

<b>Tab 1</b>	<b>CS/SB 264 by JU, Artiles;</b> (Similar to CS/H 0357) Self-storage					
<b>Tab 2</b>	<b>SB 398 by Passidomo;</b> (Identical to H 0483) Estoppel Certificates					
742226	D	S	RCS	RI, Passidomo	Delete everything after	02/23 05:33 PM
<b>Tab 3</b>	<b>SB 400 by Perry;</b> (Similar to H 0689) Alcoholic Beverages					
477952	A	S		RI, Grimsley	Delete L.310 - 319:	02/21 12:08 PM
201078	A	S		RI, Brandes	btw L.329 - 330:	02/21 12:08 PM
<b>Tab 4</b>	<b>SB 554 by Young (CO-INTRODUCERS) Latvala;</b> (Identical to H 0679) Craft Breweries					
282536	A	S	RCS	RI, Young	Delete L.33 - 41:	02/23 05:34 PM

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

**REGULATED INDUSTRIES**

**Senator Hutson, Chair**

**Senator Hukill, Vice Chair**

**MEETING DATE:** Wednesday, February 22, 2017

**TIME:** 12:30—3:00 p.m.

**PLACE:** 301 Senate Office Building

**MEMBERS:** Senator Hutson, Chair; Senator Hukill, Vice Chair; Senators Benacquisto, Bracy, Brandes, Braynon, Gibson, Perry, Steube, Thurston, and Young

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 264</b> Judiciary / Artiles (Similar H 357)	Self-storage; Providing that a lien sale may be conducted on certain websites; providing that a self-storage facility owner is not required to have a license to post property for online sale; authorizing an owner to impose and collect a late fee from a tenant under certain circumstances; authorizing an owner to charge the tenant certain reasonable expenses incurred in rent collection or lien enforcement, etc.  JU      02/07/2017 Fav/CS RI      02/22/2017 Favorable RC	Favorable Yeas 9 Nays 0
2	<b>SB 398</b> Passidomo (Identical H 483)	Estoppel Certificates; Revising requirements relating to the issuance of an estoppel certificate to specified persons; requiring a condominium, cooperative, or homeowners' association to designate a street or e-mail address on its website for estoppel certificate requests; prohibiting an association from charging a preparation and delivery fee or making certain claims if it fails to deliver an estoppel certificate within certain timeframes, etc.  RI      02/22/2017 Fav/CS JU RC	Fav/CS Yeas 8 Nays 1
3	<b>SB 400</b> Grimsley (Similar H 689, Compare H 141)	Alcoholic Beverages; Authorizing the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to appoint division personnel; revising the entities that may issue a certificate indicating an alcoholic beverage license applicant's place of business meets all of the sanitary requirements of the state, etc.  RI      02/22/2017 Temporarily Postponed AGG AP	Temporarily Postponed

**COMMITTEE MEETING EXPANDED AGENDA**

Regulated Industries

Wednesday, February 22, 2017, 12:30—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 554</b> Young (Identical H 679)	Craft Breweries; Exempting certain vendors from specified delivery restrictions under certain circumstances; providing that certain manufacturers may transport malt beverages in vehicles owned or leased by certain persons other than the manufacturer, etc.  RI 02/22/2017 Fav/CS CM AGG AP	Fav/CS Yeas 6 Nays 3

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Other Related Meeting Documents

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**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 264

INTRODUCER: Judiciary Committee and Senator Artiles

SUBJECT: Self-storage

DATE: February 22, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stallard	Cibula	JU	<b>Fav/CS</b>
2.	Kraemer	McSwain	RI	<b>Favorable</b>
3.			RC	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 264 revises the methods available to owners of a self-service storage facility or self-contained storage unit (storage facility owner) for the sale of stored property when a tenant is delinquent in the payment of rent and other expenses (delinquent tenant).

Current law permits a storage facility owner to sell the stored property of a delinquent tenant in order to recover unpaid rent and other expenses (storage expenses). In addition to the sale of a delinquent tenant's stored property at a physical sale as permitted under current law, the bill authorizes the sale of such property to be conducted on a public website that customarily handles personal property auctions.

