

<sup>39</sup> See section 8 of the bill.

to that act.<sup>40</sup> Also, a PA licensed under either medical practice act is added to the definition of practitioner in ch. 893, F.S., which requires practitioners to hold a valid federal controlled substance registry number.<sup>41</sup>

The bill imposes practice and disciplinary standards on PAs and ARNPs similar to those applicable to physicians. Disciplinary standards that are applicable to physicians are already applicable to PAs,<sup>42</sup> so no additional amendments are needed for violations relating to controlled substances.

For ARNPs, the authorization to prescribe controlled substances is accomplished through revision of existing authority pertaining to drug therapies. The bill authorizes an ARNP to “prescribe, dispense, administer, or order any” drug.<sup>43</sup> In addition, the term ARNP is added to the definition of practitioner in ch. 893, F.S., which requires practitioners to hold a valid federal controlled substance registry number.<sup>44</sup>

The bill requires the appointment of a committee<sup>45</sup> to recommend whether a formulary of controlled substances (controlled substances formulary) that an ARNP may not prescribe, or may prescribe under limited circumstances, is needed to protect the public interest. The committee may recommend a controlled substances formulary applicable to all ARNPs that may be limited by specialty certification, approved uses of controlled substances, or other similar restrictions deemed necessary to protect the public interest.

A controlled substances formulary, if recommended, shall be established by rule, and only the Board of Nursing (board) may add to, delete from, or modify it. Should any change to the controlled substances be requested after adoption, the requestor has the burden of proof to show the board why the change should be made. Notices of any proposed, pending, or adopted changes to the formulary must be posted by the board on its website. Any rulemaking required to implement the committee’s initial recommendation must be initiated by the board no later than October 1, 2015.

If a controlled substances formulary is adopted by board rule, it does not apply to the following acts performed within the ARNP’s specialty under the established protocol approved by the medical staff of the facilities in which the service is performed, which are currently authorized under s. 464.012(4)(a)(3. and 4., F.S.:

- Orders for preanesthetic medications; or
- Ordering and administering regional, spinal, and general anesthesia, inhalation agents and techniques, intravenous agents and techniques, hypnosis, and other protocol procedures

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<sup>40</sup> See Section 459.022(4)(e), F.S.

<sup>41</sup> See section 12 of the bill.

<sup>42</sup> See s. 458.347(7)(g), F.S., and s. 459.022(7)(g), F.S.

<sup>43</sup> See section 10 of the bill.

<sup>44</sup> See *supra* note 41.

<sup>45</sup> The committee membership is: three ARNPs, including a certified registered nurse anesthetist, a certified nurse midwife, and a nurse practitioner; at least one physician recommended by the Board of Medicine and one physician recommended by the Board of Osteopathic Medicine, who have experience working with APRNs; and a pharmacist licensed under ch. 465, F.S., who is not also licensed as a physician under ch. 458, F.S., an osteopathic physician under ch. 459, F.S., or an ARNP under ch. 464, F.S. The committee members are selected by the State Surgeon General.

commonly used to render the patient insensible to pain during surgical, obstetrical, therapeutic, or diagnostic clinical procedures.

The bill requires a hospital to notify each obstetrical physician with privileges at that hospital at least 120 days before it closes its obstetrical department or ceases to provide obstetrical services. The bill repeals a provision designating certain hospitals as provider hospitals, which have special requirements for cesarean section operations that are paid for by the state, including a review board for such operations.

Section 456.072(7), F.S. is revised to include disciplinary sanctions against ARNPs which mirror sanctions against physician for prescribing or dispensing a controlled substance other in the course of professional practice or for failing to meet practice standards. Additional acts added to s. 464.018(1)(p), F.S., for which discipline relating to controlled substances may be sought against an ARNP include:

- Presigning blank prescription forms;
- Prescribing a Schedule II drug for office use;
- Prescribing, dispensing, or administering an amphetamine or sympathomimetic amine drug, except for specified conditions;
- Prescribing, dispensing, or administering certain hormones for muscle-building or athletic performance;
- Promoting or advertising a pharmacy on a prescription form unless the form also states that the prescription may be filled at the pharmacy of your choice;
- Prescribing, dispensing, or administering drugs, including controlled substances, other than in the course of his or her professional practice.;
- Prescribing, dispensing, or administering a controlled substance to himself or herself;
- Prescribing, dispensing, or administering laetrile;
- Dispensing a controlled substance listed in Schedule II or Schedule III in violation of the requirements for dispensing practitioners in the Pharmacy Practice Act; or
- Promoting or advertising controlled substances.

A PA or ARNP who prescribes any controlled substance that is listed in Schedule II, Schedule III, or Schedule IV, for the treatment of chronic nonmalignant pain is required to designate himself or herself as a controlled substance prescribing practitioner on his or her practitioner profile maintained by the Department of Health.<sup>46</sup> Currently, PAs do not have practitioner profiles, so the capacity for PA to establish and update practitioner profiles must be developed by the Department of Health so that compliance with this requirement will be possible.<sup>47</sup>

The statutes regulating pain-management clinics under the Medical Practice Act and the Osteopathic Medical Practice Act are amended to limit the prescribing of controlled substances in a pain-management clinic to physicians licensed under those acts (ch. 458, F.S. and ch. 459,

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<sup>46</sup> See section 6 of the bill.

<sup>47</sup> See Department of Health, *Senate Bill 614 Analysis* (Feb. 13, 2015) (on file with the Senate Committee on Regulated Industries).



F.S.). Accordingly, PAs and ARNPs are prohibited from prescribing controlled substances in pain-management clinics.<sup>48</sup>

Under current law, a medical specialist who is board certified or board eligible in pain medicine by certain boards is exempted from the statutory standards of practice in s. 456.44, F.S., relating to prescribing controlled substances for the treatment of chronic nonmalignant pain. Two additional boards are added to that list. The boards are the American Board of Interventional Pain Physicians and the American Association of Physician Specialists.<sup>49</sup> (Section 6)

**Sections 1 – 4 and Section 11** of the bill amend these statutes to authorize or recognize that a PA or an ARNP may be a prescriber of controlled substances:

- Section 110.12315, F.S., relating to the state employees' prescription drug program, to authorize ARNPs and PAs to prescribe brand name drugs which are medically necessary or are included on the formulary of drugs which may not be interchanged.
- Section 310.071, F.S., relating to deputy pilot certification; s. 310.073, F.S. relating to state pilot licensing; and s. 310.081, F.S., relating to licensed state pilots and certified deputy pilots, regarding the zero tolerance for any controlled substance other than those prescribed by an authorized practitioner, to allow the presence of a controlled substance in the pilot's drug test results, if prescribed by an ARNP or PA whose care the pilot is under, as a part of the annual physical examination required for initial certification, initial licensure, and certification and licensure retention.
- Section 948.03, F.S., relating to terms and condition of criminal probation, to include an ARNP and PA as an authorized prescriber of drugs or narcotics that a person on probation may lawfully possess.

Additional conforming and grammatical changes are made in the bill. Various sections are re-enacted for the purpose of incorporating amendments made by the bill to those sections.

The bill takes effect on July 1, 2015.

#### **IV. Constitutional Issues:**

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

None.

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

None.

##### **C. Trust Funds Restrictions:**

None.

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<sup>48</sup> See sections 7 and 9 of the bill.

<sup>49</sup> See section 6 of the bill.

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

None.

**B. Private Sector Impact:**

PAs and ARNPs who are authorized by the supervising physician or under a protocol to prescribe controlled substances may be able to care for more patients due to reduced coordination with the supervising physician each time a controlled substance is recommended for a patient. Patients may see reduced health care costs and efficiencies in health care delivery as a result of having their health care needs more fully addressed by the PA or ARNP without specific involvement of a physician prescribing a needed controlled substance for treatment. Any such impacts are indeterminate.

**C. Government Sector Impact:**

The Department of Health indicates that it will incur costs for rulemaking, modifications to develop a profile for PAs, and workload impacts related to additional complaints and investigations. These costs can be absorbed within current resources and budget authority.<sup>50</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 110.12315, 310.071, 310.073, 310.081, 395.1051, 456.072, 456.44, 458.3265, 458.347, 459.0137, 464.012, 464.018, 893.02, and 948.03.

This bill re-enacts the following sections of the Florida Statutes: 310.071, 320.0848, 456.041, 456.072, 458.303, 458.331, 458.347, 458.3475, 458.348, 459.015, 459.022, 459.023, 459.025, 464.008, 464.009, 464.018, 464.0205, 465.0158, 466.02751, 775.051, 944.17, 948.001, and 948.101.

This bill repeals section 383.336 of the Florida Statutes.

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<sup>50</sup> See *supra* note 46.

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

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

**CS/CS by Regulated Industries on March 31, 2015:**

CS/CS/SB 614 requires the appointment of a committee by the State Surgeon General to recommend a listing (formulary) of controlled substances that may not be prescribed by ARNPs, or may only be prescribed for certain uses or in limited circumstances. It provides the membership of the committee. If establishment of a formulary is recommended, the Board of Nursing (board) must adopt a formulary by rule. Future changes to the formulary must be justified to the board. If adopted, the formulary will not apply to certain services that an ARNP is currently authorized to perform under limited conditions when authorized by the staff of a medical facility, such as the ordering and administration of medication, regional, spinal, and general anesthesia.

The committee substitute requires a hospital to notify each obstetrical physician with privileges at that hospital at least 120 days before it closes its obstetrical department or ceases to provide obstetrical services. The committee substitute repeals a provision designating certain hospitals as provider hospitals, which have special requirements for cesarean section operations that are paid for by the state, including a review board for such operations.

**CS by Health Policy on March 17, 2015:**

The committee substitute limits the prescribing of controlled substances in a pain-management clinic to physicians, removes the term “certified” before a reference to nurse practitioner, and makes other technical changes.

**B. Amendments:**

None.

By the Committee on Health Policy; and Senator Grimsley

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A bill to be entitled

An act relating to drug prescription by advanced registered nurse practitioners and physician assistants; amending s. 110.12315, F.S.; expanding the categories of persons who may prescribe brand drugs under the prescription drug program when medically necessary; amending ss. 310.071, 310.073, and 310.081, F.S.; exempting controlled substances prescribed by an advanced registered nurse practitioner or a physician assistant from the disqualifications for certification or licensure, and for continued certification or licensure, as a deputy or state pilot; amending s. 456.072, F.S.; applying existing penalties for violations relating to the prescribing or dispensing of controlled substances to an advanced registered nurse practitioner; amending s. 456.44, F.S.; deleting an obsolete date; requiring advanced registered nurse practitioners and physician assistants who prescribe controlled substances for certain pain to make a certain designation, comply with registration requirements, and follow specified standards of practice; providing applicability; amending ss. 458.3265 and 459.0137, F.S.; limiting the authority to prescribe a controlled substance in a pain-management clinic to a physician licensed under ch. 458 or ch. 459, F.S.; amending s. 458.347, F.S.; expanding the prescribing authority of a licensed physician assistant; amending s. 464.012, F.S.; authorizing an advanced registered nurse practitioner to prescribe,

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30 dispense, administer, or order drugs, rather than to  
31 monitor and alter drug therapies; amending s. 464.018,  
32 F.S.; specifying acts that constitute grounds for  
33 denial of a license for or disciplinary action against  
34 an advanced registered nurse practitioner; amending s.  
35 893.02, F.S.; redefining the term "practitioner" to  
36 include advanced registered nurse practitioners and  
37 physician assistants under the Florida Comprehensive  
38 Drug Abuse Prevention and Control Act; amending s.  
39 948.03, F.S.; providing that possession of drugs or  
40 narcotics prescribed by an advanced registered nurse  
41 practitioner or physician assistant is an exception  
42 from a prohibition relating to the possession of drugs  
43 or narcotics during probation; reenacting s.  
44 310.071(3), F.S., to incorporate the amendment made to  
45 s. 310.071, F.S., in a reference thereto; reenacting  
46 ss. 458.331(10), 458.347(7)(g), 459.015(10),  
47 459.022(7)(f), and 465.0158(5)(b), F.S., to  
48 incorporate the amendment made to s. 456.072, F.S., in  
49 references thereto; reenacting ss. 456.072(1)(mm) and  
50 466.02751, F.S., to incorporate the amendment made to  
51 s. 456.44, F.S., in references thereto; reenacting ss.  
52 458.303, 458.347(4)(e) and (9)(c), 458.3475(7)(b),  
53 459.022(4)(e) and (9)(c), and 459.023(7)(b), F.S., to  
54 incorporate the amendment made to s. 458.347, F.S., in  
55 references thereto; reenacting ss. 456.041(1)(a),  
56 458.348(1) and (2), and 459.025(1), F.S., to  
57 incorporate the amendment made to s. 464.012, F.S., in  
58 references thereto; reenacting ss. 320.0848(11),

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464.008(2), 464.009(5), 464.018(2), and  
464.0205(1)(b), (3), and (4)(b), F.S., to incorporate  
the amendment made to s. 464.018, F.S., in references  
thereto; reenacting s. 775.051, F.S., to incorporate  
the amendment made to s. 893.02, F.S., in a reference  
thereto; reenacting ss. 944.17(3)(a), 948.001(8), and  
948.101(1)(e), F.S., to incorporate the amendment made  
to s. 948.03, F.S., in references thereto; providing  
an effective date.

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

Section 1. Subsection (7) of section 110.12315, Florida  
Statutes, is amended to read:

110.12315 Prescription drug program.—The state employees'  
prescription drug program is established. This program shall be  
administered by the Department of Management Services, according  
to the terms and conditions of the plan as established by the  
relevant provisions of the annual General Appropriations Act and  
implementing legislation, subject to the following conditions:

(7) The department shall establish the reimbursement  
schedule for prescription pharmaceuticals dispensed under the  
program. Reimbursement rates for a prescription pharmaceutical  
must be based on the cost of the generic equivalent drug if a  
generic equivalent exists, unless the physician, advanced  
registered nurse practitioner, or physician assistant  
prescribing the pharmaceutical clearly states on the  
prescription that the brand name drug is medically necessary or  
that the drug product is included on the formulary of drug

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products that may not be interchanged as provided in chapter 465, in which case reimbursement must be based on the cost of the brand name drug as specified in the reimbursement schedule adopted by the department.

Section 2. Paragraph (c) of subsection (1) of section 310.071, Florida Statutes, is amended to read:

310.071 Deputy pilot certification.—

(1) In addition to meeting other requirements specified in this chapter, each applicant for certification as a deputy pilot must:

(c) Be in good physical and mental health, as evidenced by documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician within the preceding 6 months. The board shall adopt rules to establish requirements for passing the physical examination, which rules shall establish minimum standards for the physical or mental capabilities necessary to carry out the professional duties of a certificated deputy pilot. Such standards shall include zero tolerance for any controlled substance regulated under chapter 893 unless that individual is under the care of a physician, advanced registered nurse practitioner, or physician assistant and that controlled substance was prescribed by that physician, advanced registered nurse practitioner, or physician assistant.

To maintain eligibility as a certificated deputy pilot, each certificated deputy pilot must annually provide documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician. The physician must know the minimum standards and certify that the certificateholder satisfactorily meets the standards. The

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standards for certificateholders shall include a drug test.

Section 3. Subsection (3) of section 310.073, Florida Statutes, is amended to read:

310.073 State pilot licensing.—In addition to meeting other requirements specified in this chapter, each applicant for license as a state pilot must:

(3) Be in good physical and mental health, as evidenced by documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician within the preceding 6 months. The board shall adopt rules to establish requirements for passing the physical examination, which rules shall establish minimum standards for the physical or mental capabilities necessary to carry out the professional duties of a licensed state pilot. Such standards shall include zero tolerance for any controlled substance regulated under chapter 893 unless that individual is under the care of a physician, advanced registered nurse practitioner, or physician assistant and that controlled substance was prescribed by that physician, advanced registered nurse practitioner, or physician assistant.

To maintain eligibility as a licensed state pilot, each licensed state pilot must annually provide documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician. The physician must know the minimum standards and certify that the licensee satisfactorily meets the standards. The standards for licensees shall include a drug test.

Section 4. Paragraph (b) of subsection (3) of section 310.081, Florida Statutes, is amended to read:

310.081 Department to examine and license state pilots and



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146 certificate deputy pilots; vacancies.—

147 (3) Pilots shall hold their licenses or certificates  
148 pursuant to the requirements of this chapter so long as they:

149 (b) Are in good physical and mental health as evidenced by  
150 documentary proof of having satisfactorily passed a physical  
151 examination administered by a licensed physician or physician  
152 assistant within each calendar year. The board shall adopt rules  
153 to establish requirements for passing the physical examination,  
154 which rules shall establish minimum standards for the physical  
155 or mental capabilities necessary to carry out the professional  
156 duties of a licensed state pilot or a certificated deputy pilot.  
157 Such standards shall include zero tolerance for any controlled  
158 substance regulated under chapter 893 unless that individual is  
159 under the care of a physician, advanced registered nurse  
160 practitioner, or physician assistant and that controlled  
161 substance was prescribed by that physician, advanced registered  
162 nurse practitioner, or physician assistant. To maintain  
163 eligibility as a certificated deputy pilot or licensed state  
164 pilot, each certificated deputy pilot or licensed state pilot  
165 must annually provide documentary proof of having satisfactorily  
166 passed a complete physical examination administered by a  
167 licensed physician. The physician must know the minimum  
168 standards and certify that the certificateholder or licensee  
169 satisfactorily meets the standards. The standards for  
170 certificateholders and for licensees shall include a drug test.

171  
172 Upon resignation or in the case of disability permanently  
173 affecting a pilot's ability to serve, the state license or  
174 certificate issued under this chapter shall be revoked by the

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175 department.

176 Section 5. Subsection (7) of section 456.072, Florida  
177 Statutes, is amended to read:

178 456.072 Grounds for discipline; penalties; enforcement.—

179 (7) Notwithstanding subsection (2), upon a finding that a  
180 physician has prescribed or dispensed a controlled substance, or  
181 caused a controlled substance to be prescribed or dispensed, in  
182 a manner that violates the standard of practice set forth in s.  
183 458.331(1)(q) or (t), s. 459.015(1)(t) or (x), s. 461.013(1)(o)  
184 or (s), or s. 466.028(1)(p) or (x), or that an advanced  
185 registered nurse practitioner has prescribed or dispensed a  
186 controlled substance, or caused a controlled substance to be  
187 prescribed or dispensed, in a manner that violates the standard  
188 of practice set forth in s. 464.018(1)(n) or (p)6., the  
189 physician or advanced registered nurse practitioner shall be  
190 suspended for a period of not less than 6 months and pay a fine  
191 of not less than \$10,000 per count. Repeated violations shall  
192 result in increased penalties.

193 Section 6. Subsections (2) and (3) of section 456.44,  
194 Florida Statutes, are amended to read:

195 456.44 Controlled substance prescribing.—

196 (2) REGISTRATION.—~~Effective January 1, 2012,~~ A physician  
197 licensed under chapter 458, chapter 459, chapter 461, or chapter  
198 466, a physician assistant licensed under chapter 458 or chapter  
199 459, or an advanced registered nurse practitioner certified  
200 under part I of chapter 464 who prescribes any controlled  
201 substance, listed in Schedule II, Schedule III, or Schedule IV  
202 as defined in s. 893.03, for the treatment of chronic  
203 nonmalignant pain, must:

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(a) Designate himself or herself as a controlled substance prescribing practitioner on his or her ~~the physician's~~ practitioner profile.

(b) Comply with the requirements of this section and applicable board rules.

(3) STANDARDS OF PRACTICE.—The standards of practice in this section do not supersede the level of care, skill, and treatment recognized in general law related to health care licensure.

(a) A complete medical history and a physical examination must be conducted before beginning any treatment and must be documented in the medical record. The exact components of the physical examination shall be left to the judgment of the registrant ~~clinician~~ who is expected to perform a physical examination proportionate to the diagnosis that justifies a treatment. The medical record must, at a minimum, document the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, a review of previous medical records, previous diagnostic studies, and history of alcohol and substance abuse. The medical record shall also document the presence of one or more recognized medical indications for the use of a controlled substance. Each registrant must develop a written plan for assessing each patient's risk of aberrant drug-related behavior, which may include patient drug testing. Registrants must assess each patient's risk for aberrant drug-related behavior and monitor that risk on an ongoing basis in accordance with the plan.

(b) Each registrant must develop a written individualized

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233 treatment plan for each patient. The treatment plan shall state  
234 objectives that will be used to determine treatment success,  
235 such as pain relief and improved physical and psychosocial  
236 function, and shall indicate if any further diagnostic  
237 evaluations or other treatments are planned. After treatment  
238 begins, the registrant ~~physician~~ shall adjust drug therapy to  
239 the individual medical needs of each patient. Other treatment  
240 modalities, including a rehabilitation program, shall be  
241 considered depending on the etiology of the pain and the extent  
242 to which the pain is associated with physical and psychosocial  
243 impairment. The interdisciplinary nature of the treatment plan  
244 shall be documented.

245 (c) The registrant ~~physician~~ shall discuss the risks and  
246 benefits of the use of controlled substances, including the  
247 risks of abuse and addiction, as well as physical dependence and  
248 its consequences, with the patient, persons designated by the  
249 patient, or the patient's surrogate or guardian if the patient  
250 is incompetent. The registrant ~~physician~~ shall use a written  
251 controlled substance agreement between the registrant ~~physician~~  
252 and the patient outlining the patient's responsibilities,  
253 including, but not limited to:

254 1. Number and frequency of controlled substance  
255 prescriptions and refills.

256 2. Patient compliance and reasons for which drug therapy  
257 may be discontinued, such as a violation of the agreement.

258 3. An agreement that controlled substances for the  
259 treatment of chronic nonmalignant pain shall be prescribed by a  
260 single treating registrant ~~physician~~ unless otherwise authorized  
261 by the treating registrant ~~physician~~ and documented in the

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262 medical record.

263 (d) The patient shall be seen by the registrant ~~physician~~  
264 at regular intervals, not to exceed 3 months, to assess the  
265 efficacy of treatment, ensure that controlled substance therapy  
266 remains indicated, evaluate the patient's progress toward  
267 treatment objectives, consider adverse drug effects, and review  
268 the etiology of the pain. Continuation or modification of  
269 therapy shall depend on the registrant's ~~physician's~~ evaluation  
270 of the patient's progress. If treatment goals are not being  
271 achieved, despite medication adjustments, the registrant  
272 ~~physician~~ shall reevaluate the appropriateness of continued  
273 treatment. The registrant ~~physician~~ shall monitor patient  
274 compliance in medication usage, related treatment plans,  
275 controlled substance agreements, and indications of substance  
276 abuse or diversion at a minimum of 3-month intervals.

277 (e) The registrant ~~physician~~ shall refer the patient as  
278 necessary for additional evaluation and treatment in order to  
279 achieve treatment objectives. Special attention shall be given  
280 to those patients who are at risk for misusing their medications  
281 and those whose living arrangements pose a risk for medication  
282 misuse or diversion. The management of pain in patients with a  
283 history of substance abuse or with a comorbid psychiatric  
284 disorder requires extra care, monitoring, and documentation and  
285 requires consultation with or referral to an addiction medicine  
286 specialist or psychiatrist.

287 (f) A registrant ~~physician~~ registered under this section  
288 must maintain accurate, current, and complete records that are  
289 accessible and readily available for review and comply with the  
290 requirements of this section, the applicable practice act, and

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applicable board rules. The medical records must include, but are not limited to:

1. The complete medical history and a physical examination, including history of drug abuse or dependence.
2. Diagnostic, therapeutic, and laboratory results.
3. Evaluations and consultations.
4. Treatment objectives.
5. Discussion of risks and benefits.
6. Treatments.
7. Medications, including date, type, dosage, and quantity prescribed.
8. Instructions and agreements.
9. Periodic reviews.
10. Results of any drug testing.
11. A photocopy of the patient's government-issued photo identification.
12. If a written prescription for a controlled substance is given to the patient, a duplicate of the prescription.
13. The registrant's ~~physician's~~ full name presented in a legible manner.

(g) Patients with signs or symptoms of substance abuse shall be immediately referred to a board-certified pain management physician, an addiction medicine specialist, or a mental health addiction facility as it pertains to drug abuse or addiction unless the registrant is a physician who is board-certified or board-eligible in pain management. Throughout the period of time before receiving the consultant's report, a prescribing registrant ~~physician~~ shall clearly and completely document medical justification for continued treatment with

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320 controlled substances and those steps taken to ensure medically  
321 appropriate use of controlled substances by the patient. Upon  
322 receipt of the consultant's written report, the prescribing  
323 registrant ~~physician~~ shall incorporate the consultant's  
324 recommendations for continuing, modifying, or discontinuing  
325 controlled substance therapy. The resulting changes in treatment  
326 shall be specifically documented in the patient's medical  
327 record. Evidence or behavioral indications of diversion shall be  
328 followed by discontinuation of controlled substance therapy, and  
329 the patient shall be discharged, and all results of testing and  
330 actions taken by the registrant ~~physician~~ shall be documented in  
331 the patient's medical record.

332  
333 This subsection does not apply to a board-eligible or board-  
334 certified anesthesiologist, physiatrist, rheumatologist, or  
335 neurologist, or to a board-certified physician who has surgical  
336 privileges at a hospital or ambulatory surgery center and  
337 primarily provides surgical services. This subsection does not  
338 apply to a board-eligible or board-certified medical specialist  
339 who has also completed a fellowship in pain medicine approved by  
340 the Accreditation Council for Graduate Medical Education or the  
341 American Osteopathic Association, or who is board eligible or  
342 board certified in pain medicine by the American Board of Pain  
343 Medicine, the American Board of Interventional Pain Physicians,  
344 the American Association of Physician Specialists, or a board  
345 approved by the American Board of Medical Specialties or the  
346 American Osteopathic Association and performs interventional  
347 pain procedures of the type routinely billed using surgical  
348 codes. This subsection does not apply to a registrant, advanced

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349 registered nurse practitioner, or physician assistant who  
350 prescribes medically necessary controlled substances for a  
351 patient during an inpatient stay in a hospital licensed under  
352 chapter 395.

353 Section 7. Paragraph (b) of subsection (2) of section  
354 458.3265, Florida Statutes, is amended to read:

355 458.3265 Pain-management clinics.—

356 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities  
357 apply to any physician who provides professional services in a  
358 pain-management clinic that is required to be registered in  
359 subsection (1).

360 (b) A person may not dispense any medication on the  
361 premises of a registered pain-management clinic unless he or she  
362 is a physician licensed under this chapter or chapter 459. A  
363 person may not prescribe any controlled substance regulated  
364 under chapter 893 on the premises of a registered pain-  
365 management clinic unless he or she is a physician licensed under  
366 this chapter or chapter 459.

367 Section 8. Paragraph (f) of subsection (4) of section  
368 458.347, Florida Statutes, is amended to read:

369 458.347 Physician assistants.—

370 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

371 (f)1. The council shall establish a formulary of medicinal  
372 drugs that a fully licensed physician assistant having  
373 prescribing authority under this section or s. 459.022 may not  
374 prescribe. The formulary must include ~~controlled substances as~~  
375 ~~defined in chapter 893,~~ general anesthetics, and radiographic  
376 contrast materials.

377 2. In establishing the formulary, the council shall consult



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with a pharmacist licensed under chapter 465, but not licensed under this chapter or chapter 459, who shall be selected by the State Surgeon General.

3. Only the council shall add to, delete from, or modify the formulary. Any person who requests an addition, deletion, or modification of a medicinal drug listed on such formulary has the burden of proof to show cause why such addition, deletion, or modification should be made.

4. The boards shall adopt the formulary required by this paragraph, and each addition, deletion, or modification to the formulary, by rule. Notwithstanding any provision of chapter 120 to the contrary, the formulary rule shall be effective 60 days after the date it is filed with the Secretary of State. Upon adoption of the formulary, the department shall mail a copy of such formulary to each fully licensed physician assistant having prescribing authority under this section or s. 459.022, and to each pharmacy licensed by the state. The boards shall establish, by rule, a fee not to exceed \$200 to fund the provisions of this paragraph and paragraph (e).

Section 9. Paragraph (b) of subsection (2) of section 459.0137, Florida Statutes, is amended to read:

459.0137 Pain-management clinics.—

(2) PHYSICIAN RESPONSIBILITIES.—These responsibilities apply to any osteopathic physician who provides professional services in a pain-management clinic that is required to be registered in subsection (1).

(b) A person may not dispense any medication on the premises of a registered pain-management clinic unless he or she is a physician licensed under this chapter or chapter 458. A

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407 person may not prescribe any controlled substance regulated  
408 under chapter 893 on the premises of a registered pain-  
409 management clinic unless he or she is a physician licensed under  
410 this chapter or chapter 458.

411 Section 10. Section 464.012, Florida Statutes, is amended  
412 to read:

413 464.012 Certification of advanced registered nurse  
414 practitioners; fees; controlled substance prescribing.—

415 (1) Any nurse desiring to be certified as an advanced  
416 registered nurse practitioner shall apply to the department and  
417 submit proof that he or she holds a current license to practice  
418 professional nursing and that he or she meets one or more of the  
419 following requirements as determined by the board:

420 (a) Satisfactory completion of a formal postbasic  
421 educational program of at least one academic year, the primary  
422 purpose of which is to prepare nurses for advanced or  
423 specialized practice.

424 (b) Certification by an appropriate specialty board. Such  
425 certification shall be required for initial state certification  
426 and any recertification as a registered nurse anesthetist or  
427 nurse midwife. The board may by rule provide for provisional  
428 state certification of graduate nurse anesthetists and nurse  
429 midwives for a period of time determined to be appropriate for  
430 preparing for and passing the national certification  
431 examination.

432 (c) Graduation from a program leading to a master's degree  
433 in a nursing clinical specialty area with preparation in  
434 specialized practitioner skills. For applicants graduating on or  
435 after October 1, 1998, graduation from a master's degree program

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shall be required for initial certification as a nurse practitioner under paragraph (4)(c). For applicants graduating on or after October 1, 2001, graduation from a master's degree program shall be required for initial certification as a registered nurse anesthetist under paragraph (4)(a).

(2) The board shall provide by rule the appropriate requirements for advanced registered nurse practitioners in the categories of certified registered nurse anesthetist, certified nurse midwife, and nurse practitioner.

(3) An advanced registered nurse practitioner shall perform those functions authorized in this section within the framework of an established protocol that is filed with the board upon biennial license renewal and within 30 days after entering into a supervisory relationship with a physician or changes to the protocol. The board shall review the protocol to ensure compliance with applicable regulatory standards for protocols. The board shall refer to the department licensees submitting protocols that are not compliant with the regulatory standards for protocols. A practitioner currently licensed under chapter 458, chapter 459, or chapter 466 shall maintain supervision for directing the specific course of medical treatment. Within the established framework, an advanced registered nurse practitioner may:

(a) Prescribe, dispense, administer, or order any ~~Monitor and alter drug therapies.~~

(b) Initiate appropriate therapies for certain conditions.

(c) Perform additional functions as may be determined by rule in accordance with s. 464.003(2).

(d) Order diagnostic tests and physical and occupational

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465 therapy.

466 (4) In addition to the general functions specified in  
467 subsection (3), an advanced registered nurse practitioner may  
468 perform the following acts within his or her specialty:

469 (a) The certified registered nurse anesthetist may, to the  
470 extent authorized by established protocol approved by the  
471 medical staff of the facility in which the anesthetic service is  
472 performed, perform any or all of the following:

473 1. Determine the health status of the patient as it relates  
474 to the risk factors and to the anesthetic management of the  
475 patient through the performance of the general functions.

476 2. Based on history, physical assessment, and supplemental  
477 laboratory results, determine, with the consent of the  
478 responsible physician, the appropriate type of anesthesia within  
479 the framework of the protocol.

480 3. Order under the protocol preanesthetic medication.

481 4. Perform under the protocol procedures commonly used to  
482 render the patient insensible to pain during the performance of  
483 surgical, obstetrical, therapeutic, or diagnostic clinical  
484 procedures. These procedures include ordering and administering  
485 regional, spinal, and general anesthesia; inhalation agents and  
486 techniques; intravenous agents and techniques; and techniques of  
487 hypnosis.

488 5. Order or perform monitoring procedures indicated as  
489 pertinent to the anesthetic health care management of the  
490 patient.

491 6. Support life functions during anesthesia health care,  
492 including induction and intubation procedures, the use of  
493 appropriate mechanical supportive devices, and the management of

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fluid, electrolyte, and blood component balances.

7. Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.

8. Recognize and treat a cardiac arrhythmia while the patient is under anesthetic care.

9. Participate in management of the patient while in the postanesthesia recovery area, including ordering the administration of fluids and drugs.

10. Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate.

(b) The certified nurse midwife may, to the extent authorized by an established protocol which has been approved by the medical staff of the health care facility in which the midwifery services are performed, or approved by the nurse midwife's physician backup when the delivery is performed in a patient's home, perform any or all of the following:

1. Perform superficial minor surgical procedures.

2. Manage the patient during labor and delivery to include amniotomy, episiotomy, and repair.

3. Order, initiate, and perform appropriate anesthetic procedures.

4. Perform postpartum examination.

5. Order appropriate medications.

6. Provide family-planning services and well-woman care.

7. Manage the medical care of the normal obstetrical patient and the initial care of a newborn patient.

(c) The nurse practitioner may perform any or all of the following acts within the framework of established protocol:

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- 523       1. Manage selected medical problems.
- 524       2. Order physical and occupational therapy.
- 525       3. Initiate, monitor, or alter therapies for certain
- 526       uncomplicated acute illnesses.
- 527       4. Monitor and manage patients with stable chronic
- 528       diseases.
- 529       5. Establish behavioral problems and diagnosis and make
- 530       treatment recommendations.

531       (5) The board shall certify, and the department shall issue

532       a certificate to, any nurse meeting the qualifications in this

533       section. The board shall establish an application fee not to

534       exceed \$100 and a biennial renewal fee not to exceed \$50. The

535       board is authorized to adopt such other rules as are necessary

536       to implement the provisions of this section.

537

538       Section 11. Paragraph (p) is added to subsection (1) of

539       section 464.018, Florida Statutes, to read:

540       464.018 Disciplinary actions.—

541       (1) The following acts constitute grounds for denial of a

542       license or disciplinary action, as specified in s. 456.072(2):

543       (p) For an advanced registered nurse practitioner:

- 544       1. Presigning blank prescription forms.
- 545       2. Prescribing for office use any medicinal drug appearing
- 546       on Schedule II in chapter 893.
- 547       3. Prescribing, ordering, dispensing, administering,
- 548       supplying, selling, or giving a drug that is an amphetamine or a
- 549       sympathomimetic amine drug, or a compound designated pursuant to
- 550       chapter 893 as a Schedule II controlled substance, to or for any
- 551       person except for:

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552       a. The treatment of narcolepsy; hyperkinesia; behavioral  
553 syndrome in children characterized by the developmentally  
554 inappropriate symptoms of moderate to severe distractibility,  
555 short attention span, hyperactivity, emotional lability, and  
556 impulsivity; or drug-induced brain dysfunction.

557       b. The differential diagnostic psychiatric evaluation of  
558 depression or the treatment of depression shown to be refractory  
559 to other therapeutic modalities.

560       c. The clinical investigation of the effects of such drugs  
561 or compounds when an investigative protocol is submitted to,  
562 reviewed by, and approved by the department before such  
563 investigation is begun.

564       4. Prescribing, ordering, dispensing, administering,  
565 supplying, selling, or giving growth hormones, testosterone or  
566 its analogs, human chorionic gonadotropin (HCG), or other  
567 hormones for the purpose of muscle building or to enhance  
568 athletic performance. As used in this subparagraph, the term  
569 "muscle building" does not include the treatment of injured  
570 muscle. A prescription written for the drug products listed in  
571 this paragraph may be dispensed by a pharmacist with the  
572 presumption that the prescription is for legitimate medical use.

573       5. Promoting or advertising on any prescription form a  
574 community pharmacy unless the form also states: "This  
575 prescription may be filled at any pharmacy of your choice."

576       6. Prescribing, dispensing, administering, mixing, or  
577 otherwise preparing a legend drug, including a controlled  
578 substance, other than in the course of his or her professional  
579 practice. For the purposes of this subparagraph, it is legally  
580 presumed that prescribing, dispensing, administering, mixing, or

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2015614c1

581 otherwise preparing legend drugs, including all controlled  
582 substances, inappropriately or in excessive or inappropriate  
583 quantities is not in the best interest of the patient and is not  
584 in the course of the advanced registered nurse practitioner's  
585 professional practice, without regard to his or her intent.