Current law specifies the notice and advertising requirements that a storage facility owner must meet before selling a delinquent tenant's stored property. The bill provides that, 60 days after the date that a tenant is obligated to pay rent and other charges for the storage of a motor vehicle or watercraft, a storage facility owner may either sell the motor vehicle or watercraft, or have it towed.

The storage facility owner is not liable for the motor vehicle or watercraft or for any damage to the property once the operator of a wrecker (a vehicle equipped with a winch or similar equipment which is used to tow or transport motor vehicles or vessels on Florida highways) takes possession of the stored property. The wrecker operator must comply with the notification

and sale requirements in current law in order to claim a lien for its towing or storage services or to proceed with a sale of the property.

The bill provides that, if a rental agreement for a storage unit states a limit on the value of the property to be stored, that limit is deemed to be the maximum value of the stored property. This may limit liability of a storage facility owner for damages to or losses of stored property.

As permitted by the bill, if a rental agreement includes a late fee provision, a late fee of the greater of \$20 or 20 percent of the monthly rent amount may be imposed on a delinquent tenant.

The bill has no fiscal impact to state government.

The bill provides an effective date of July 1, 2017.

## **II. Present Situation:**

Sections 83.801-83.809, F.S., constitute the Self-storage Facility Act (act) governing self-storage facilities in this state. The act may not be construed to impair or affect the rights of a storage facility owner and a tenant to create additional rights, duties, and obligations in a rental agreement, and the provisions of the act supplement all other rights in a creditor-debtor or landlord-tenant relationship pursuant to Florida law.<sup>1</sup>

A self-service storage facility (storage facility) is real property designed and used for renting or leasing an individual storage space to a tenant who accesses the space to store and remove personal property, but not to use the space as a residence.<sup>2</sup> A storage facility is not a warehouse as used in ch. 677, F.S.,<sup>3</sup> and if a storage facility owner issues a warehouse receipt, bill of lading, or other document of title for the stored personal property, the transaction is subject to ch. 677, F.S., dealing with documents of title under the Uniform Commercial Code, and not the act.<sup>4</sup>

A self-contained storage unit (unit), such as a box or shipping container, must be a minimum of 200 cubic feet in size leased primarily for use as storage space at a facility owned or operated by the storage facility owner or at a location designated by the tenant.<sup>5</sup> A storage facility owner is defined as an owner, operator, lessor, or sublessor of a storage facility or unit, or any other person authorized by the storage facility owner to manage the facility or to receive rent from a tenant pursuant to a rental agreement for a unit.<sup>6</sup>

The term “tenant” is defined as a person or his sublessee, successor, or assign entitled pursuant to a rental agreement to the exclusive use of storage space at a storage facility or in a unit.<sup>7</sup> The term “rental agreement” includes any agreement or lease which establishes or modifies terms,

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<sup>1</sup> See s. 83.809, F.S.

<sup>2</sup> See s. 83.803(1), F.S.

<sup>3</sup> Chapter 677, F.S., codifies article 7 of the Uniform Commercial Code and governs warehouse receipts, bills of lading, and other documents and procedures relating to the storage and transport of goods.

<sup>4</sup> See s. 83.809(1), F.S.

<sup>5</sup> See s. 83.803(2), F.S.

<sup>6</sup> See s. 83.803(3), F.S.

<sup>7</sup> See s. 83.803(4), F.S.

conditions, rules, or any other provisions concerning the use and occupancy of a storage facility or a unit.<sup>8</sup>

### **Lien Rights**

The act addresses liens against the personal property at a storage facility or in a unit.<sup>9</sup> A storage facility owner (and the owner's heirs, executors, administrators, successors, and assigns) has a lien upon all personal property at a storage facility or in a unit, even if that property is not owned by the tenant. The lien secures rent, labor charges, or other charges, present or future, related to the personal property and for expenses necessary for its preservation or expenses reasonably incurred in its sale or other disposition as permitted by the act.