586 7. Prescribing, dispensing, or administering a medicinal  
587 drug appearing on any schedule set forth in chapter 893 to  
588 himself or herself, except a drug prescribed, dispensed, or  
589 administered to the advanced registered nurse practitioner by  
590 another practitioner authorized to prescribe, dispense, or  
591 administer medicinal drugs.

592 8. Prescribing, ordering, dispensing, administering,  
593 supplying, selling, or giving amygdalin (laetrile) to any  
594 person.

595 9. Dispensing a controlled substance listed on Schedule II  
596 or Schedule III in chapter 893 in violation of s. 465.0276.

597 10. Promoting or advertising through any communication  
598 medium the use, sale, or dispensing of a controlled substance  
599 appearing on any schedule in chapter 893.

600 Section 12. Subsection (21) of section 893.02, Florida  
601 Statutes, is amended to read:

602 893.02 Definitions.—The following words and phrases as used  
603 in this chapter shall have the following meanings, unless the  
604 context otherwise requires:

605 (21) "Practitioner" means a physician licensed under  
606 ~~pursuant to~~ chapter 458, a dentist licensed under ~~pursuant to~~  
607 chapter 466, a veterinarian licensed under ~~pursuant to~~ chapter  
608 474, an osteopathic physician licensed under ~~pursuant to~~ chapter  
609 459, an advanced registered nurse practitioner certified under



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chapter 464, a naturopath licensed under ~~pursuant to~~ chapter  
462, a certified optometrist licensed under ~~pursuant to~~ chapter  
463, ~~or~~ a podiatric physician licensed under ~~pursuant to~~ chapter  
461, or a physician assistant licensed under chapter 458 or  
chapter 459, provided such practitioner holds a valid federal  
controlled substance registry number.

Section 13. Paragraph (n) of subsection (1) of section  
948.03, Florida Statutes, is amended to read:

948.03 Terms and conditions of probation.—

(1) The court shall determine the terms and conditions of  
probation. Conditions specified in this section do not require  
oral pronouncement at the time of sentencing and may be  
considered standard conditions of probation. These conditions  
may include among them the following, that the probationer or  
offender in community control shall:

(n) Be prohibited from using intoxicants to excess or  
possessing any drugs or narcotics unless prescribed by a  
physician, advanced registered nurse practitioner, or physician  
assistant. The probationer or community controllee may ~~shall~~ not  
knowingly visit places where intoxicants, drugs, or other  
dangerous substances are unlawfully sold, dispensed, or used.

Section 14. Subsection (3) of s. 310.071, Florida Statutes,  
is reenacted for the purpose of incorporating the amendment made  
by this act to s. 310.071, Florida Statutes, in a reference  
thereto.

Section 15. Subsection (10) of s. 458.331, paragraph (g) of  
subsection (7) of s. 458.347, subsection (10) of s. 459.015,  
paragraph (f) of subsection (7) of s. 459.022, and paragraph (b)  
of subsection (5) of s. 465.0158, Florida Statutes, are

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reenacted for the purpose of incorporating the amendment made by this act to s. 456.072, Florida Statutes, in references thereto.

Section 16. Paragraph (mm) of subsection (1) of s. 456.072 and s. 466.02751, Florida Statutes, are reenacted for the purpose of incorporating the amendment made by this act to s. 456.44, Florida Statutes, in references thereto.

Section 17. Section 458.303, paragraph (e) of subsection (4) and paragraph (c) of subsection (9) of s. 458.347, paragraph (b) of subsection (7) of s. 458.3475, paragraph (e) of subsection (4) and paragraph (c) of subsection (9) of s. 459.022, and paragraph (b) of subsection (7) of s. 459.023, Florida Statutes, are reenacted for the purpose of incorporating the amendment made by this act to s. 458.347, Florida Statutes, in references thereto.

Section 18. Paragraph (a) of subsection (1) of s. 456.041, subsections (1) and (2) of s. 458.348, and subsection (1) of s. 459.025, Florida Statutes, are reenacted for the purpose of incorporating the amendment made by this act to s. 464.012, Florida Statutes, in references thereto.

Section 19. Subsection (11) of s. 320.0848, subsection (2) of s. 464.008, subsection (5) of s. 464.009, subsection (2) of s. 464.018, and paragraph (b) of subsection (1), subsection (3), and paragraph (b) of subsection (4) of s. 464.0205, Florida Statutes, are reenacted for the purpose of incorporating the amendment made by this act to s. 464.018, Florida Statutes, in references thereto.

Section 20. Section 775.051, Florida Statutes, is reenacted for the purpose of incorporating the amendment made by this act to s. 893.02, Florida Statutes, in a reference thereto.

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668       Section 21. Paragraph (a) of subsection (3) of s. 944.17,  
669 subsection (8) of s. 948.001, and paragraph (e) of subsection  
670 (1) of s. 948.101, Florida Statutes, are reenacted for the  
671 purpose of incorporating the amendment made by this act to s.  
672 948.03, Florida Statutes, in references thereto.

673       Section 22. 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:** March 17, 2015

---

I respectfully request that **Senate Bill #614**, relating to Drug Prescription by ARNPs and PAs, be placed on the:

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

A handwritten signature in cursive script, reading "Denise Grimsley", is written over a horizontal line.

Senator Denise Grimsley  
Florida Senate, District 21

cc: Booter, Imhoff, Staff Director, Regulated Industries  
Lynn Koon, Committee Assistant

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31/15  
Meeting Date

SB 614  
Bill Number (if applicable)

Topic ARNP

Amendment Barcode (if applicable)

Name Michael ANWAY

Job Title \_\_\_\_\_

Address 315 S. Calhoun  
Street  
Tallahassee FL  
City State Zip

Phone \_\_\_\_\_

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Chamber of Commerce

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)

3/31/15

Meeting Date

614

Bill Number (if applicable)

Topic Nurse Prescribing

Amendment Barcode (if applicable)

Name Bryan Campbell

Job Title Executive Vice President

Address 2752 Oakdale Dr. W

Phone 904-626-2915

Street

Orange Park

City

FL

State

32073

Zip

Email bcampbell@dcmsonline.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Duval County Medical Society

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.*

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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)

3/31/15

Meeting Date

614

Bill Number (if applicable)

Topic Nurse Prescribing

Amendment Barcode (if applicable)

Name Yan Makeyev, MD

Job Title Treasurer

Address 1301 Riverplace Blvd Suite 1638

Phone \_\_\_\_\_

Street

Jacksonville, FL

State

32207

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Clay County Medical Society

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.

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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)

3/11/15

Meeting Date

614

Bill Number (if applicable)

Topic Nurse Prescribing

Amendment Barcode (if applicable)

Name Richard Curtis, MD

Job Title President

Address 1301 Riverplace Blvd Suite 1638

Phone \_\_\_\_\_

Street

Jacksonville

FL

32207

City

State

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Clay County Medical Society

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.

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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)

3/31

Meeting Date

614

Bill Number (if applicable)

Topic

Prescriptions / ARNPs

Amendment Barcode (if applicable)

Name

Alisa LaPorte

Job Title

Lobbyist

Address

Street

Phone

City

State

Zip

Email

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Florida Nurses Association

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.

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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)

3/31/15  
Meeting Date

614  
Bill Number (if applicable)

Topic DRUG PRESCRIPTIONS

Amendment Barcode (if applicable)

Name JACK McRAY

Job Title \_\_\_\_\_

Address 200 W. COLLEGE ST, # 304  
Street

Phone 850-577-5187

TLH  
City

FL  
State

32301  
Zip

Email jmcray@aarp.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing AARP

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

3-31-15

Meeting Date

SB 614

Bill Number (if applicable)

Topic Drug Prescriptions by ADVANCED Registered Nurses

Amendment Barcode (if applicable)

Name ALLISON CARVAJAL

Job Title Consultant

Address 120 S. MONROE ST.  
Street

Phone 727-7087

TALL.  
City

FL.  
State

32303  
Zip

Email allison@rambaconsulting.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA Nurse Practitioner Network

WAIVE IN Support

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

**APPEARANCE RECORD**3/31/15

Meeting Date

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

614

Bill Number (if applicable)

Topic Prescriptions by Physician Assistants + ARNPs

Amendment Barcode (if applicable)

Name Corinne MixonJob Title LobbyistAddress 119 E. Park Ave.

Street

Phone (750) 766-5795Tallahassee

City

State FLZip 32301Email corinne.mixon@gmail.comSpeaking: ☒ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)Representing Florida Academy of Physician AssistantsAppearing at request of Chair: ☐ Yes ☐ NoLobbyist 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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/31/2015

Meeting Date

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

614

Bill Number (if applicable)

Topic Prescribing for PAs/NPs

Amendment Barcode (if applicable)

Name Nelson Anthony Guzman, PA-C

Job Title President, Florida Academy of Physician Assistants

Address 2301 Harvard Ave

Phone 239 273 9522

Street

Fort Myers FL

City

State

33907

Zip

Email NELSONAGUZMAN@GMAIL.COM

Speaking: ☒ For ☐ Against ☐ Information

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

Representing President of Florida Academy of Physician Assistants

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

## APPEARANCE RECORD

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

2/31/15

Meeting Date

614

Bill Number (if applicable)

Topic Drug Prescription by APRNs and PAs

Amendment Barcode (if applicable)

Name BARBARA LUMPKINJob Title CONSULTANTAddress 468 Green Spring CirPhone 407 227 7705

Street

Winter Springs FL 32708

City

State

Zip

Email barbara.lumpkin@bellsouth.netSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)Representing Baptist Health South FloridaAppearing at request of Chair: ☐ Yes ☐ NoLobbyist 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.

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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)

3/31/15  
Meeting Date

SB 614  
Bill Number (if applicable)

Topic \_\_\_\_\_

\_\_\_\_\_  
Amendment Barcode (if applicable)

Name Bob Asztalos

Job Title Chief Lobbyist

Address 307 W Park Ave  
Street

Phone 850-284-1166

Tallahassee FL 32301  
City State Zip

Email bAsztalos@fhca.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Health Care Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

3/31/15  
Meeting Date

614  
Bill Number (if applicable)

Topic Drug Prescription by ARNP's

Amendment Barcode (if applicable)

Name Chris Floyd

Job Title Consultant

Address \_\_\_\_\_  
Street

Phone 813-624-5117

City

State

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

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

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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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)

3/31/2014

Meeting Date

SB 614

Bill Number (if applicable)

Topic Medicare Rx for ARNPs & PA

Amendment Barcode (if applicable)

Name Stan Whittaker

Job Title Chair

Address 6294 NW Turley A Plc Rd

Phone 850-545-8301

Street

Bristol

City

FL

State

32311

Zip

Email stanwhitt@adl.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Association of Nurse Practitioners

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

## APPEARANCE RECORD

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

3-31-2015

Meeting Date

SB 614

Bill Number (if applicable)

Topic Drug Prescription by Advanced Registered Nurse Practitioner  
and Physician Assistants

Amendment Barcode (if applicable)

Name Mary Kathryn LillyJob Title RN - Nurse Practitioner StudentAddress 1523 Templemore Drive

Street

Phone 850-450-3942Cantonment

City

FL

State

32533

Zip

Email Kathleen@mc.comSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)Representing SELF - Palliative Care NurseAppearing at request of Chair: ☐ Yes ☐ NoLobbyist 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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3-31-15

Meeting Date

614

Bill Number (if applicable)

Topic ARNP & PA Controlled Subst. Prescribing

Amendment Barcode (if applicable)

Name MARTHA DeCASTRO

Job Title VP for Nursing

Address 300 E College Ave

Street

Phone (850) 222 9800

FL TALL 32301

City

State

Zip

Email martha@fha.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Hospital Association

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.

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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)

3-31-15  
Meeting Date

SB 0614  
Bill Number (if applicable)

Topic ARNP

Amendment Barcode (if applicable)

Name PAUL SHIDEL

Job Title RETIRED

Address 303 NE ACACIA TRAIL  
Street

Phone 772-334-2251

JENSEN BEACH FL 34957  
City State Zip

Email \_\_\_\_\_

Speaking: ☐ For ☒ Against ☐ Information

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

Representing MYSELF

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.

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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)

3/31/15

Meeting Date

SB 614

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Jeff Scott

Job Title \_\_\_\_\_

Address 1430 Piedmont Dr. E.  
Street

Phone 850 224-6496

City

State

Zip

Email jscott@flmedical.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Medical Association

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.*

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/31/15

Meeting Date

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

614

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Chris Noland

Job Title

Address 1000 Riverside Ave

Street

Jacksonville, FL 32204

City

State

Zip

Phone 904-233-3051

Email nolandlaw@aol.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against

(The Chair will read this information into the record.)

Representing Florida Chapter, American College of Physicians  
Florida Neurological Society

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.

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S-001 (10/14/14)

**COMMITTEE:** Regulated Industries  
**ITEM:** CS/SB 614  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Tuesday, March 31, 2015  
**TIME:** 1:30 —3:30 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



457846

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2015	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Between lines 175 and 176  
insert:

Section 5. Section 383.336, Florida Statutes, is repealed.

Section 6. Section 395.1051, Florida Statutes, is amended  
to read:

395.1051 Duty to notify patients and physicians.—

(1) An appropriately trained person designated by each  
licensed facility shall inform each patient, or an individual





457846

identified pursuant to s. 765.401(1), in person about adverse incidents that result in serious harm to the patient. Notification of outcomes of care that result in harm to the patient under this section does ~~shall~~ not constitute an acknowledgment or admission of liability and may not, ~~nor can it~~ be introduced as evidence.

(2) A hospital shall notify each obstetrical physician who has privileges at the hospital at least 120 days before the hospital closes its obstetrical department or ceases to provide obstetrical services.

===== T I T L E   A M E N D M E N T =====  
And the title is amended as follows:

Delete line 12  
and insert:

licensure, as a deputy or state pilot; repealing s. 383.336, F.S., relating to provider hospitals, practice parameters, and peer review board; amending s. 395.1051, F.S.; requiring a hospital to notify certain obstetrical physicians within a specified timeframe before the hospital closes its obstetrical department or ceases to provide obstetrical services; amending s.



966182

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/01/2015	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete line 537

and insert:

(6) (a) The board shall appoint a committee to recommend whether a formulary of controlled substances that an advanced practice registered nurse may not prescribe or may prescribe only for specific uses or subject to specific limitations is necessary to protect the health, safety, and welfare of the public. The committee shall consist of at least three advanced



966182

practice registered nurses, including a certified registered nurse anesthetist, a certified nurse midwife, and a certified nurse practitioner; at least one physician recommended by the Board of Medicine, and one physician recommended by the Board of Osteopathic Medicine, who have had work experience with advanced practice registered nurses; and a pharmacist licensed under chapter 465, but not licensed under chapter 458, chapter 459, or this chapter, who shall be selected by the State Surgeon General. The committee may recommend a formulary applicable to all advanced practice registered nurses, limited by specialty certification, limited to approved uses of controlled substances, or subject to other similar restrictions it deems necessary to protect the health, safety, and welfare of the public.

(b) The board shall adopt by rule any formulary required under this subsection. Only the board may add to, delete from, or modify the formulary. A person who requests the addition, deletion, or modification of a controlled substance listed on the formulary has the burden of proof to show cause why the change should be made. The board shall post notice of any proposed, pending, or adopted changes to the formulary on its website.

(c) The board shall initiate rulemaking, if required to implement the committee's initial recommendation, no later than October 1, 2015.

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

And the title is amended as follows:

Delete line 31



966182

and insert:

monitor and alter drug therapies; requiring the Board  
of Nursing to appoint a committee to recommend whether  
a formulary of controlled substances is needed;  
specifying the membership of the committee; providing  
parameters for the recommendations of the committee;  
requiring that any formulary be adopted by board rule;  
specifying the process for amending the formulary and  
imposing a burden of proof; requiring the board to  
post notice of proposed, pending, or adopted changes  
to the formulary on its website; specifying a deadline  
for initiating any required rulemaking; amending s.  
464.018,



851976

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2015	.	
	.	
	.	
	.	

---

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

**Senate Substitute for Amendment (966182) (with title amendment)**

Delete line 537  
and insert:

(6) (a) The board shall appoint a committee to recommend whether a formulary of controlled substances that an advanced registered nurse practitioner may not prescribe or may prescribe only for specific uses or subject to specific limitations is necessary to protect the health, safety, and welfare of the



851976

public. The committee shall consist of at least three advanced registered nurse practitioners, including a certified registered nurse anesthetist, a certified nurse midwife, and a nurse practitioner; at least one physician recommended by the Board of Medicine and one physician recommended by the Board of Osteopathic Medicine, both of whom have had work experience with advanced practice registered nurses; and a pharmacist licensed under chapter 465, but not licensed under chapter 458, chapter 459, or this chapter, who shall be selected by the State Surgeon General. The committee may recommend a formulary applicable to all advanced registered nurse practitioners, limited by specialty certification, limited to approved uses of controlled substances, or subject to other similar restrictions it deems necessary to protect the health, safety, and welfare of the public.

(b) If the committee recommends that a formulary be established, the board shall adopt a formulary by rule. Only the board may add to, delete from, or modify the formulary. A person who requests the addition, deletion, or modification of a controlled substance listed on the formulary has the burden of proof to show cause why the change should be made. The board shall post notice of any proposed, pending, or adopted changes to the formulary on its website.

(c) The board shall initiate rulemaking, if required to implement the committee's initial recommendation, no later than October 1, 2015.

(d) If adopted by board rule, the formulary authorized in this subsection does not apply to orders for medications pursuant to subparagraph (4)(a)3. or subparagraph (4)(a)4.



851976

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

And the title is amended as follows:

    Delete line 31

and insert:

    monitor and alter drug therapies; requiring the Board  
    of Nursing to appoint a committee to recommend whether  
    adoption of a formulary of controlled substances that  
    may be prescribed by an advanced registered nurse  
    practitioner is needed; specifying the membership of  
    the committee; providing parameters for the  
    recommendations of the committee; requiring that any  
    formulary be adopted by board rule; specifying the  
    process for amending the formulary and imposing a  
    burden of proof; requiring the board to post notice of  
    proposed, pending, or adopted changes to the formulary  
    on its website; specifying a deadline for initiating  
    any required rulemaking; limiting the formulary's  
    application in certain instances; amending s. 464.018,

**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.)

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

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BILL: CS/CS/SB 656

INTRODUCER: Regulated Industries Committee, Judiciary Committee, and Senator Latvala

SUBJECT: Unlawful Detention by a Transient Occupant

DATE: March 31, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Cibula	JU	<b>Fav/CS</b>
2.	Oxamendi	Imhof	RI	<b>Fav/CS</b>
3.			RC	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 656 establishes a new remedy for homeowners or rightful residents to remove a transient occupant who has no legal right to the property.

This bill identifies a number of factors for a property owner, or other rightful resident, law enforcement, or the court to consider in determining whether a person is a transient occupant. These factors include whether the person:

- Has an ownership, financial, or leasehold interest in the property;
- Has property utility subscriptions;
- Lists the property as the address of record with governmental agencies;
- Receives mail at the property;
- Has designated space at the property; and
- Has no apparent permanent residence elsewhere.

Instead of pursuing legal action for unlawful detainer, a person who is rightfully in possession of a residence has the option of providing a law enforcement officer with a sworn affidavit that includes the required factors that establish that the person they wish to be removed is a transient occupant. If the transient occupant does not leave, the law enforcement officer may charge him or her with criminal trespassing. Alternatively, if a person pursues legal action and a court finds that a defendant is properly a tenant rather than a transient occupant, the court must allow the plaintiff the opportunity to provide notice and amend pleadings to pursue eviction.



## **II. Present Situation:**

### **Unlawful Detainer**

An unlawful detainer is the “unjustifiable retention of the possession of real property by one whose original entry was lawful . . . .”<sup>1</sup>

The party entitled to possession has a cause of action for unlawful detainer if a person enters a property in a peaceable manner and stays without consent.<sup>2</sup>

The party who is the rightful possessor is entitled to an action for unlawful retainer resolved through summary procedure under s. 51.011, F.S.,<sup>3</sup> for expedited review by the court.<sup>4</sup> The rightful possessor may bring an action for unlawful detainer any time within 3 years after the possession has been withheld from the party against his or her consent. If the person to be served is not found at the usual place of residence, the process server may serve a summons by posting a copy in a conspicuous place on the property.<sup>5</sup>

If the plaintiff prevails, the court must enter judgment that the plaintiff recover possession of the property described in the complaint, along with damages and costs, and award a writ of possession without delay.<sup>6</sup> Upon a showing that the defendant is willful and knowingly wrongful, damages are double the rental value of the premises from the time of the unlawful holding.<sup>7</sup>

An action for unlawful detainer is not available to residential tenancies.<sup>8</sup>

### **The Florida Residential Landlord and Tenant Act**

Residential tenancies are governed by the Florida Residential Landlord and Tenant Act (act).<sup>9</sup>

The landlord is the owner or lessor of a dwelling unit. The tenant is a person entitled to occupy a dwelling unit under a rental agreement, in which the tenant makes periodic payments of rent to the landlord.<sup>10</sup> When people enter into a landlord and tenant relationship, as evidenced by a

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<sup>1</sup> BLACK’S LAW DICTIONARY (10th ed. 2014).

<sup>2</sup> Section 82.04(1), F.S.

<sup>3</sup> Section 51.011, F.S., specifies a summary procedure for actions that specifically provide for this procedure by statute or rule. Under the summary procedure, all defenses of law or fact are required to be contained in the defendant’s answer which must be filed within 5 days after service of process of the plaintiff’s complaint. If the answer incorporates a counterclaim, the plaintiff must include all defenses of law or fact in his or her answer to the counterclaim and serve it within 5 days after service of the counterclaim. (Fla. R. Civ. Pro. 1.140, requires an answer, including any counterclaims, within 20 days after service of the complaint.) No other pleadings are permitted, and all defensive motions, including motions to quash, are heard by the court prior to trial. Postponements are not permitted for discovery, and the procedure also provides for an immediate trial, if requested.

<sup>4</sup> Section 82.04(1), F.S.

<sup>5</sup> Section 82.061, F.S.

<sup>6</sup> Section 82.091, F.S.

<sup>7</sup> Section 82.071, F.S.

<sup>8</sup> Section 82.04(2), F.S.

<sup>9</sup> Part II of Chapter 83, F.S., s. 83.40, F.S.

<sup>10</sup> Sections 83.43(3), (4), and (6), F.S.

rental agreement, each party commits to abide by certain legal obligations and responsibilities. Rental agreements may be written or oral.<sup>11</sup> Oral rental agreements are for a duration of less than one year.<sup>12</sup> Every rental agreement carries with it an obligation of good faith in both performance and enforcement.<sup>13</sup> Landlords are entitled to collect security deposits from tenants and hold the deposits as security against the performance of the rental agreement.<sup>14</sup>

Landlords and tenants have different obligations to maintain the property. Landlords must comply with building, housing, and health codes, and for dwelling units other than a single-family home or a duplex, a landlord must provide for:

- The extermination of insects and rodents;
- Locks and keys;
- The clean and safe condition of common areas;
- Garbage removal; and
- Heat during winter, running water, and hot water.<sup>15</sup>

Tenants, in turn, must:

- Comply with building, housing and health codes that apply to tenants;
- Keep the premises clean and sanitary;
- Keep plumbing fixtures clean and sanitary and in repair;
- Use and operate electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other appliances in a reasonable manner;
- Not destroy or damage the premises or property or allow others to do so; and
- Not disturb the peace.<sup>16</sup>

A landlord or tenant may petition the court to enforce rights and duties through a civil action.<sup>17</sup>

If a tenant fails to materially comply with the rental agreement, or with his or her legal obligation to maintain the dwelling, a landlord may begin eviction proceedings. Prior to initiating eviction proceedings, for both residential and nonresidential tenancies, the landlord generally must provide the tenant written notice of the violation and an opportunity to correct the problem.<sup>18</sup>

If the tenant fails to correct the problem, the landlord may bring an action in the county court where the property is located.<sup>19</sup> The filing fee for the removal of a tenant is \$180.<sup>20</sup> If the court enters a judgment for the landlord, the clerk will issue a writ of possession to the sheriff.<sup>21</sup> After

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<sup>11</sup> Section 83.43(7), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> Section 83.44, F.S.

<sup>14</sup> Section 83.43(12), F.S.

<sup>15</sup> Sections 83.51(1)(a) and (2)(a), F.S.

<sup>16</sup> Section 83.52, F.S.

<sup>17</sup> Section 83.54, F.S.

<sup>18</sup> Section 83.56(2), F.S.; *3618 Lantana Road Partners, LLC v. Palm Beach Pain Management, Inc.*, 57 So. 3d 966, 968 (Fla. 4th DCA 2011).

<sup>19</sup> Section 83.59(2), F.S.

<sup>20</sup> Section 34.041(1)(a)7., F.S.

<sup>21</sup> Section 83.62(1), F.S.

the sheriff provides 24 hours' notice to the tenant, through a posting on the premises, the landlord may remove the tenant's property and change the locks.<sup>22</sup>

### **Criminal Trespass**

Section 810.08, F.S., establishes the offense of trespass for anyone who:

willfully enters or remains in any structure or conveyance, or having been authorized, licensed, or invited, is warned by the owner or lessee of the premises, or by a person authorized by the owner or lessee, to depart and refuses to do so, commits the offense of trespass in a structure or conveyance.<sup>23</sup>

Charges range from a second degree misdemeanor for simple trespass to a first degree misdemeanor if a person is in the structure or conveyance at the time the offender trespassed or attempted to trespass.<sup>24</sup>

### **Media on Unwelcome House Guests**

News articles report that an increasing number of property owners or tenants are inviting guests into their homes and having difficulty getting them to leave.<sup>25</sup> If a law enforcement agency is called for assistance to remove guests who have overstayed their welcome, the property owner or person having a written lease is typically told that the law enforcement agency is not authorized to remove the guest because the matter is a civil matter, not criminal trespassing. Additionally, law enforcement agencies reportedly advise property owners and tenants that the law requires a court order prior to changing the locks on the property or taking other actions to remove the person from the home.

A legal action to remove a guest who has overstayed his or her welcome at a residence is known as an unlawful detainer action. In Hillsborough County alone, filings for unlawful detainer increased from 14 in 1999 to 67 in 2003.<sup>26</sup>

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

This bill establishes a new remedy for homeowners or rightful residents to remove a transient occupant from the residence.

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<sup>22</sup> Section 83.62(2), F.S.

<sup>23</sup> Section 810.08(1), F.S.

<sup>24</sup> Section 810.08(2)(a) and (b), F.S.; A second degree misdemeanor is punishable by a jail term of up to 60 days. A first degree misdemeanor is punishable by a jail term of up to 1 year. A third degree felony is punishable by a term of imprisonment of up to 5 years. Section 775.082 (4)(a) and (b), F.S. Section 775.083(1)(d) and (e), F.S., authorizes fines of up to \$500 for a second degree misdemeanor and up to \$1,000 for a first degree misdemeanor.

<sup>25</sup> Hayes, Stephanie, "In Florida, Evicting Unwelcome Guest is no Simple Matter," Tampa Bay Times (Apr. 2, 2009), available at: <http://www.tampabay.com/news/humaninterest/in-florida-evicting-unwelcome-guest-is-no-simple-matter/989264>, (last visited March 27, 2015); and Behnken, Shannon, "Only Court Order Will Rid You of Unwanted House Guest," Tampa Bay Online (Sept. 22, 2014), available at: <http://tbo.com/news/business/only-court-order-will-rid-you-of-unwanted-house-guest-255859> (last visited March 27, 2015).

<sup>26</sup> Franklin, Marcus, "Law Slanted in Favor of Unwanted Guests," *St. Petersburg Times Online* (Feb. 17, 2004); available at: [http://www.sptimes.com/2004/02/17/Tampabay/Law\\_slanted\\_in\\_favor\\_.shtml](http://www.sptimes.com/2004/02/17/Tampabay/Law_slanted_in_favor_.shtml) (last visited March 27, 2015).

### **Transient Occupancy and Unlawful Detention**

The bill defines a transient occupant as a person whose residency in a residential dwelling is not subject to a lease, is intended to be transient, and has occurred for a brief length of time.

Transient occupancy can be shown by the following:

- The person has no ownership or financial interest in the property;
- The person has no property utility subscriptions;
- The person does not list the property address as an address of record with any governmental agency, including the Department of Highway Safety and Motor Vehicles or the supervisor of elections;
- The person does not get mail at the property;
- The person pays little or no rent;
- The person has no designated space of his or her own or keeps minimal personal belongings at the property; or
- The person has an apparent permanent residence somewhere else.

The bill provides that minor contributions towards household goods or expenses do not establish residency.

The stay at the property becomes an unlawful detention if the transient occupant remains at the property after the party rightfully in possession has asked the transient occupant to leave.

### **Process to Remove Transient Occupant**

The party entitled to possession must provide to a law enforcement officer a sworn affidavit that a transient occupant is unlawfully detaining residential property. The sworn affidavit must set forth the facts, including the applicable factors listed in s. 82.045(1)(a), F.S., which establish that a transient occupant is unlawfully detaining the residential property. The law enforcement officer may then order the transient occupant to surrender possession of the residential property.

A transient occupant who fails to surrender possession of property is subject to the criminal charge of trespassing. In any prosecution for trespassing, the state only need prove the elements of trespass and not that the defendant is actually a transient occupant.

Additionally, the bill creates a cause of action for unlawful detainer and removal of a transient occupant pursuant to s. 82.04, F.S. Under existing s. 82.07, F.S., a court in an unlawful detainer action may award a prevailing plaintiff damages equal to double the rental value of the premises if the detention is willful and knowingly wrongful.<sup>27</sup> Whether the damages available under the bill are intended to be less than those under existing s. 82.07, F.S., is unclear.

If the court finds that the defendant is not a transient occupant but is instead a tenant, the court must allow the plaintiff an opportunity to proceed under an eviction action.

The bill takes effect July 1, 2015.

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<sup>27</sup> Section 82.071, F.S.

**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:**

This bill provides an option to a rightful owner or possessor of property to provide a sworn affidavit with a law enforcement officer to have the transient occupant removed from the property. In situations in which a transient occupant is financially unable to pay the plaintiff's legal costs or damages, this bill provides a financial advantage to a rightful possessor plaintiff in avoiding the need for costly litigation.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The Legislature may wish to clarify whether the damages available under existing s. 82.071, F.S., apply to the unlawful detainer actions authorized by the bill.

**VIII. Statutes Affected:**

This bill creates section 82.045 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Regulated Industries on March 31, 2015:**

The CS/CS:

- Amends s. 82.045(1), F.S., to delete the condition of not being subject to a written lease as one of the conditions of transient occupancy. Instead, it provides that a transient occupant is not subject to a lease;
- Amends s. 82.045(1)(a)1., F.S., to include not having a leasehold in the property among factors that establish that a person is a transient occupant;
- Amends s. 82.045(3), F.S., to require that the sworn affidavit must set forth the facts, including the applicable factors listed in s. 82.045(1)(a), F.S., which establish that a transient occupant is unlawfully detaining residential property; and
- Does not amend s. 82.045(4), F.S., to provide that:
  - The party entitled to possession may use the summary procedure in s. 51.011, F.S., to remove a transient occupant;
  - The court may award the plaintiff compensatory damages if it determines that the defendant is a transient occupant;
  - The county courts jurisdiction over action for unlawful detainer; and
  - That the filing fee for an action under s. 82.045(4), F.S., is the fee established in s. 34.041(1)(a)7., F.S., for removal of a tenant.

**CS by Judiciary Committee on March 10, 2015:**

This CS:

- Provides a remedy for persons who are in rightful possession of a residential property to have transient occupants removed based on unlawful detainer;
- Provides a process for a law enforcement officer, upon receipt of a sworn affidavit from a person in rightful possession of a property to remove a transient occupant or charge that person with criminal trespass;
- Authorizes persons the option to pursue legal action against a transient occupant or file a sworn affidavit with a law enforcement officer to have the person removed or charged with criminal trespass; and
- Authorizes a plaintiff who pursues legal action based on unlawful detainer law the opportunity to provide notice to the defendant and amend pleadings to pursue eviction if the court finds that the defendant is a tenant.

**B. Amendments:**

None.

By the Committee on Judiciary; and Senator Latvala

590-02147-15

2015656c1

A bill to be entitled

An act relating to unlawful detention by a transient occupant; creating s. 82.045, F.S.; defining the term "transient occupant"; providing factors that establish a transient occupancy; providing for removal of a transient occupant by a law enforcement officer; providing a cause of action for wrongful removal; limiting actions for wrongful removal; providing a civil action for removal of a transient occupant; providing an effective date.

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

Section 1. Section 82.045, Florida Statutes, is created to read:

82.045 Remedy for unlawful detention by a transient occupant of residential property.—

(1) As used in this section, the term "transient occupant" means a person whose residency in a dwelling intended for residential use has occurred for a brief length of time, is not pursuant to a written lease, and whose occupancy was intended as transient in nature.

(a) Factors that establish that a person is a transient occupant include, but are not limited to:

1. The person does not have ownership or financial interest in the property entitling him or her to occupancy of the property.

2. The person does not have any property utility subscriptions.

590-02147-15

2015656c1

30       3. The person does not use the property address as an  
31 address of record with any governmental agency, including, but  
32 not limited to, the Department of Highway Safety and Motor  
33 Vehicles or the supervisor of elections.

34       4. The person does not receive mail at the property.

35       5. The person pays minimal or no rent for his or her stay  
36 at the property.

37       6. The person does not have a designated space of his or  
38 her own, such as a room, at the property.

39       7. The person has minimal, if any, personal belongings at  
40 the property.

41       8. The person has an apparent permanent residence  
42 elsewhere.

43       (b) Minor contributions made for the purchase of household  
44 goods, or minor contributions towards other household expenses,  
45 do not establish residency.

46       (2) A transient occupant unlawfully detains a residential  
47 property if the transient occupant remains in occupancy of the  
48 residential property after the party entitled to possession of  
49 the property has directed the transient occupant to leave.

50       (3) Any law enforcement officer may, upon receipt of a  
51 sworn affidavit of the party entitled to possession that a  
52 person who is a transient occupant is unlawfully detaining  
53 residential property, direct a transient occupant to surrender  
54 possession of residential property. A person who fails to comply  
55 with the direction of the law enforcement officer to surrender  
56 possession or occupancy violates s. 810.08. In any prosecution  
57 of a violation of s. 810.08 related to this section, whether the  
58 defendant was properly classified as a transient occupant is not



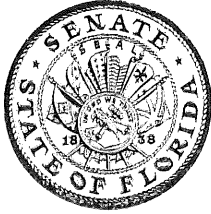
590-02147-15

2015656c1

59 an element of the offense, the state is not required to prove  
60 that the defendant was in fact a transient occupant, and the  
61 status as a permanent resident is not an affirmative defense. A  
62 person wrongfully removed pursuant to this subsection has a  
63 cause of action for wrongful removal against the person who  
64 requested the removal, and may recover injunctive relief and  
65 compensatory damages. However, a wrongfully removed person does  
66 not have a cause of action against the law enforcement officer  
67 or the agency employing the law enforcement officer absent a  
68 showing of bad faith by the law enforcement officer.

69 (4) A party entitled to possession of a dwelling has a  
70 cause of action for unlawful detainer and removal of a transient  
71 occupant. The party entitled to possession is entitled to the  
72 summary procedure of s. 51.011 to remove a transient occupant.  
73 The party entitled to possession is not required to notify the  
74 transient occupant before filing the action. If the court finds  
75 that the defendant is a transient occupant the court shall order  
76 the clerk to issue a writ of possession placing the plaintiff in  
77 possession of the premises, and may award compensatory damages.  
78 If the court finds the defendant is not a transient occupant but  
79 is instead a tenant of residential property entitled to the  
80 protections of part II of chapter 83, the court may not dismiss  
81 the action without first allowing the plaintiff to give notice  
82 required by that part and to thereafter amend the complaint to  
83 pursue eviction under that part. County courts have jurisdiction  
84 over actions authorized under this subsection. The filing fee  
85 for an action under this subsection is the fee established in s.  
86 34.041(1)(a)7. for removal of a tenant.