The lien attaches as of the date that the personal property is brought to the storage facility or the date the tenant takes possession of the unit<sup>10</sup> In the event of default, the storage facility owner must give notice to persons who have properly documented security interests against the tenant (i.e., "perfected interests" against a debtor under the Uniform Commercial Code,<sup>11</sup> pursuant to chs. 670 - 680, F.S.)<sup>12</sup>

### **Actions After Failure by Tenant to Timely Pay Rent**

When a tenant does not timely pay rent, the storage facility owner may deny access, without notice, to the stored property, beginning five days after the due date.<sup>13</sup> The storage facility owner may then pursue legal action, or may proceed without using the courts, if doing so will not create a breach of the peace.<sup>14</sup>

### ***Requirements for Notice of Sale of Stored Property***

Section 83.806, F.S., addresses satisfaction of a storage facility owner's lien against stored property. A tenant must be notified in writing of a pending sale of the tenant's stored property, delivered in person, by electronic mail, or by first-class mail with a certificate of mailing to the tenant's last known address,<sup>15</sup> and a copy of the notice must be conspicuously posted at the storage facility or on the unit. If the storage facility owner does not receive 1) a response to the notice, 2) a return receipt, or 3) a delivery confirmation from the same electronic address of the

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<sup>8</sup> See s. 83.803(5), F.S.

<sup>9</sup> See s. 83.805, F.S.

<sup>10</sup> The lien rights described in s. 83.08(2), F.S., are in favor of owners to whom rent may be due, upon the property found upon or usually kept at the leased premises, and are superior to any lien acquired after the property is brought onto the leased premises.

<sup>11</sup> See s. 671.101, F.S.

<sup>12</sup> See *supra* note 3.

<sup>13</sup> See s. 83.8055, F.S.

<sup>14</sup> *Id.* Section 877.03, F.S., relating to breach of the peace and disorderly conduct, provides that a person who commits acts that corrupt the public morals, or outrage the sense of public decency, or affect the peace and quiet of persons who may witness them, or engages in brawling or fighting, or engages in such conduct as to constitute a breach of the peace or disorderly conduct, is guilty of a second degree misdemeanor, which is punishable by up to 60 days in jail and a fine not exceeding \$500.

<sup>15</sup> See s. 83.803(6), F.S., provides that the last known address is the street address or post office box address provided by the tenant in the latest rental agreement or in a subsequent written change-of-address notice provided by hand delivery, first-class mail, or e-mail.

tenant, the storage facility owner must send the notice by first-class mail with a certificate of mailing to the tenant's last known address, before the storage facility owner may proceed with a sale of the stored property.<sup>16</sup>

The notice of the sale must include:<sup>17</sup>

- An itemized statement of the claim indicating the due date and the amount due;
- The same description, or a reasonably similar description, of the personal property as stated in the rental agreement;
- A demand for payment within a specified time not less than 14 days after delivery of the notice (notice period);
- A conspicuous statement that, unless the claim is paid within the notice period, the personal property will be advertised for sale or other disposition and will be sold or otherwise disposed of at a specified time and place; and
- The name, street address, and telephone number of the storage facility owner whom the tenant may contact to respond to the notice.

A notice of sale is presumed delivered when deposited with the United States Postal Service, properly addressed and with prepaid postage.<sup>18</sup>

### ***Advertisement of the Sale of Stored Property***

After the expiration of the notice period, an advertisement of the sale or other disposition shall be published once a week for two consecutive weeks in a newspaper of general circulation in the area where the storage facility or unit is located. A single advertisement and a single sale may be used to dispose of property, even if the property is owned by more than one person.<sup>19</sup>

Section 83.806(4), F.S., requires that the advertisement of the sale include:

- A brief and general description of what is believed to constitute the personal property contained in the storage unit, pursuant to the rental agreement;
- The address of the storage facility or unit and the tenant's name; and
- The time, place, and manner of the sale, which may not be sooner than 15 days after the first publication.