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Appropriations Subcommittee on  
Transportation, Tourism, and Economic  
Development, *Chair*  
Appropriations  
Commerce and Tourism  
Governmental Oversight and Accountability  
Regulated Industries  
Rules

**SENATOR JACK LATVALA**  
20th District

March 10, 2015

The Honorable Senator Rob Bradley, Chair  
Senate Regulated Industries Committee  
330 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Bradley:

I respectfully request consideration of Senate Bill 656 regarding Landlord and Tenants. I would greatly appreciate the opportunity to present this legislation to the Committee on Regulated Industries as soon as possible. The bill was favorably referred by the Judiciary Committee on March 10.

This bill provides for protection of homeowners and clarity for law enforcement officers so they can defuse and resolve potentially violent disputes involving unwanted visitors or houseguests.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Jack".

Jack Latvala  
State Senator  
District 20

Cc: Patrick Imhof, Staff Director; Lynn Koon, Administrative Assistant

**REPLY TO:**

- ☐ 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
- ☐ 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

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

March 31, 2015

*Meeting Date*

656

*Bill Number (if applicable)*

Topic \_\_\_\_\_

*Amendment Barcode (if applicable)*

Name Matt Dunagan

Job Title Assistant Executive Director

Address 2617 Mahan Drive

*Street*

Tallahassee

*City*

FL

*State*

32308

*Zip*

Phone 850-274-3599

Email mdunagan@flsheriffs.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Sheriffs Association

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**

3-31-2015

Meeting Date

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

656

Bill Number (if applicable)

Topic Homeowner's Right

Amendment Barcode (if applicable)

Name Sarah Canoll

Job Title

Address 123 S. Adams Street

Phone 671 4401

Street

Tallahassee

City

FL

State

32301

Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Sheriffs Association

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)

3/31/15  
Meeting Date

656  
Bill Number (if applicable)

Topic Transient Occupancy

Amendment Barcode (if applicable)

Name Alice Vickers

Job Title Attorney

Address 623 Beard St.

Phone 850 556 3121

Street

Tallahassee, FL

32303

City

State

Zip

Email alicevickers@flacp.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FLORIDA Alliance for Consumer Protection

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:** CS/SB 656  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Tuesday, March 31, 2015  
**TIME:** 1:30 —3:30 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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2015	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 82.045, Florida Statutes, is created to  
read:

82.045 Remedy for unlawful detention by a transient  
occupant of residential property.—

(1) As used in this section, the term "transient occupant"  
means a person whose residency in a dwelling intended for



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residential use has occurred for a brief length of time, is not  
pursuant to a lease, and whose occupancy was intended as  
transient in nature.

(a) Factors that establish that a person is a transient  
occupant include, but are not limited to:

1. The person does not have ownership, financial, or  
leasehold in the property entitling him or her to occupancy of  
the property.

2. The person does not have any property utility  
subscriptions.

3. The person does not use the property address as an  
address of record with any governmental agency, including, but  
not limited to, the Department of Highway Safety and Motor  
Vehicles or the supervisor of elections.

4. The person does not receive mail at the property.

5. The person pays minimal or no rent for his or her stay  
at the property.

6. The person does not have a designated space of his or  
her own, such as a room, at the property.

7. The person has minimal, if any, personal belongings at  
the property.

8. The person has an apparent permanent residence  
elsewhere.

(b) Minor contributions made for the purchase of household  
goods or minor contributions towards other household expenses,  
do not establish residency.

(2) A transient occupant unlawfully detains a residential  
property if the transient occupant remains in occupancy of the  
residential property after the party entitled to possession of





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the property has directed the transient occupant to leave.

(3) Any law enforcement officer may, upon receipt of a sworn affidavit of the party entitled to possession that a person who is a transient occupant is unlawfully detaining residential property, direct a transient occupant to surrender possession of residential property. The sworn affidavit must set forth the facts, including the applicable factors listed in paragraph (1)(a), which establish that a transient occupant is unlawfully detaining residential property.

(a) A person who fails to comply with the direction of the law enforcement officer to surrender possession or occupancy violates s. 810.08. In any prosecution of a violation of s. 810.08 related to this section, whether the defendant was properly classified as a transient occupant is not an element of the offense, the state is not required to prove that the defendant was in fact a transient occupant, and the defendant's status as a permanent resident is not an affirmative defense.

(b) A person wrongfully removed pursuant to this subsection has a cause of action for wrongful removal against the person who requested the removal, and may recover injunctive relief and compensatory damages. However, a wrongfully removed person does not have a cause of action against the law enforcement officer or the agency employing the law enforcement officer absent a showing of bad faith by the law enforcement officer.

(4) A party entitled to possession of a dwelling has a cause of action for unlawful detainer against a transient occupant pursuant to s. 82.04. The party entitled to possession is not required to notify the transient occupant before filing the action. If the court finds the defendant is not a transient



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occupant but is instead a tenant of residential property  
governed by part II of chapter 83, the court may not dismiss the  
action without first allowing the plaintiff to give the  
transient occupant notice required by that part and to  
thereafter amend the complaint to pursue eviction under that  
part.

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

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

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled

An act relating to unlawful detention by a transient  
occupant; creating s. 82.045, F.S.; defining the term  
"transient occupant"; providing factors that establish  
a transient occupancy; providing for removal of a  
transient occupant by a law enforcement officer;  
providing a cause of action for wrongful removal;  
limiting actions for wrongful removal; providing a  
civil action for removal of a transient occupant;  
providing an effective date.

**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.)

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

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BILL: CS/SB 418

INTRODUCER: Regulated Industries Committee and Senator Richter

SUBJECT: Construction Defect Claims

DATE: April 1, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	Fav/CS
2.	_____	_____	BI	_____
3.	_____	_____	FP	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 418 amends ch. 558, F.S., relating to construction defect claims. The opportunity to resolve claims without legal process is extended to insurers of a contractor, subcontractor, supplier, or design professional. The definition of completion of a building or improvement under construction is revised, which impacts the grant of warranties to purchasers of condominium and cooperative units, as well as to developers of those types of projects. Additional requirements for filing a notice of claim and the exchange of documents by the parties are imposed. A party may assert any claim of privilege recognized under Florida law respecting any of the disclosure obligations mandated by ch. 558, F.S.

**II. Present Situation:**

In 2003, the Legislature enacted an alternative dispute resolution process for certain construction defect matters,<sup>1</sup> in which where a claimant files a notice of claim with a contractor, subcontractor, supplier, or design professional that the claimant asserts is responsible for the defect, and provides the contractor, subcontractor, supplier, or design professional with an opportunity to resolve the claim without the need for court action. Actions for personal injuries arising out of an alleged construction defect are not covered by this process, which is set forth in ch. 558, F.S. (the construction defect procedure).<sup>2</sup>

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<sup>1</sup> See ch. 2003-49; L.O.F.

<sup>2</sup> Pursuant to s. 558.004(12), F.S., except as specifically provided in ch. 558, F.S., the chapter does not: (1) bar or limit any rights, including the right of specific performance to the extent available in the absence of the chapter, any causes of action,

## Definitions

The term “action” means a lawsuit or arbitration proceeding for damages to or loss of real or personal property caused by an alleged construction defect.<sup>3</sup> Unless otherwise agreed in writing,<sup>4</sup> a claimant may not file an action until complying with the construction defect procedure by providing written notice of alleged construction defects to the contractor or other party that contracted<sup>5</sup> with the claimant to perform work.<sup>6</sup> However, the notice requirement is not intended to interfere with the ability to complete a project that has not been substantially completed, and a notice is not required for a project in which the building or improvement is not yet completed.

Completion of a building or improvement is evidenced by issuance of a certificate of occupancy (or its equivalent) for the entire building or improvement issued by the appropriate governmental body (such as a city or county).<sup>7</sup>

A construction defect, as defined in s. 558.002(5), F.S., is a deficiency in, or arising out of, the “design, specifications, surveying, planning, supervision, observation of construction, or construction, repair, alteration, or remodeling of real property<sup>8</sup> resulting from:”

- Defective material, products, or components used in the construction or remodeling;
- A violation of applicable building codes which allows an action under limited conditions;<sup>9</sup>
- A failure of the design of real property to meet applicable professional standards of care at the time of governmental approval; or
- A failure to construct or remodel real property in accordance with accepted trade standards for good and workmanlike construction at the time of construction.

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or any theories on which liability may be based; (2) bar or limit any defense, or create any new defense; or (3) create any new rights, causes of action, or theories on which liability may be based.

<sup>3</sup> See s. 558.002(1), F.S.

<sup>4</sup> Section 558.005(4), F.S., permits a claimant and the contractor or other person to whom notice is served or otherwise must be served with a notice of claim to agree in writing to mediation in advance of a lawsuit being filed, or to otherwise alter the construction defect procedure in ch. 558, F.S.

<sup>5</sup> After October 1, 2009, unless the parties agree that ch. 558, F.S., does not apply, s. 558.005, F.S., requires that any written contract for improvement of real property entered into between an owner and a contractor, or between an owner and a design professional, contain substantially the following notice: “ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.” The failure to include the required notice in the contract does not subject the contracting owner, contractor, or design professional to any penalty, however, as the purpose of the notice is to promote awareness of the procedure, not to be a penalty. Other notice requirements set forth in s. 558.005, F.S., apply to contracts entered into before October 1, 2009. However, s. 558.004(14), F.S., provides that if an arbitration clause in a contract for the sale, design, construction, or remodeling of real property conflicts with the construction defect procedure in s. 558.004, F.S., that section prevails over the arbitration clause.

<sup>6</sup> See s. 558.003, F.S.

<sup>7</sup> See s. 558.002(4), F.S. In cases where a certificate of occupancy or the equivalent authorization is not issued, completion means the substantial completion of construction, finishing, and equipping of the building or improvement according to the plans and specifications.

<sup>8</sup> Section 558.002(8), F.S., defines real property as improved land, and improvements on such land, such as fixtures, manufactured housing, or mobile homes; public transportation projects are excluded.

<sup>9</sup> See s. 553.84; F.S.

A claimant is a property owner, including a subsequent purchaser or association,<sup>10</sup> who asserts a claim for damages against a contractor, subcontractor, supplier, or design professional concerning a construction defect, or a subsequent owner who asserts a claim for indemnification for such damages. Under the construction defect procedure, a contractor, subcontractor, supplier, or design professional is not designated as a claimant.<sup>11</sup>

A contractor is any person<sup>12</sup> that is legally engaged in the business of designing, developing, constructing, manufacturing, repairing, or remodeling real property.<sup>13</sup> A subcontractor is a person who is a contractor who performs labor and supplies material on behalf of another contractor for construction or remodeling of real property,<sup>14</sup> and a supplier is a person who does not perform labor, but does provide materials, equipment, or other supplies for the construction or remodeling of real property.<sup>15</sup>

### **Notice of Claim Process**

The notice of claim process is set forth in s. 558.004, F.S. Before an action may be brought by a claimant alleging a construction defect, the claimant must serve<sup>16</sup> a written notice of claim referring to ch. 558, F.S., on the contractor, subcontractor, supplier, or design professional, as applicable. The written notice must be provided at least 60 days before filing the action, or in the case of an association representing more than 20 parcels (association claimant), at least 120 days before the filing. Association claimants are granted longer time frames than other claimants.

If the construction defect claim arises from work performed under a contract, the written notice of claim must be served on the person with whom the claimant contracted, and must describe the claim in detail sufficient to determine the nature of the construction defect and a description of the damage or loss resulting from it, if known. The claimant must try to serve the notice of claim within 15 days after discovery of an alleged defect, but the failure to do so does not bar the filing of an action.<sup>17</sup> In limited circumstances after the construction defect procedure has been complied with by the claimant and persons served with the notice of claim, certain actions may be filed sooner than these time frames.<sup>18</sup>

Under s. 558.004(2), F.S., within 30 days after service of the notice of claim (within 50 days for a claim involving an association claimant), the person served with the notice of claim (claim

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<sup>10</sup> An “association” is defined in s. 558.002(2), F.S., as having the same meaning as in s. 718.103(2), F.S., (condominiums), s. 719.103(2), F.S., (cooperatives), s. 720.301(9), F.S., (homeowners) or s. 723.075, F.S., (mobile home subdivisions).

<sup>11</sup> See s. 558.002(3), F.S.

<sup>12</sup> As defined in s. 1.01, F.S., a “person” includes “individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.”

<sup>13</sup> See s. 558.002(6), F.S.

<sup>14</sup> See s. 558.002(10), F.S.

<sup>15</sup> See s. 558.002(11), F.S.

<sup>16</sup> Service of a notice of a construction defect means delivery by certified mail with a United States Postal Service record of evidence of delivery or attempted delivery to the last known address of the addressee, by hand delivery, or by delivery by any courier with written evidence of delivery. See s. 558.002(9), F.S.

<sup>17</sup> Section 558.003, F.S., provides that a prematurely filed action may be stayed by the court to allow the parties to engage in the construction defect procedure.

<sup>18</sup> The construction defect procedure includes actions that a claimant or a contractor may take after the notice of claim is responded to, in the event a claim is disputed and no compromise or settlement is offered, if the claimant fails to accept or reject a timely offer, or if agreed-to payments or repairs are not made. See s. 558.004(6), (7), and (8), F.S.

recipient) may inspect the property or each unit subject to the claim to assess each alleged construction defect. The claimant shall provide the claim recipient, its contractors, or its agents reasonable access to the property during normal working hours to inspect the property to determine the nature and cause of each alleged construction defect and the nature and extent of any repairs or replacements necessary to remedy each defect.

Claim recipients must reasonably coordinate the timing and manner of any and all inspections with the claimant to minimize the number of inspections. If mutually agreed, the inspection may include destructive testing under these terms and conditions:<sup>19</sup>

- If the claim recipient determines that destructive testing is necessary to determine the nature and cause of the alleged defects, the claimant must be notified in writing;
- The notice shall describe the destructive testing to be performed, the person performing the testing, the estimated anticipated damage and repairs to or restoration of the property resulting from the testing, the estimated amount of time needed for the testing and to complete the repairs or restoration, and the financial responsibility offered for covering the costs of repairs or restoration;
- If the claimant promptly objects to the person who is to perform the destructive testing, the claim recipient must provide a list of three qualified persons from which the claimant may select a person to perform the testing. The person performing the testing shall operate as an agent or subcontractor of the claim recipient who must communicate with, submit any reports to, and be solely responsible to the claim recipient;
- The testing shall be done at a mutually agreeable time;
- The claimant or a representative of the claimant may be present to observe the destructive testing;
- The destructive testing may not make the property uninhabitable; and
- There are no statutory construction lien rights for the destructive testing caused by a claim recipient, or for restoring the area destructively tested to the condition existing prior to testing, except to the extent the owner of the property contracts for destructive testing or restoration.

If the claimant refuses to agree and thereafter permit reasonable destructive testing, the claimant has no claim for damages that could have been avoided or mitigated if requested destructive testing had been allowed and a feasible remedy been promptly implemented.

Under s. 558.004(3), F.S., within 10 days after service of the notice of claim (within 30 days for a claim involving an association claimant), the claim recipient has the option to serve a copy of the notice of claim to each contractor, subcontractor, supplier, or design professional whom the claim recipient reasonably believes is responsible for each defect specified in the notice of claim (the subsequent claim recipient). The claim recipient must identify the specific defect for which it believes the particular subsequent claim recipient is responsible. This notice to the subsequent claim recipient may not be construed as an admission of any kind, and each subsequent claim recipient may inspect the property in the same manner as the claim recipient, as described above.

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<sup>19</sup> See s. 558.004(2), F.S.

Under s. 558.004(4), F.S., within 15 days after service of a copy of the notice of claim to a subsequent claim recipients (within 30 days for claims involving an association claimant), the subsequent claim recipient must serve a written response to the claim recipient, to include:

- A report, if any, of the scope of any inspection of the property;
- The findings and results of the inspection;
- A statement of whether the subsequent claim recipient is willing to make repairs to the property or whether such claim is disputed;
- A description of any repairs the subsequent claim recipient is willing to make to remedy the alleged construction defect; and
- A timetable for the completion of such repairs.

This response may also be served on the claimant by the claim recipient.

Under s. 558.004(5), F.S., within 45 days after service of the notice of claim (within 75 days for a claim involving an association claimant), the claim recipient must serve a written response to the claimant. The response shall be served to the attention of the person who signed the notice of claim, unless otherwise indicated in the notice of claim. The written response must provide:

- A written offer to remedy the alleged construction defect at no cost to the claimant, a detailed description of the proposed repairs necessary to remedy the defect, and a timetable for the completion of such repairs;
- A written offer to compromise and settle the claim by monetary payment, that will not obligate the person's insurer, and a timetable for making payment;
- A written offer to compromise and settle the claim by a combination of repairs and monetary payment, that will not obligate the person's insurer, that includes a detailed description of the proposed repairs and a timetable for the completion of such repairs and making payment; (the (5)(c) option);
- A written statement that the person disputes the claim and will not remedy the defect or compromise and settle the claim; or
- A written statement that a monetary payment, including insurance proceeds, if any, will be determined by the person's insurer within 30 days after notification to the insurer by means of serving the claim, which service shall occur at the same time the claimant is notified of this settlement option, which the claimant may accept or reject. A written statement under this option may also include an offer under the (5)(c) option above, but such offer shall be contingent upon the claimant also accepting the determination of the insurer whether to make any monetary payment in addition thereto. If the insurer for the claim recipient makes no response within the 30 days following service, then the claimant shall be deemed to have met all conditions necessary to filing an action on the noticed claim.

Under s. 558.004(6), F.S., if the claim recipient disputes the claim and will neither remedy the defect nor compromise and settle the claim, or does not timely respond to the claimant's notice of claim, the claimant may, without further notice, proceed with an action against that the claim recipient for the noticed claim. A partial settlement or compromise of the claim may be agreed to by the parties, and in that event, the claimant may without further notice proceed with an action on the unresolved portions of the claim.

Under s. 558.004(7), F.S., a claimant who receives a timely settlement offer must accept or reject the offer by serving written notice of acceptance or rejection on the person making the offer within 45 days after receiving the settlement offer. If a claimant initiates an action without first accepting or rejecting the offer, the court shall stay the action upon timely motion until the claimant serves the required written response respecting the offer.

Under s. 558.004(8), F.S., if the claimant timely and properly accepts an offer to repair an alleged construction defect, the claimant shall provide the offeror and the offeror's agents reasonable access to the claimant's property during normal working hours to perform the repair by the agreed-upon timetable stated in the offer. If the offeror does not make the payment or repair the defect within the agreed time and in the agreed manner, except for reasonable delays beyond the control of the offeror, including, but not limited to, weather conditions, delivery of materials, claimant's actions, or issuance of any required permits, the claimant may, without further notice, proceed with an action against the offeror based upon the claim in the notice of claim. If the offeror makes payment or repairs the defect within the agreed time and in the agreed manner, the claimant is barred from proceeding with an action for the noticed claim or as otherwise provided in the accepted settlement offer.

### **Emergency Repairs, Statute of Limitations, and Multiple Claims**

The construction defect procedure does not prohibit or limit the claimant from making any necessary emergency repairs to the property to protect the health, safety, and welfare of the claimant.<sup>20</sup> In addition, any offer or failure to offer a remedy as contemplated by the construction defect procedure<sup>21</sup> or to compromise and settle the claim by monetary payment is not an admission of liability and is not admissible in an action brought under ch. 558, F.S.<sup>22</sup>

Service of a written notice of claim tolls the applicable statute of limitations for those persons covered by the construction defect procedure in ch. 558, F.S., (and any bond surety) until the later of:

- Ninety days, or 120 days,<sup>23</sup> after service of the notice of claim; or
- Thirty days after the end of the repair period or payment period stated in the offer, if the claimant has accepted the offer; this time period may be extended by stipulation of the parties, which tolls the statute of limitations during the extension.

The construction defect procedure applies to each alleged construction defect, but multiple defects may be included in one notice of claim; in addition, the initial list may be amended by the claimant to identify additional or new construction defects as they become known.<sup>24</sup> Only alleged construction defects that are noticed and for which the claimant has complied with the construction defect procedure (or those reasonably related to, or caused by, the noticed defects) may be addressed in a trial, but subsequent or further actions may be pursued.<sup>25</sup>

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<sup>20</sup> See s. 558.004(9), F.S.

<sup>21</sup> See s. 558.004(5)(a)-(e), F.S.

<sup>22</sup> See *supra* note 17.

<sup>23</sup> The longer time period appears to be applicable to associations representing more than 20 parcels. See s. 558.004(10), F.S.

<sup>24</sup> See s. 558.004(11), F.S.

<sup>25</sup> *Id.*



## **Insurance Claims**

Section 558.004(13), F.S., provides that the construction defect procedure does not relieve persons served with a notice of claim from compliance with the terms of any liability insurance policy. Further, the providing of a copy of a notice of claim to an insurer does not constitute a claim for insurance purposes, and nothing in the construction defect procedure may be construed to impair technical notice provisions or requirements of the liability policy or alter, amend, or change existing Florida law relating to rights between insureds and insurers.

## **Exchange of Documents and Other Information**

Within 30 days after service of a written request that cites s. 558.004(15), F.S., and contains an offer to pay the reasonable costs of reproduction, the claimant and any claimant recipient must exchange:

- Any design plans, specifications, and as-built plans;
- Any documents detailing the design drawings or specifications;
- Photographs, videos, and expert reports that describe any defect upon which the claim is made; subcontracts; and
- Purchase orders for the work that is claimed defective or any part of such materials.

In the event of subsequent litigation, any party who failed to provide the requested materials may be sanctioned for a discovery violation by the court. Expert reports exchanged between the parties may not be used in any subsequent litigation for any purpose, unless the expert, or a person affiliated with the expert, testifies as a witness, or the report is used or relied upon by an expert who testifies on behalf of the party for whom the report was prepared.

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

CS/SB 418 adds the insurer of the contractor, subcontractor, supplier, or design professional as a party that should be provided the opportunity to resolve a construction defect claim through the construction defect procedure. The bill also confirms that the procedure is a confidential settlement negotiation.

The bill amends the definition of “completion of a building or improvement,” to mean the issuance of a certificate of occupancy whether temporary or otherwise. Currently, completion of a building or improvement evidenced by issuance of a certificate of occupancy (or its equivalent) for the entire building or improvement issued by the appropriate governmental body (such as a city or county).<sup>26</sup>

A temporary certificate of occupancy may be issued prior to completion of an entire building or improvement for a portion of the property being constructed or improved, pending the completion of those portions that remain under construction. This identical definition for “completion of a building or improvement” appears in ch. 718, F.S., the Condominium Act, and

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<sup>26</sup> See s. 558.002(4), F.S. In cases where a certificate of occupancy or the equivalent authorization is not issued, completion means the substantial completion of construction, finishing, and equipping of the building or improvement according to the plans and specifications.

in ch. 719, the Cooperative Act.<sup>27</sup> The warranties commence with the completion of a building or improvement. Express warranties are granted to purchasers by developers, and other warranties are granted by contractors, subcontractors, and suppliers to both developers and purchasers. As temporary certificate of occupancy may be issued earlier in a construction project than a certificate of occupancy

The bill requires that the notice of claim describe in reasonable detail the nature of each alleged construction defect and the damage or loss resulting from the defect if known. The claimant or its agents must identify the location of the alleged defect based upon at least visual inspection. The information in the notice of claim must allow the responding party to locate the alleged defect without “undue burden.” The claimant has no obligation to perform destructive or other testing to identify the location of the alleged defect.

Current law provides that sending a copy of a claim to an insurer does not constitute the making of a claim for insurance purposes. The bill provides that an insurance policy may allow for such action to constitute a valid claim for coverage under the policy.

The bill eliminates the requirement for a claimant or any claim recipient (or any subsequent claim recipient) to exchange documents detailing the design drawings or specifications upon request. The bill requires those parties to provide, upon request, maintenance records and other documents related to the discovery, investigation, causation, and extent of alleged construction defects identified in a notice of claim, as well as any resulting damages. A party may assert any claim of privilege recognized under Florida law respecting any of the disclosure obligations mandated by ch. 558, F.S.

#### **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.

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<sup>27</sup> See s. 718.203, F.S., and s. 719.203, F.S. These provisions provide for a warranty of three years beginning with the completion of the building.

**B. Private Sector Impact:**

Revision to the term “completion of a building or improvement” may affect persons and associations eligible to file or receive notices of claim (and insurers of those persons) by changing the calculation of the time period for which warranties under s. 718.203, F.S., and s. 719.203, F.S. are effective.

**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: 558.001, 558.002, 558.004, 718.203, and 719.203.

**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 31, 2015:**

The committee substitute provides that a claim for an alleged construction defect must be based, at a minimum, upon a visual inspection by the claimant or its agents, and must identify the location of the defect. There is no duty to conduct destructive or other testing. The committee substitute removes the requirement that the notice must identify the specific location of the defect and identify the specific provisions of the building code, project plans, project drawings, specifications or other information that serve as the basis of the claim. It also removes the provision that failure to include this information in the notice is prima facie evidence of a defective notice of claim. It also removes the provisions concerning frivolous claims, monetary sanctions, and attorney fees.

**B. Amendments:**

None.

By Senator Richter

23-00552-15

2015418\_\_

1 A bill to be entitled  
2 An act relating to construction defect claims;  
3 amending s. 558.001, F.S.; revising legislative  
4 intent; amending s. 558.002, F.S.; revising the  
5 definition of the term "completion of a building or  
6 improvement"; amending s. 558.004, F.S.; providing  
7 additional requirements for a notice of claim;  
8 revising requirements for a response; providing that  
9 actions making claims for certain previously resolved  
10 claims be deemed frivolous; providing for sanctions  
11 for such frivolous claims; revising provisions  
12 relating to production of certain records; providing  
13 for sanctions for claims that were solely the fault of  
14 the claimant or its agents; providing an exception;  
15 amending ss. 718.203 and 719.203, F.S.; conforming  
16 provisions to changes made by the act; providing an  
17 effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:  
20

21 Section 1. Section 558.001, Florida Statutes, is amended to  
22 read:

23 558.001 Legislative findings and declaration.—The  
24 Legislature finds that it is beneficial to have an alternative  
25 method to resolve construction disputes that would reduce the  
26 need for litigation as well as protect the rights of property  
27 owners. An effective alternative dispute resolution mechanism in  
28 certain construction defect matters should involve the claimant  
29 filing a notice of claim with the contractor, subcontractor,

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supplier, or design professional that the claimant asserts is responsible for the defect, and should provide the contractor, subcontractor, supplier, or design professional, and the insurer of the contractor, subcontractor, supplier, or design professional, with an opportunity to resolve the claim through confidential settlement negotiations without resort to further legal process.

Section 2. Subsection (4) of section 558.002, Florida Statutes, is amended to read:

558.002 Definitions.—As used in this chapter, the term:

(4) "Completion of a building or improvement" means issuance of a certificate of occupancy, whether temporary or otherwise, that allows for occupancy or use of ~~for~~ the entire building or improvement, or an ~~the~~ equivalent authorization ~~to occupy or use the improvement,~~ issued by the governmental body having jurisdiction. ~~and,~~ In jurisdictions where no certificate of occupancy or ~~the~~ equivalent authorization is issued, the term means substantial completion of construction, finishing, and equipping of the building or improvement according to the plans and specifications.

Section 3. Subsections (1), (4), (8), (13), and (15) of section 558.004, Florida Statutes, are amended, and subsection (16) is added to that section, to read:

558.004 Notice and opportunity to repair.—

(1) (a) In actions brought alleging a construction defect, the claimant shall, at least 60 days before filing any action, or at least 120 days before filing an action involving an association representing more than 20 parcels, serve written notice of claim on the contractor, subcontractor, supplier, or

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design professional, as applicable, which notice shall refer to this chapter. If the construction defect claim arises from work performed under a contract, the written notice of claim must be served on the person with whom the claimant contracted.

(b) The notice of claim must describe the claim in reasonable detail sufficient to determine the general nature of each alleged construction defect and, if known, a description of the damage or loss resulting from the defect, if known. The notice of claim must sufficiently identify the specific location of each alleged construction defect to enable the responding parties to locate all of the alleged construction defects without undue burden. The notice of claim must also identify the specific provisions of the building code, project plans, project drawings, project specifications, or other documentation, information, or authority that serve as the basis of the claim for each alleged construction defect. Failure to include such information in the notice of claim is prima facie evidence of a defective notice of claim.

(c) The claimant shall endeavor to serve the notice of claim within 15 days after discovery of an alleged defect, but the failure to serve notice of claim within 15 days does not bar the filing of an action, subject to s. 558.003. This subsection does not preclude a claimant from filing an action sooner than 60 days, or 120 days as applicable, after service of written notice as expressly provided in subsection (6), subsection (7), or subsection (8).

(4) Within 15 days after service of a copy of the notice of claim pursuant to subsection (3), or within 30 days after service of the copy of the notice of claim involving an

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association representing more than 20 parcels, the contractor, subcontractor, supplier, or design professional must serve a written response to the person who served a copy of the notice of claim. The written response shall include a report, if any, of the scope of any inspection of the property, the findings and results of the inspection, a statement of whether the contractor, subcontractor, supplier, or design professional disputes the claim, whether he or she is willing to make repairs to the property ~~or whether such claim is disputed~~, a detailed description of any repairs that he or she is ~~they are~~ willing to make to remedy the alleged construction defect, ~~and~~ a timetable for the completion of such repairs, and whether he or she is willing to attempt to settle all or a portion of the claim through a monetary settlement offer and, if so, the amount of the monetary offer and a timetable for payment. This response may also be served on the initial claimant by the contractor.

(8) If the claimant timely and properly accepts the offer to repair an alleged construction defect, the claimant shall provide the offeror and the offeror's agents reasonable access to the claimant's property during normal working hours to perform the repair by the agreed-upon timetable as stated in the offer. If the offeror does not make the payment or repair the defect within the agreed time and in the agreed manner, except for reasonable delays beyond the control of the offeror, including, but not limited to, weather conditions, delivery of materials, claimant's actions, or issuance of any required permits, the claimant may, without further notice, proceed with an action against the offeror based upon the claim in the notice of claim. If the offeror makes payment or repairs the defect

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117 within the agreed time and in the agreed manner, the claimant is  
118 barred from proceeding with an action for the claim described in  
119 the notice of claim or as otherwise provided in the accepted  
120 settlement offer. If the claimant proceeds with an action that  
121 includes any claim previously resolved by the payment of money,  
122 by making repairs, or by a combination thereof in accordance  
123 with this chapter, the associated portion of such action shall  
124 be deemed frivolous, the associated portion of such action shall  
125 be stricken, and, upon motion filed by the person served with  
126 the action, the court shall award monetary sanctions against the  
127 claimant for costs incurred by the person served with the action  
128 relating to the claim, including attorney fees, in conjunction  
129 with defending against the frivolous claim.

130 (13) This section does not relieve the person who is served  
131 a notice of claim under subsection (1) from complying with all  
132 contractual provisions of any liability insurance policy as a  
133 condition precedent to coverage for any claim under this  
134 section. However, notwithstanding the foregoing or any  
135 contractual provision, the providing of a copy of such notice to  
136 the person's insurer, if applicable, shall not constitute a  
137 claim for insurance purposes unless provided for under the terms  
138 of the policy. Nothing in this section shall be construed to  
139 impair technical notice provisions or requirements of the  
140 liability policy or alter, amend, or change existing Florida law  
141 relating to rights between insureds and insurers except as  
142 otherwise specifically provided herein.

143 (15) Upon request, the claimant and any person served with  
144 notice pursuant to subsection (1) shall exchange, within 30 days  
145 after service of a written request, which request must cite this



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subsection and include an offer to pay the reasonable costs of reproduction and related fees, any design plans, specifications, and as-built plans; ~~any documents detailing the design drawings or specifications~~; photographs and, videos of the alleged construction defect identified in the notice of claim, ~~and~~ nonprivileged expert reports that describe any defect upon which the claim is made; subcontracts; ~~and~~ purchase orders for the work that is claimed defective or any part of such materials; and the claimant's maintenance records and other documents related to the discovery, investigation, causation, and extent of the alleged defect identified in the notice of claim and any damages resulting therefrom. In the event of subsequent litigation, any party who failed to provide the requested materials shall be subject to such sanctions as the court may impose for a discovery violation. Expert reports exchanged between the parties may not be used in any subsequent litigation for any purpose, unless the expert, or a person affiliated with the expert, testifies as a witness or the report is used or relied upon by an expert who testifies on behalf of the party for whom the report was prepared.

(16) Upon motion filed by the person served with a notice of claim, the court shall award monetary sanctions for costs incurred by such person with respect to an alleged construction defect identified in the notice of claim that was solely the fault of the claimant or its agents, including costs of inspection, investigation, testing, related costs, and attorney fees, upon a finding by the court that the claimant or the claimant's attorney knew or should have known that the claimed defect when initially presented was not supported by the

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175 material facts necessary to establish the claim in accordance  
176 with this chapter or would not be supported by the application  
177 of then-existing law to those material facts. However, monetary  
178 sanctions may not be awarded against the claimant's attorney  
179 under this subsection if he or she acted in good faith, based on  
180 the representations of his or her client, as to the existence of  
181 those material facts.

182 Section 4. Subsection (3) of section 718.203, Florida  
183 Statutes, is amended to read:

184 718.203 Warranties.—

185 (3) "Completion of a building or improvement" means  
186 issuance of a certificate of occupancy, whether temporary or  
187 otherwise, that allows for occupancy or use of ~~for~~ the entire  
188 building or improvement, or an ~~the~~ equivalent authorization  
189 issued by the governmental body having jurisdiction.~~, and~~ In  
190 jurisdictions where no certificate of occupancy or equivalent  
191 authorization is issued, the term ~~it~~ means substantial  
192 completion of construction, finishing, and equipping of the  
193 building or improvement according to the plans and  
194 specifications.

195 Section 5. Subsection (3) of section 719.203, Florida  
196 Statutes, is amended to read:

197 719.203 Warranties.—

198 (3) "Completion of a building or improvement" means  
199 issuance of a certificate of occupancy, whether temporary or  
200 otherwise, that allows for occupancy or use of ~~for~~ the entire  
201 building or improvement, or an ~~the~~ equivalent authorization  
202 issued by the governmental body having jurisdiction.~~, and~~ In  
203 jurisdictions where no certificate of occupancy or equivalent

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204 authorization is issued, the term ~~it~~ means substantial  
205 completion of construction, finishing, and equipping of the  
206 building or improvement according to the plans and  
207 specifications.

208 Section 6. This act shall take effect October 1, 2015.



The Florida Senate

## Committee Agenda Request

**To:** Senator Rob Bradley, Chair  
Committee on Regulated Industries

Patrick L. "Booter" Imhof, Staff Director  
Lynn Koon, Committee Administrative Assistant

**Subject:** Committee Agenda Request

**Date:** February 19, 2015

---

I respectfully request that **Senate Bill #418**, relating to Construction Defect Claims, be placed on the:

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

A handwritten signature in black ink, appearing to read "Garrett Richter", written over a horizontal line.

Senator Garrett Richter  
Florida Senate, District 23

THE FLORIDA SENATE

# APPEARANCE RECORD

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

3/31/15

Meeting Date

418

Bill Number (if applicable)

Topic CONSTRUCTION DEFECTS

Amendment Barcode (if applicable)

Name FRED DUDLEY

Job Title ATTORNEY

Address 3522 THOMAS RD. #301

Phone (850) 294-3471

Street

TALL.

City

FL.