If no newspaper of general circulation in the area exists where the facility or unit is located, the advertisement of the sale must be posted at least 10 days before the date of the sale, in at least three conspicuous places in the neighborhood where the facility or unit is located.<sup>20</sup>

A sale must be properly noticed and advertised, and conducted in a commercially reasonable manner.<sup>21</sup> The tenant may redeem the property before a sale by paying both the amount required to satisfy the lien and the reasonable expenses incurred by the storage facility owner in

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<sup>16</sup> See s. 83.806(1), F.S.

<sup>17</sup> See s. 83.806(2), F.S.

<sup>18</sup> See s. 83.806(3), F.S.

<sup>19</sup> See s. 83.806(4), F.S.

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

<sup>21</sup> Section 83.806(5), F.S. Section 679.627(2), F.S., states that a disposition of collateral is made in a commercially reasonable manner if the disposition is made in the usual manner and at the current price in any recognized market at the time of disposition, or otherwise in conformity with reasonable commercial practices among dealers in the type of property.

complying with the enforcement procedures required by law (the compliance expenses).<sup>22</sup> Upon receipt of payment, the storage facility owner must return the property to the tenant. If the tenant fails to redeem the property or satisfy the lien and the compliance expenses, the tenant is deemed to have unjustifiably abandoned the storage facility or storage unit, and the storage facility owner may resume possession of the premises.<sup>23</sup> A good faith purchaser of property sold to satisfy a lien and the compliance expenses of a storage facility owner takes the property free of most claims,<sup>24</sup> even if a storage facility owner fails to comply with the procedures required by the act.<sup>25</sup>

### ***Satisfaction of Liens in Favor of Storage Facilities Owners***

After a sale, if the storage facility owner's lien has priority over all other liens in the property:<sup>26</sup>

- The storage facility owner may satisfy the lien from the sale proceeds;
- The lien rights of secured lienholders are automatically transferred to the remaining proceeds of the sale;
- Any balance must be held by the storage facility owner for delivery to the tenant upon demand;
- A notice of any balance must be delivered by the storage facility owner to the tenant either in person or by first-class mail with a certificate of mailing to the tenant's last known address; and
- If the tenant does not claim the balance of the proceeds within 2 years after the sale date, the proceeds are deemed abandoned, and the storage facility owner has no further obligation for payment of the balance.

However, if the storage facility owner's lien does not have priority over all other liens:<sup>27</sup>

- The sale proceeds must be held for the benefit of the holders of all superior liens;
- A notice of the amount of sale proceeds must be delivered by the storage facility owner to the tenant or to the secured lienholders either in person or by first-class mail with a certificate of mailing to their last known addresses; and
- If the tenant or the secured lienholders do not claim the sale proceeds within 2 years after the sale date, the proceeds are deemed abandoned, and the storage facility owner has no further obligation for payment of the proceeds.

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

**Section 1** of the bill authorizes the use of a public website to sell a delinquent tenant's stored property by a self-service storage facility or a self-contained storage unit (storage facility owner), in order to satisfy a lien in favor of the storage facility owner. A storage facility owner need not be licensed to post property for sale on a public website. Current law provides that the sale of stored property for which a tenant is delinquent in paying rent payments may be sold at a specified time and place.

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<sup>22</sup> See s. 83.806(6), F.S.

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

<sup>24</sup> Section 83.808(1), F.S., provides that the act does not affect liens created by special contract or agreement, or any other lien arising at common law, in equity, or by any state statute or any other lien not provided for in s. 83.805, F.S. (liens for charges in favor of a storage facility owner).

<sup>25</sup> See s. 83.806(7), F.S.

<sup>26</sup> See s. 83.806(8), F.S.

<sup>27</sup> *Id.*



If the rental agreement (or an addendum) includes a limit on the value of property that may be stored, as authorized by the bill, the financial liability of a storage facility owner for loss or damage to stored property may be similarly limited.

The bill provides that a storage facility owner may either sell a motor vehicle or watercraft or have the property towed by a wrecker operator. Once a wrecker operator takes possession of the property, the storage facility owner is not liable for the item or any damage to it. The wrecker operator is required to comply with notification and sale requirements provided in s. 713.78, F.S., dealing with liens for recovering, towing, or storing vehicles and vessels.

**Section 2** of the bill permits the imposition of a late fee upon a delinquent tenant under the conditions specified in s. 83.808(3), F.S., created in the bill. A storage facility may charge a reasonable late fee for each rental period that a tenant does not pay rent. However, this fee may be imposed and collected only if its amount is set forth in the contract with the tenant, and the fee may not exceed the greater of \$20 or 20 percent of the monthly rent. The act does not address the imposition of a late fee against a delinquent tenant or provide a limitation on the amount of a late fee.

The bill provides an effective date of July 1, 2017.

#### **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:

CS/SB 264 authorizes the use of a public website to sell a delinquent tenant's stored property by an owner of a self-service storage facility or a self-contained storage unit (storage facility owner), in order to satisfy a lien to recover unpaid rent and other expenses. The use of a public website rather than a sale of stored property at a specified time and place may impact storage facility owners, tenants, and prospective purchasers

who are familiar with the current method authorized in current law for the sale of stored property of a delinquent tenant.

If the rental agreement (or an addendum) includes a limit on the value of property that may be stored as authorized by the bill, the financial liability of a storage facility owner for loss or damage to stored property may be similarly limited.

The ability of a storage facility owner to either sell a motor vehicle or watercraft or have the item towed by a wrecker operator may impact storage facility owners, tenants, and prospective purchasers familiar with the current method of sale authorized for the sale of motor vehicles and watercraft. The financial liability of a storage facility owner for loss or damage to stored property may be reduced due to the transfer of such liability from the storage facility owner to the wrecker operator who takes possession of the property. Delinquent tenants storing motor vehicles or watercraft may be impacted by costs associated with the towing of such stored property, if a storage facility owner uses that method to dispose of a delinquent tenant's property, rather than the method of sale that is authorized under current law for all stored property.

Tenants who do not timely pay rent for the storage of their property may be impacted by the late fee authorized by the bill, if their rental agreements comply with all requirements for the imposition of a late fee set forth in the bill.

**C. Government Sector Impact:**

CS/SB 264 has no fiscal impact to state government.

**VI. Technical Deficiencies:**

Current law provides that an advertisement for the sale of a delinquent tenant's stored property must include the "*place . . . of the sale or other disposition.*"<sup>28</sup> (Emphasis added.) The bill does not specify whether the advertisement must include the physical address of the self-service storage facility or the self-contained storage unit, the address of the public website that customarily conducts personal property auctions, or both addresses.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 83.806 and 83.808.

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<sup>28</sup> See s. 83.806(4)(a)3., F.S.

**IX. Additional Information:**

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

**CS by Judiciary on February 7, 2017:**

The bill specified the way in which a storage facility must attempt to identify any lienholder or owner of a motor vehicle or watercraft stored by a delinquent tenant prior to selling the item. The bill also specified the way in which the storage facility must give notice of the potential sale to any identified lienholder or owner of these items. In contrast, the committee substitute does not specify the way in which storage facilities must perform these tasks.

- B. **Amendments:**

None.

**COMMITTEE:** Regulated Industries  
**ITEM:** CS/SB 264  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Wednesday, February 22, 2017  
**TIME:** 12:30—3:00 p.m.  
**PLACE:** 301 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

By the Committee on Judiciary; and Senator Artiles

590-01724-17

2017264c1

A bill to be entitled  
An act relating to self-storage; amending s. 83.806, F.S.; providing that a lien sale may be conducted on certain websites; providing that a self-storage facility owner is not required to have a license to post property for online sale; providing limits for the maximum valuation of property under certain circumstances; providing options for the disposition of motor vehicles or watercraft claimed to be subject to a lien; amending s. 83.808, F.S.; authorizing an owner to impose and collect a late fee from a tenant under certain circumstances; specifying that late fees in a specified amount are deemed reasonable and do not constitute a penalty; authorizing an owner to charge the tenant certain reasonable expenses incurred in rent collection or lien enforcement; providing an effective date.