State

32309

Zip

Email DUDLEY@MYLICENSELAW.COM

Speaking: ☐ For ☐ Against ☒ Information

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

→ WITH AMENDMENT

Representing ASSOCIATION OF CONSTRUCTION CONSUMERS

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)

## APPEARANCE RECORD

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

3/31/15  
Meeting Date418  
Bill Number (if applicable)Topic Construction Defect

Amendment Barcode (if applicable)

Name Richard WatsonJob Title Legislative CounselAddress PO Box 10038  
StreetPhone 850 292-0000Tallahassee, FL 32302  
City State ZipEmail rick@watsonandassociates.comSpeaking: ☒ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)Representing Associated Builders and Contractors of FLAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31/15

Meeting Date

418

Bill Number (if applicable)

Topic Construction Defects

Amendment Barcode (if applicable)

Name Rusty Payton

Job Title CEO

Address 2600 Centennial Blvd.  
Street

Phone 567-1073

Tallahassee FL 32308  
City State Zip

Email rp@thba.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Home Builders

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)

3/31/15

*Meeting Date*

418

*Bill Number (if applicable)*

Topic Construction Defects

*Amendment Barcode (if applicable)*

Name Warren Husband

Job Title Attorney

Address 215 S. Monroe Street, Suite 505

Phone 205-9000

*Street*

Tallahassee

FL

32301

Email whh@metzlaw.com

*City*

*State*

*Zip*

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Associated General Contractors Council

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)

3-31-15  
Meeting Date

SB 418  
Bill Number (if applicable)

Topic Construction Defect

Amendment Barcode (if applicable)

Name Buddy Dewar

Job Title VP

Address 200 W. College Ave

Phone

Street

Tallahassee

FL

32301

City

State

Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Fire Sprinkler Assn.

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 418  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Tuesday, March 31, 2015  
**TIME:** 1:30 —3:30 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



305850

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2015	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete lines 50 - 181  
and insert:

Section 3. Subsections (1), (4), (13), and (15) of section 558.004, Florida Statutes, are amended to read:

558.004 Notice and opportunity to repair.—

(1)(a) In actions brought alleging a construction defect, the claimant shall, at least 60 days before filing any action, or at least 120 days before filing an action involving an



305850

association representing more than 20 parcels, serve written notice of claim on the contractor, subcontractor, supplier, or design professional, as applicable, which notice shall refer to this chapter. If the construction defect claim arises from work performed under a contract, the written notice of claim must be served on the person with whom the claimant contracted.

(b) The notice of claim must describe ~~the claim~~ in reasonable detail ~~sufficient to determine the general~~ nature of each alleged construction defect and, if known, a description of the damage or loss resulting from the defect, if known. Based upon at least a visual inspection by the claimant or its agents, the notice of claim must identify the location of each alleged construction defect sufficiently to enable the responding parties to locate the alleged defect without undue burden. The claimant has no obligation to perform destructive or other testing for purposes of this notice.

(c) The claimant shall endeavor to serve the notice of claim within 15 days after discovery of an alleged defect, but the failure to serve notice of claim within 15 days does not bar the filing of an action, subject to s. 558.003. This subsection does not preclude a claimant from filing an action sooner than 60 days, or 120 days as applicable, after service of written notice as expressly provided in subsection (6), subsection (7), or subsection (8).

(4) Within 15 days after service of a copy of the notice of claim pursuant to subsection (3), or within 30 days after service of the copy of the notice of claim involving an association representing more than 20 parcels, the contractor, subcontractor, supplier, or design professional must serve a



305850

40 written response to the person who served a copy of the notice  
41 of claim. The written response must ~~shall~~ include a report, if  
42 any, of the scope of any inspection of the property and, the  
43 findings and results of the inspection. The written response  
44 must include one or more of the offers or statements specified  
45 in paragraphs (5) (a)-(e), as chosen by the responding  
46 contractor, subcontractor, supplier, or design professional,  
47 with all of the information required for that offer or  
48 statement, ~~a statement of whether the contractor, subcontractor,~~  
49 ~~supplier, or design professional is willing to make repairs to~~  
50 ~~the property or whether such claim is disputed, a description of~~  
51 ~~any repairs they are willing to make to remedy the alleged~~  
52 ~~construction defect, and a timetable for the completion of such~~  
53 ~~repairs. This response may also be served on the initial~~  
54 ~~claimant by the contractor.~~

55 (13) This section does not relieve the person who is served  
56 a notice of claim under subsection (1) from complying with all  
57 contractual provisions of any liability insurance policy as a  
58 condition precedent to coverage for any claim under this  
59 section. However, notwithstanding the foregoing or any  
60 contractual provision, the providing of a copy of such notice to  
61 the person's insurer, if applicable, shall not constitute a  
62 claim for insurance purposes unless the terms of the policy  
63 specify otherwise. Nothing in this section shall be construed to  
64 impair technical notice provisions or requirements of the  
65 liability policy or alter, amend, or change existing Florida law  
66 relating to rights between insureds and insurers except as  
67 otherwise specifically provided herein.

68 (15) Upon request, the claimant and any person served with



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notice pursuant to subsection (1) shall exchange, within 30 days after service of a written request, which request must cite this subsection and include an offer to pay the reasonable costs of reproduction, any design plans, specifications, and as-built plans; ~~any documents detailing the design drawings or specifications;~~ photographs and videos of the alleged construction defect identified in the notice of claim; ~~and~~ expert reports that describe any defect upon which the claim is made; subcontracts; ~~and~~ purchase orders for the work that is claimed defective or any part of such materials; and maintenance records and other documents related to the discovery, investigation, causation, and extent of the alleged defect identified in the notice of claim and any resulting damages. A party may assert any claim of privilege recognized under the laws of this state with respect to any of the disclosure obligations specified in this chapter. In the event of subsequent litigation, any party who failed to provide the requested materials shall be subject to such sanctions as the court may impose for a discovery violation. Expert reports exchanged between the parties may not be used in any subsequent litigation for any purpose, unless the expert, or a person affiliated with the expert, testifies as a witness or the report is used or relied upon by an expert who testifies on behalf of the party for whom the report was prepared.

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

And the title is amended as follows:

Delete lines 8 - 14

and insert:



305850

98        revising requirements for a response; revising  
99        provisions relating to production of certain records;

**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.)

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

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BILL: CS/SB 636

INTRODUCER: Regulated Industries Committee and Senator Latvala

SUBJECT: Public Accountancy

DATE: March 31, 2015

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

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

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 636 limits the licensure requirement for certified public accountant (CPA) firms that use the title “CPA,” “CPA firm,” or any other title, designation, words, letters, abbreviations, or device tending to indicate that the firm performs audits, reviews, and compilations services that involve the rendering of an attestation or opinion. The Board of Accountancy in the Department of Business and Professional Regulation applies current law to require a CPA firm license for all firms who practice public accountancy without distinguishing between the firms that perform the three types of accountancy services, i.e., firms that perform audits, reviews, and compilations that involve the rendering of an opinion or attestation, firms that perform tax preparation, management advisory, or consulting services, and firms that perform one or more services involving the preparation of financial statements that do not involve the rendering of an attestation or opinion.

The bill also provides that the term “quality review” includes the term “peer review” as defined in s. 473.3125, F.S.

**II. Present Situation:**

The Board of Accountancy (board) within the Department of Business and Professional Regulation (department) is the agency charged with regulating the practice of public accountancy.<sup>1</sup> The Division of Certified Public Accounting performs all services for the board concerning the enforcement of ch. 473, F.S., including, but not limited to, recordkeeping

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<sup>1</sup> Section 473.303, F.S.



services, examination services, legal services, and investigative services, and those services in ch. 455, F.S., necessary to perform the board's duties under the chapter. The office of the division is located in Gainesville.<sup>2</sup>

Section 473.302(4), F.S., defines a "certified public accountant" (CPA) to mean a person who holds a license to practice public accounting in this state under the authority of ch. 473, F.S.

Section 473.302(8), F.S., defines the "practice of," "practicing public accountancy," or "public accounting" to mean:

(a) Offering to perform or performing for the public one or more types of services involving the expression of an opinion on financial statements, the attestation as an expert in accountancy to the reliability or fairness of presentation of financial information, the utilization of any form of opinion or financial statements that provide a level of assurance, the utilization of any form of disclaimer of opinion which conveys an assurance of reliability as to matters not specifically disclaimed, or the expression of an opinion on the reliability of an assertion by one party for the use by a third party;

(b) Offering to perform or performing for the public one or more types of services involving the use of accounting skills, or one or more types of tax, management advisory, or consulting services, by any person who is a certified public accountant who holds an active license, including the performance of such services by a certified public accountant in the employ of a person or firm; or

(c) Offering to perform or performing for the public one or more types of service involving the preparation of financial statements not included within paragraph (a), by a certified public accountant who holds an active license, a firm of certified public accountants, or a firm in which a certified public accountant has an ownership interest, including the performance of such services in the employ of another person. The board shall adopt rules establishing standards of practice for such reports and financial statements; provided, however, that nothing in this paragraph shall be construed to permit the board to adopt rules that have the result of prohibiting licensees employed by unlicensed firms from preparing financial statements as authorized by this paragraph.

However, these terms [of practice] shall not include services provided by the American Institute of Certified Public Accountants or the Florida Institute of Certified Public Accountants, or any full service association of certified public accounting firms whose plans of administration have been approved by the board, to their members or services performed by these entities in reviewing the services provided to the public by members of these entities.

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<sup>2</sup> See s. 20.165(2)(c)2., F.S.

## **Firm License Requirement**

Section 473.302(5), F.S., defines the term “firm” to mean “any entity that is engaged in the practice of public accounting.”

Section 473.302(7), F.S., defines the terms “licensed audit firm” or “public accounting firm” to mean a firm licensed under s. 473.3101, F.S.

Section 473.3101(1)(a), F.S., requires that each sole proprietor, partnership, corporation, limited liability company, or any other firm to be licensed if it seeks to engage in the practice of public accounting, as defined in s. 473.302(8)(a), F.S. An application for a firm license must be made upon the affidavit of a sole proprietor, general partner, shareholder, or member who is a certified public accountant.

Section 473.3101(1)(a), F.S., further requires that firms must hold a license if the firm:

- Uses the title “CPA,” “CPA firm,” or any other title, designation, words, letters, abbreviations, or device tending to indicate that the firm practices public accounting; or
- Does not have an office in this state but performs the services described in s. 473.3141(4), F.S.,<sup>3</sup> for a client having its home office in this state, as defined by rule of the board.

According to the department, the board requires a license for all firms who practice public accountancy as defined in s. 473.302(8), F.S., without distinguishing between the firms that perform the services defined by s. 473.302(8)(a), F.S., which includes audits, reviews, and compilations the involve the rendering of an opinion or attestation; firms that perform the services defined by s. 473.302(8)(b), F.S., which includes tax preparation, management advisory, or consulting services; and firms that perform the services defined by s. 473.302(8)(c), F.S., which includes one or more services involving the preparation of financial statements not included within 473.302(8)(a), F.S.<sup>4</sup>

The initial fee for a firm license fee for partnerships, corporations, and limited liability companies is \$145.00. The initial licensure fee for sole proprietor firms is \$45.00. Firms must also pay a special fee of \$5 per license to fund efforts to combat unlicensed activity.<sup>5</sup> The same fees apply for each biennial renewal.<sup>6</sup>

Section 473.309, F.S., establishes requirements for partnerships, corporations, and limited liability companies engaged in the practice of public accounting, as defined in s. 473.302(8)(a), F.S. The requirements include:

- That the partnership, corporation, and limited liability company is recognized by Florida law;
- Partners, shareholders, and members owning at least 51 percent of the financial interests hold an active CPA license in Florida;
- At least one partner, shareholder, or member must have active CPA license in Florida;

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<sup>3</sup> Section 473.3141, F.S., provides the practice requirements for CPA’s from out-of-state.

<sup>4</sup> 2015 Legislative Analysis for SB 636, Department of Business and Professional Regulation, February 9, 2015.

<sup>5</sup> Section 473.305, F.S., and rule 61H1-31.010, F.A.C.

<sup>6</sup> Section 473.305, F.S., and rule 61H1-31.009, F.A.C.

- If the firm does not have an office in this state and is therefore required to have a firm license under s. 473.3101, F.S., at least one partner, shareholder, or member must have active CPA license in Florida;
- All partners, shareholder, or members that are not licensed in Florida are engaged in the business of the company as their principal occupation;
- The partnership, corporation, and limited liability company is in compliance with rules adopted by the board pertaining to minimum capitalization, letters of credit, and adequate public liability insurance; and
- The partnership, corporation, and limited liability company is licensed as required by s. 473.3101, F.S.

### **Peer and Quality Review**

A quality review is defined by s. 473.316, F.S., as a:

[S]tudy, appraisal, or review of one or more aspects of the professional work of an accountant in the practice of public accountancy which is conducted by a professional organization for the purpose of evaluating quality assurance required by professional standards, including a quality assurance or peer review.

Section 473.3125, F.S., defines a “peer review” as the study, appraisal, or review by one or more independent certified public accountants of one or more aspects of the professional work of a licensee. Effective January 1, 2015, all licensed accountancy firms must be enrolled in a peer review program.<sup>7</sup>

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

### **Firm License Requirement**

The bill amends s. 473.302(7), F.S., to define a licensed audit or public accounting firm as a sole proprietorship, partnership, corporation, limited liability company, firm, or any other legal entity licensed under s. 473.3101, F.S.

The bill amends s. 473.309, F.S., require that partnerships, corporations, and limited liability companies engaged in the practice of public accounting must be licensed as a firm under s. 473.3101(1)(b), F.S., which requires a firm license if it uses the title “CPA,” “CPA firm,” or any other title, designation, words, letters, abbreviations, or device tending to indicate that the firm performs audits, reviews, and compilations services that involve the rendering of an attestation or opinion under s. 473.302(8)a), F.S.

The bill also amends s. 473.309, F.S., to correct the cross-reference to s. 473.3101(1)(c), F.S.

The bill amends s. 473.3101(1), F.S., to limit the requirements for a firm license only to firms:

- With an office in this state which performs the services defined in s. 473.302(8)a), F.S.;

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<sup>7</sup> Section 473.3125(4), F.S.

- That use the title “CPA,” “CPA firm,” or any other title, designation, words, letters, abbreviations, or device tending to indicate that the firm performs the services defined in s. 473.302(8)a), F.S.; and
- Firms that do not have a license in Florida but perform the services described in s. 473.3141(4), F.S., for a client having its home office in Florida.

The bill authorizes the board to define by rule what constitutes a CPA firm in the context of firms that use the title “CPA,” “CPA firm,” or any other title, designation, words, letters, abbreviations, or device tending to indicate that the firm performs the services defined in s. 473.302(8)a), F.S.

The bill amends s. 473.3101(2), F.S., to require that applicants for licensure as a firm must file an application with the department and supply the information that the board requires. It requires that the application must be made upon the affidavit of a sole proprietor, general partner, shareholder, or member who is a CPA.

The bill amends ss. 473.3101, 473.316, 473.3125, F.S., to reference the term “firm or public accounting firm” in place of the term “partnership, corporation, or limited liability company;” The bill also amends s. 473.322, F.S., to replace the term “audit firm” with the term “firm.”

### **Quality and Peer Review**

The bill amends s.473.316(1)(d), F.S. to provide that the term “quality review” includes a peer review as defined in s. 473.3125, F.S.

### **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:**

Accounting firms that do not perform audits, reviews, and compilations services that involve the rendering of an attestation or opinion under s. 473.302(8)a), F.S., would not incur the costs of a firm license.

**C. Government Sector Impact:**

The effect of the bill on the collection of fees for accounting firm licenses is indeterminate because, according to the department, it does not track which firms practicing public accounting as defined by s. 473.302(8)(a), F.S., versus those firms that practice public accounting as defined in s. 473.302(8)(b) and (c), F.S.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 473.302, 473.309, 473.3101, 473.3125, 473.316, and 473.322.

**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 31, 2015:**

The committee substitute:

- Amends s. 473.302(7), F.S., to define a licensed audit or public accounting firm as a sole proprietorship, partnership, corporation, limited liability company, firm, or any other legal entity licensed under s. 473.3101, F.S. It does not amend the term to mean a firm licensed under s. 473.3101, F.S., that performs the services described in s. 473.302(8)(a), F.S.
- Amends s. 473.309, F.S., to require that partnerships, corporations, and limited liability companies engaged in the practice of public accounting must be licensed as a firm under s. 47.3101(1)(b), F.S.
- Amends ss. 473.309, F.S., to correct the cross-reference to s. 473.3101(1)(c), F.S.;
- Amends s. 473.3101(2), F.S., to require that applicants for licensure as a firm must file an application with the department and supply the information that the board requires, and to require that the application must be made upon the affidavit of a sole proprietor, general partner, shareholder, or member who is a CPA.

- Amends ss. 473.3101, 473.316, 473.3125, F.S., to reference the term “firm or public accounting firm” in place of the term “partnership, corporation, or limited liability company;”
- Amends s. 473.3101(3), F.S., to correct the cross-reference to s. 473.3101(1)(c), F.S.;
- Amends s. 473.3125, F.S., to cross-reference s. 473.302(7), F.S.; and
- Amends s. 473.322, F.S., to replace the term “audit firm” with the term “firm.”

B. Amendments:

None.

By Senator Latvala

20-01186-15

2015636\_\_

A bill to be entitled  
An act relating to public accountancy; amending s.  
473.302, F.S.; revising the definition of the term  
"licensed audit firm"; amending s. 473.3101, F.S.;  
revising which firms are required to hold a public  
accounting license; amending s. 473.316, F.S.;  
revising the definition of the term "quality review"  
to include a peer review; providing an effective date.

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

Section 1. Subsection (7) of section 473.302, Florida  
Statutes, is amended to read:

473.302 Definitions.—As used in this chapter, the term:  
(7) "Licensed audit firm" or "public accounting firm" means  
a firm licensed under s. 473.3101 that performs services  
described in paragraph (8) (a).

However, these terms shall not include services provided by the  
American Institute of Certified Public Accountants or the  
Florida Institute of Certified Public Accountants, or any full  
service association of certified public accounting firms whose  
plans of administration have been approved by the board, to  
their members or services performed by these entities in  
reviewing the services provided to the public by members of  
these entities.

Section 2. Paragraph (a) of subsection (1) of section  
473.3101, Florida Statutes, is amended to read:

473.3101 Licensure of sole proprietors, partnerships,

20-01186-15

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corporations, limited liability companies, and other legal entities.—

(1) Each sole proprietor, partnership, corporation, limited liability company, or any other firm seeking to engage in the practice of public accounting, as defined in s. 473.302(8)(a), in this state must file an application for licensure with the department and supply the information the board requires. An application must be made upon the affidavit of a sole proprietor, general partner, shareholder, or member who is a certified public accountant.

(a) The following must hold a license issued under this section:

1. Any firm with an office in this state which uses the title "CPA," "CPA firm," or any other title, designation, words, letters, abbreviations, or device tending to indicate that the firm practices public accounting services described in s. 473.302(8)(a).