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

Section 1. Subsection (4) of section 83.806, Florida Statutes, is amended, and subsections (9) and (10) are added to that section, to read:

83.806 Enforcement of lien.—An owner's lien as provided in s. 83.805 may be satisfied as follows:

(4) After the expiration of the time given in the notice, an advertisement of the sale or other disposition shall be published once a week for 2 consecutive weeks in a newspaper of general circulation in the area where the self-service storage facility or self-contained storage unit is located.

(a) A lien sale may be conducted on a public website that customarily conducts personal property auctions. The facility or

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unit owner is not required to be licensed to post property online for sale pursuant to this subsection. Inasmuch as any sale may involve property of more than one tenant, a single advertisement may be used to dispose of property at any one sale.

(b)~~(a)~~ The advertisement shall include:

1. A brief and general description of what is believed to constitute the personal property contained in the storage unit, as provided in paragraph (2) (b).

2. The address of the self-service storage facility or the address where the self-contained storage unit is located and the name of the tenant.

3. The time, place, and manner of the sale or other disposition. The sale or other disposition shall take place not sooner than 15 days after the first publication.

(c)~~(b)~~ If there is no newspaper of general circulation in the area where the self-service storage facility or self-contained storage unit is located, the advertisement shall be posted at least 10 days before the date of the sale or other disposition in not fewer than three conspicuous places in the neighborhood where the self-service storage facility or self-contained storage unit is located.

(9) If the rental agreement contains a limit on the value of property stored in the tenant's storage space, the limit is deemed to be the maximum value of the property stored in that space.

(10) If a lien is claimed on property that is a motor vehicle or a watercraft and rent and other charges related to the property remain unpaid or unsatisfied for 60 days after the

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62 maturity of the obligation to pay the rent and other charges,  
63 the facility or unit owner may sell the property pursuant to  
64 this section or have the property towed. If a motor vehicle or  
65 watercraft is towed, the facility or unit owner is not liable  
66 for the motor vehicle or watercraft or any damage to the motor  
67 vehicle or watercraft once a wrecker operator takes possession  
68 of the property. The wrecker operator taking possession must  
69 comply with all notification and sale requirements provided in  
70 s. 713.78.

71 Section 2. Subsection (3) is added to section 83.808,  
72 Florida Statutes, to read:

73 83.808 Contracts.—

74 (3) A reasonable late fee may be imposed and collected by a  
75 facility or unit owner for each period that a tenant does not  
76 pay rent when due under the rental agreement; however, the fee  
77 may be imposed and collected only if the amount of the late fee  
78 and the conditions for imposing such fee are stated in the  
79 rental agreement or in an addendum to that agreement. For  
80 purposes of this subsection, a late fee of \$20 or 20 percent of  
81 the monthly rent, whichever is greater, is reasonable. Such late  
82 fee does not constitute a penalty. In addition to the late fee,  
83 any reasonable expense incurred by an owner as a result of rent  
84 collection or lien enforcement may be charged to the lessee.

85 Section 3. This act shall take effect July 1, 2017.



The Florida Senate

## Committee Agenda Request

**To:** Senator Travis Hutson, Chair  
Committee on Regulated Industries


**Subject:** Committee Agenda Request

**Date:** February 21, 2017

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I respectfully request that **Senate Bill #264**, relating to Self-storage, be placed on the:

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

  
\_\_\_\_\_  
Senator Frank Artiles  
Florida Senate, District 40



THE FLORIDA SENATE

APPEARANCE RECORD

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

02/22/17

Meeting Date

SB 264

Bill Number (if applicable)

Topic Self Storage Facilities

Amendment Barcode (if applicable)

Name Joseph Salzberg

Job Title Attorney/Lobbyist

Address 301 S. Brodough Street Suite 600

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 Self Storage Assoc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: CS/SB 398

INTRODUCER: Regulated Industries Committee and Senator Passidomo

SUBJECT: Estoppel Certificates

DATE: February 22, 2017

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

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

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 398 revises requirements for estoppel certificates for condominium, cooperative, and homeowners' associations. When an ownership interest in a condominium unit, cooperative unit, or homeowners' parcel is transferred, the new owner is jointly and severally liable with the previous owner for unpaid assessments owed to a condominium, cooperative, or homeowners' association. Unpaid assessments may also become a lien on the property. Purchasers may request that the seller provide an estoppel certificate from the condominium, cooperative, or homeowners' association to protect against undisclosed financial obligations and to transfer title to the property free of any lien or encumbrance in favor of the 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:

- Revises the period in which an association must respond to a request for an estoppel certificate from 15 days to 10 business days;
- Provides that an estoppel certificate delivered by hand, mail, or e-mail has a 30-day effective period, and a certificate sent by regular mail has a 35-day effective period;
- Specifies the information that the association must provide in the estoppel certificate;
- Prohibits an association from charging a fee for an amended estoppel certificate, and provides a new effective period of 30 days or 35 days, depending on the method used to deliver the amended 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 his or her successors and assigns, who in good faith relies upon the certificate.
- Requires an association to respond to a request for an estoppel certificate from a unit or parcel owner's designee, or a mortgagee or mortgagee's designee within 10 or 15 business days, depending on the method of delivery;
- Authorizes the use of a summary proceeding pursuant to s. 51.011, F.S., to compel compliance with the estoppel certificate requirements for a cooperative association, as existing law provides for condominium and homeowners' associations;
- Permits an association to charge a maximum fee of \$200 for the preparation and delivery of an estoppel certificate, if there are no delinquent amounts owed to the association;
- Permits an association to charge an additional \$100 fee for an expedited estoppel certificate delivered within three business days after a request for an expedited certificate;
- Permits an association to charge an additional maximum fee of \$200, if there is a delinquent amount owed to the association;
- Specifies the maximum fee that an association may charge when it receives simultaneous requests for estoppel certificates for multiple units or parcels owned by the same person and there are no past due monetary obligations owed to the association;
- Requires that the fees for an estoppel certificate requested in conjunction with the sale or mortgage of a unit or parcel in a condominium, cooperative, or homeowners' association must be paid to the association from the closing or settlement proceeds.
- Revises the requirements for a refund of estoppel certificate fees to a third party when the sale or mortgage of a unit and the closing does not occur, to provide that the preparation and delivery fee remains the obligation of the unit or parcel owner and that the association may collect the fee in the same manner as an assessment against the unit or parcel.
- Prohibits an association to condition the preparation and delivery of an estoppel certificate on the payment of any other fees.

The bill has no fiscal impact on state government.

The bill provides an effective date of July 1, 2017.

## **II. Present Situation:**

### **Condominiums**

A condominium is a form of ownership of real property comprised entirely of units that may be owned by one or more persons, which have an undivided share in common elements.<sup>1</sup> The common elements are the portions of the condominium property not included in the units.<sup>2</sup> A condominium is created by recording a declaration of condominium in the public records of the county where the condominium is located.<sup>3</sup> A declaration governs the relationship between the

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

<sup>2</sup> Section 718.103(8), F.S.

<sup>3</sup> Section 718.104(2), F.S.

condominium unit owners and the condominium association.<sup>4</sup> A condominium association is administered by an elected board of administration that can assess costs for common expenses.<sup>5</sup>

### **Cooperative Associations**

A cooperative is a form of ownership of real property in which legal title vests in a corporation or other entity.<sup>6</sup> A cooperative differs from a condominium because the cooperative holds the legal title to the unit and all common elements. The units are not individually owned. Instead, a cooperative unit's occupants receive an exclusive right to occupy the unit. The cooperative association may assess costs for the maintenance of common expenses.<sup>7</sup>

### **Homeowners' Associations**

A homeowners' association is a Florida corporation responsible for the operation of a community in which the voting membership is composed of parcel owners or their agents, or a combination. Membership in the association is a mandatory condition of parcel ownership.<sup>8</sup> A homeowners' association is administered by an elected board of directors that is authorized to impose assessments.<sup>9</sup>