2. Any firm that does not have an office in this state but performs the services described in s. 473.3141(4) for a client having its home office in this state. The board shall define by rule what constitutes an office.

Section 3. Paragraph (d) of subsection (1) of section 473.316, Florida Statutes, is amended to read:

473.316 Communications between the accountant and client privileged.—

(1) For purposes of this section:

(d) A "quality review" is a study, appraisal, or review of one or more aspects of the professional work of an accountant in the practice of public accountancy which is conducted by a



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professional organization for the purpose of evaluating quality  
assurance required by professional standards, including a  
quality assurance ~~or peer~~ review. The term includes a peer  
review as defined in s. 473.3125.

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

# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Appropriations Subcommittee on  
Transportation, Tourism, and Economic  
Development, *Chair*  
Appropriations  
Commerce and Tourism  
Governmental Oversight and Accountability  
Regulated Industries  
Rules

## SENATOR JACK LATVALA

20th District

February 6, 2015

The Honorable Senator Rob Bradley, Chair  
Senate Committee on Regulated Industries  
330 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Bradley:

I respectfully request consideration of Senate Bill 636 regarding Public Accountancy. I would greatly appreciate the opportunity to present this legislation to the Committee on Regulated Industries as soon as possible.

This bill modifies statutes regarding the public accounting industry by clarifying the terms "licensed audit firm" and "quality review".

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

Jack Latvala  
State Senator  
District 20

Cc: Patrick Imhof, Staff Director; Lynn Koon, Administrative Assistant

**REPLY TO:**

- ☐ 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
- ☐ 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

3/31/15

Meeting Date

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

SB 634

Bill Number (if applicable)

Topic Public Accountancy

Amendment Barcode (if applicable)

Name Deborah Curry

Job Title President / CEO

Address 325 W. College Ave

Phone

City

State

Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Institute of CPAs

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 636  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Tuesday, March 31, 2015  
**TIME:** 1:30 —3:30 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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2015	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (7) of section 473.302, Florida  
Statutes, is amended to read:

473.302 Definitions.—As used in this chapter, the term:

(7) "Licensed ~~audit~~ firm" or "public accounting firm" means  
a sole proprietorship, partnership, corporation, limited  
liability company, firm, or any other legal entity ~~a firm~~



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licensed under s. 473.3101.

However, these terms shall not include services provided by the American Institute of Certified Public Accountants or the Florida Institute of Certified Public Accountants, or any full service association of certified public accounting firms whose plans of administration have been approved by the board, to their members or services performed by these entities in reviewing the services provided to the public by members of these entities.

Section 2. Section 473.309, Florida Statutes, is amended to read:

473.309 Practice requirements for partnerships, corporations, and limited liability companies; business entities practicing public accounting.—

(1) A partnership may not engage in the practice of public accounting, as defined in s. 473.302(8)(a), or meet the requirements of s. 473.3101(1)(b), unless:

(a) It is a form of partnership recognized by Florida law.

(b) Partners owning at least 51 percent of the financial interest and voting rights of the partnership are certified public accountants in some state. However, each partner who is a certified public accountant in another state and is domiciled in this state must be a certified public accountant of this state and hold an active license.

(c) At least one general partner is a certified public accountant of this state and holds an active license or, in the case of a firm that must have a license pursuant to s. 473.3101(1)(c) ~~s. 473.3101(1)(a)2.~~, at least one general partner



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is a certified public accountant in some state and meets the requirements of s. 473.3141(1)(a) or (b).

(d) All partners who are not certified public accountants in any state are engaged in the business of the partnership as their principal occupation.

(e) It is in compliance with rules adopted by the board pertaining to minimum capitalization, letters of credit, and adequate public liability insurance.

(f) It is currently licensed as required by s. 473.3101.

(2) A corporation may not engage in the practice of public accounting, as defined in s. 473.302(8)(a), or meet the requirements of s. 473.3101(1)(b), unless:

(a) It is a corporation duly organized in this or some other state.

(b) Shareholders of the corporation owning at least 51 percent of the financial interest and voting rights of the corporation are certified public accountants in some state and are principally engaged in the business of the corporation. However, each shareholder who is a certified public accountant in another state and is domiciled in this state must be a certified public accountant of this state and hold an active license.

(c) The principal officer of the corporation is a certified public accountant in some state.

(d) At least one shareholder of the corporation is a certified public accountant and holds an active license in this state or, in the case of a firm that must have a license pursuant to s. 473.3101(1)(c) ~~s. 473.3101(1)(a)2.~~, at least one shareholder is a certified public accountant in some state and



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meets the requirements of s. 473.3141(1)(a) or (b).

(e) All shareholders who are not certified public accountants in any state are engaged in the business of the corporation as their principal occupation.

(f) It is in compliance with rules adopted by the board pertaining to minimum capitalization, letters of credit, and adequate public liability insurance.

(g) It is currently licensed as required by s. 473.3101.

(3) A limited liability company may not engage in the practice of public accounting, as defined in s. 473.302(8)(a), or meet the requirements of s. 473.3101(1)(b), unless:

(a) It is a limited liability company duly organized in this or some other state.

(b) Members of the limited liability company owning at least 51 percent of the financial interest and voting rights of the company are certified public accountants in some state. However, each member who is a certified public accountant in some state and is domiciled in this state must be a certified public accountant of this state and hold an active license.

(c) At least one member of the limited liability company is a certified public accountant and holds an active license in this state or, in the case of a firm that must have a license pursuant to s. 473.3101(1)(c) ~~s. 473.3101(1)(a)2.~~, at least one member is a certified public accountant in some state and meets the requirements of s. 473.3141(1)(a) or (b).

(d) All members who are not certified public accountants in any state are engaged in the business of the company as their principal occupation.

(e) It is in compliance with rules adopted by the board





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pertaining to minimum capitalization, letters of credit, and adequate public liability insurance.

(f) It is currently licensed as required by s. 473.3101.

(4) A partnership, corporation, limited liability company, or any other firm is engaged in the practice of public accounting if its employees are engaged in the practice of public accounting. Notwithstanding any other provision of law, a licensed ~~audit~~ firm may own all or part of another licensed ~~audit~~ firm.

Section 3. Section 473.3101, Florida Statutes, is amended to read:

473.3101 Licensure of firms or public accounting firms ~~sole proprietors, partnerships, corporations, limited liability companies, and other legal entities.-~~

(1) The following must hold a license issued under this section: ~~Each sole proprietor, partnership, corporation, limited liability company, or any other firm seeking to engage in the practice of public accounting, as defined in s. 473.302(8)(a), in this state must file an application for licensure with the department and supply the information the board requires. An application must be made upon the affidavit of a sole proprietor, general partner, shareholder, or member who is a certified public accountant.-~~

(a) Any firm with an office in this state which performs services as defined in s. 473.302(8)(a); ~~The following must hold a license issued under this section:-~~

(b)1- Any firm with an office in this state which uses the title "CPA," "CPA firm," or any other title, designation, words, letters, abbreviations, or device tending to indicate that it is



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a CPA firm. The board shall define by rule what constitutes a  
CPA firm; or ~~the firm practices public accounting.~~

(c)2- Any firm that does not have an office in this state  
but performs the services described in s. 473.3141(4) for a  
client having its home office in this state. The board shall  
define by rule what constitutes an office.

(2) An applicant for licensure under this section must file  
an application for licensure with the department and supply the  
information that the board requires. An application must be made  
upon the affidavit of a sole proprietor, general partner,  
shareholder, or member who is a certified public accountant.

(3) ~~(b)~~ A firm that is not subject to the requirements of  
paragraph (1)(c) ~~subparagraph (a)2-~~ may perform other  
professional services while using the title "CPA," "CPA firm,"  
or any other title, designation, words, letters, abbreviations,  
or device tending to indicate that the firm practices public  
accounting in this state without a license issued under this  
section only if:

(a)1- It performs such services through an individual with  
practice privileges granted under s. 473.3141; and

(b)2- It can lawfully do so in the state where the  
individual with practice privileges has his or her principal  
place of business.

(4) ~~(2)~~ The board shall determine whether the firm or public  
accounting ~~sole proprietor, partnership, corporation, limited~~  
~~liability company, or any other~~ firm meets the requirements for  
practice and, pending that determination, may certify to the  
department the firm or public accounting firm ~~partnership,~~  
~~corporation, or limited liability company~~ for provisional



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licensure.

~~(5)(3)~~ Each license must be renewed every 2 years. Each firm or public accounting ~~sole proprietor, partnership, corporation, limited liability company, or any other firm~~ licensed under this section must notify the department within 1 month after any change in the information contained in the application on which its license is based.

Section 4. Paragraph (d) of subsection (1) of section 473.316, Florida Statutes, is amended to read:

473.316 Communications between the accountant and client privileged.—

(1) For purposes of this section:

(d) A "quality review" is a study, appraisal, or review of one or more aspects of the professional work of an accountant in the practice of public accountancy which is conducted by a professional organization for the purpose of evaluating quality assurance required by professional standards, including a quality assurance ~~or peer~~ review. The term includes a peer review as defined in s. 473.3125.

Section 5. Paragraph (a) of subsection (1) and subsection (4) of section 473.3125, Florida Statutes, are amended to read:

473.3125 Peer review.—

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

(a) "Licensee" means a licensed firm or public accounting ~~sole proprietor, partnership, corporation, limited liability company, or any other firm~~ as defined in s. 473.302(7) and engaged in the practice of public accounting as defined in s. 473.302(8) (a) that is required to be licensed under s. 473.3101.

(4) Effective January 1, 2015, a licensed firm or public



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185 ~~accounting sole proprietor, partnership, corporation, limited~~  
186 ~~liability company, or other~~ firm as defined in s. 473.302(7) and  
187 licensed under s. 473.3101 and engaged in the practice of public  
188 accounting as defined in s. 473.302(8)(a), except for the  
189 performance of compilations and reviews as those terms are  
190 defined by the board, must be enrolled in a peer review program.

191 Section 6. Paragraph (c) of subsection (1) of section  
192 473.322, Florida Statutes, is amended to read:

193 473.322 Prohibitions; penalties.—

194 (1) A person may not knowingly:

195 (a) Practice public accounting unless the person is a  
196 certified public accountant or a public accountant;

197 (b) Assume or use the titles or designations "certified  
198 public accountant" or "public accountant" or the abbreviation  
199 "C.P.A." or any other title, designation, words, letters,  
200 abbreviations, sign, card, or device tending to indicate that  
201 the person holds a license to practice public accounting under  
202 this chapter or the laws of any other state, territory, or  
203 foreign jurisdiction, unless the person holds an active license  
204 under this chapter or has the practice privileges pursuant to s.  
205 473.3141;

206 (c) Perform or offer to perform any services described in  
207 s. 473.302(8)(a) unless such person holds an active license  
208 under this chapter and is a licensed ~~audit~~ firm, provides such  
209 services through a licensed ~~audit~~ firm, or complies with ss.  
210 473.3101 and 473.3141. This paragraph does not prohibit the  
211 performance by persons other than certified public accountants  
212 of other services involving the use of accounting skills,  
213 including the preparation of tax returns and the preparation of



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financial statements without expression of opinion thereon;

(d) Present as her or his own the license of another;

(e) Give false or forged evidence to the board or a member thereof;

(f) Use or attempt to use a public accounting license that has been suspended, revoked, or placed on inactive or delinquent status;

(g) Employ unlicensed persons to practice public accounting; or

(h) Conceal information relative to violations of this chapter.

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

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to public accountancy; amending s. 473.302, F.S.; revising the definition of the term "licensed audit firm"; amending s. 473.309, F.S.; revising practice requirements for partnerships, corporations, and limited liability companies; amending s. 473.3101, F.S.; revising provisions relating to the licensure of firms and public accounting firms; amending s. 473.316, F.S.; revising the definition of the term "quality review" to include a peer review; amending ss. 473.3125 and 473.322, F.S.; conforming provisions to changes made by the



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act; providing an effective date.

# CourtSmart Tag Report

**Room:** EL 110  
**Caption:** Senate Regulated Industries Committee

**Type:**  
**Judge:**

**Started:** 3/31/2015 1:35:47 PM  
**Ends:** 3/31/2015 3:25:41 PM  
**Length:** 01:49:55

1:36:08 PM Meeting called to order by the chair  
1:36:19 PM Roll call  
1:36:48 PM Opening comments  
1:36:51 PM Chair recognizes Senator Stargel for SB 736  
1:36:53 PM SB 736 - Senator Stargel  
1:37:11 PM Senator Stargel to explain the bill.  
1:38:08 PM Senator Margolis questioning  
1:39:06 PM Senator Braynon questioning.  
1:39:42 PM Senator Stargel responding  
1:41:24 PM Senator Margolis responding.  
1:44:17 PM Senator Stargel responding to Senator Braynon  
1:45:22 PM Mark Anderson - CEO Management Companies  
1:48:08 PM Travis Mooore - Community Associations Insitute  
1:50:34 PM Senator Diaz de la Portilla questioning  
1:51:23 PM Mr. Anderson to respond to Senator Braynon  
1:52:29 PM Yeline Goin - CALL Community Association Leadership  
1:53:54 PM Senator Stargel questioning  
1:54:14 PM Ms. Goin responding  
1:55:44 PM Senator Margolis responding  
1:59:23 PM Ms. Goin responding to Senator Bradley's question  
2:00:13 PM Ms. Goin discussing questions on the bill  
2:00:59 PM Senator Margolis commenting  
2:01:33 PM Julie Fishman - Community Advocacy Network  
2:02:10 PM David Daniel - Agents Section - Florida Land Title Association  
2:04:25 PM John Krueger, Associa  
2:06:06 PM Beverly McReynolds - North American Trust Co.  
2:08:13 PM Anthony Kalliche - First Service Residential  
2:10:21 PM Robert Kesselback - SCCA - Space Coast Communities Associaation  
2:12:00 PM Senator Margolis questioning  
2:12:39 PM Donna Coggin, Community AdvocacyNetwork and Katzman, Garfinkel  
2:14:08 PM Senator Braynon questioning  
2:14:21 PM MS. Coggin responding  
2:15:58 PM Senator Sachs qestioning  
2:16:11 PM Ms. Coggin responding  
2:16:37 PM Senator Stargel commenting  
2:16:50 PM Ms. Coggin responding  
2:17:23 PM Senator Negrón questioning  
2:18:23 PM Ms. Coggin responding  
2:19:33 PM Senator Stargel responding  
2:20:17 PM Senator Diaz de la Portilla questioning  
2:21:11 PM Ms. Coggin responding  
2:22:02 PM Senator Negrón commenting  
2:22:55 PM Senator Bradley commenting  
2:23:29 PM Shelly Stewart - Title Agents; Southern Title, FCTA, FABA  
2:25:27 PM Manny Reyes - Armos Association Financial Services  
2:28:00 PM Senator Diaz de la Portilla commenting  
2:29:15 PM Mr. Reyes responding  
2:31:13 PM Senator Stargel commenting  
2:31:47 PM Senator Bradley commenting  
2:32:12 PM Senator Braynon commenting in debate  
2:33:06 PM Senator Flores commenting  
2:34:07 PM Senaator Diaz de la Portilla commenting

2:34:47 PM Senator Stargel to close  
2:35:17 PM CS/SB 736 - Passes  
2:35:50 PM CS/SB 614 - Senator Grimsley  
2:36:22 PM Senator Grimsley to explain the bill  
2:38:01 PM Late Filed Amendment 457846  
2:38:25 PM Senator Stargel to explain the amendment  
2:38:39 PM Senator Latvala questioning  
2:38:54 PM Senator Stargel responding  
2:39:11 PM Senator Sachs questioning  
2:39:40 PM Senator Grimsley responding  
2:41:09 PM Amendment adopted  
2:41:22 PM Late filed Amendment 966182  
2:41:38 PM Substitute Amendment 851976  
2:42:02 PM Senator Grimsley to explain  
2:42:44 PM Substitute Amendment adopted  
2:45:54 PM Paul Shidel - Representing himself  
2:50:33 PM Jeff Scott - FL Medical Association  
2:51:01 PM Senator Negron questioning  
2:51:18 PM Mr. Scott responding  
2:53:05 PM Senator Negron commenting  
2:53:35 PM Mr.. Scott responding  
2:54:37 PM Senator Sachs questioning  
2:56:06 PM Chris Nuland - FL Chapter, American College of Physicians  
2:57:37 PM Senator Grimsley to close on the bill  
2:59:23 PM CS/CS/SB 614 - Passes  
3:00:18 PM SB 796 - Senator Evers  
3:00:35 PM Dave Murzin to explain the bill  
3:01:27 PM Senator Negron questioning  
3:02:18 PM SB 796 - Passes  
3:03:09 PM CS/SB 1390 - Senator Hays  
3:03:42 PM Senator Hays to explain the bill  
3:05:05 PM Late filed Amendment 471528  
3:05:23 PM Amendment adopted  
3:06:04 PM Senator Diaz de la Portilla questioning  
3:06:25 PM Senator Hays responding  
3:07:10 PM Senator Hays to close on the bill  
3:07:22 PM CS/SB 1390 - Passes  
3:08:16 PM SB 418 - Senaator Richter  
3:09:02 PM Michael Nacheff to explain the bill  
3:10:03 PM Amendment #305850  
3:10:35 PM Mr. Nacheff to explain the amendment  
3:11:38 PM Amendment adopted  
3:14:01 PM CS/SB 418 - Passes  
3:14:40 PM CS/SB 656 - Senator Latvala  
3:14:51 PM Senator Latvala to explain the bill  
3:15:45 PM Strike all Amendment #297176  
3:16:05 PM Senator Latvala to explain the Amendment  
3:16:58 PM Amendment adopted  
3:17:08 PM Senator Sachs questioning  
3:17:32 PM Matt Dunagan - FL Sheriffs Association  
3:18:35 PM Alice Vickers - FL Alliance for Consumer Protection  
3:21:16 PM Senator Latvala responding  
3:21:56 PM Senator Sachs commenting  
3:22:23 PM CS/CS/SB 656 - Passes  
3:22:52 PM SB 636 - Senator Latvala  
3:23:06 PM Senator Latvale to explain Amendment 887682  
3:24:27 PM Amendment adopted  
3:24:48 PM CS/SB 636 - Passes  
3:25:21 PM Meeting adjourned