### **Assessments**

An assessment is a unit or parcel owner's share of the funds required for the payment of the association's common expenses.<sup>10</sup> A special assessment is any assessment levied against a unit or parcel owner other than the assessment adopted the annual budget.<sup>11</sup>

Assessments that go unpaid may become a lien on the unit or parcel.<sup>12</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>13</sup> This liability is without prejudice to an owner's right to recover from the previous owner the amounts paid that were assessed during the time that the previous owner owned the property.<sup>14</sup>

### **Estoppel Certificates**

#### ***Delivery Requirements***

To protect against undisclosed financial obligations and to obtain title to the property free of any lien or encumbrance in favor of the association, purchasers may request that the seller provide an

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<sup>4</sup> *Woodside Village Condominium Assoc. Inc. v. Jahren*, 806 So. 2d 452, 456 (Fla. 2002).

<sup>5</sup> Section 718.103(1) and (4), F.S.

<sup>6</sup> Section 719.103(12), F.S.

<sup>7</sup> See ss. 719.106(1)(g) and 719.107, F.S.

<sup>8</sup> Section 720.301(9), F.S.

<sup>9</sup> Section 720.303(2)(c)2., F.S.

<sup>10</sup> Sections 718.103(1), 719.103(1), and 720.301(1), F.S.

<sup>11</sup> Sections 718.103(24) and 719.103(23), F.S.

<sup>12</sup> Sections 718.116(5), 719.108(4), and 720.3085(1), F.S.

<sup>13</sup> Sections 718.116(1)(a), 719.108(1), and 720.3085(2)(b), F.S.

<sup>14</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 (10th ed. 2014).

estoppel certificate from the condominium, cooperative, 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.<sup>15</sup>

Within 15 days after receiving a written request for an estoppel certificate, the association must provide an estoppel 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>16</sup>

### ***Fees***

Condominium and homeowners' associations must establish the authority to charge a fee for an estoppel certificate by a written resolution adopted by the board or by a written management, bookkeeping, or maintenance contract.<sup>17</sup> The fee is payable upon the preparation of the certificate.<sup>18</sup> A cooperative association may charge a fee for the preparation of the certificate, but is not required to establish the fee amount in a written resolution or by a written management, bookkeeping, or maintenance contract.<sup>19</sup>

Condominium and cooperative associations may charge a "reasonable" fee for preparation of an estoppel certificate.<sup>20</sup> Neither the Legislature nor the courts have provided guidance on what constitutes a reasonable fee for an estoppel certificate. This has caused variations in the fee charged by associations for the preparation of an estoppel certificate.

### ***Payment and Refund of the Fee***

The fee for preparation of an estoppel certificate by a condominium or homeowners' association is payable upon the preparation of the certificate.<sup>21</sup> Chapter 719, F.S., does not have a comparable provision for cooperative associations.

For a condominium or homeowners' association, if the certificate is requested in conjunction with the sale or mortgage of a unit and the closing does not occur, the preparer of the certificate must refund the fee to a third party payor 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. Payment of the refund is a legal obligation of the owner, and the association may collect the refunded amount from that owner in the same manner as an assessment.<sup>22</sup> There is no corresponding requirement in ch. 719, F.S., for a refund of the fee for an estoppel certificate paid to a cooperative association.

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<sup>15</sup> Sections 718.116(8), 719.108(6), and 720.30851, F.S.

<sup>16</sup> *Id.*

<sup>17</sup> Sections 718.116(8)(d) and 720.30851(3), F.S.

<sup>18</sup> *Id.*

<sup>19</sup> Section 719.108(6), F.S.

<sup>20</sup> Sections 718.116(8)(c) and 719.108(6), F.S. There is no corresponding requirement in ch. 720, F.S., that the fee charged by a homeowners' association must be reasonable.

<sup>21</sup> Sections 718.116(8)(d) and 720.30851(3), F.S.

<sup>22</sup> Sections 718.116(8)(d) and 720.30851(3), F.S. There is no corresponding requirement in ch. 719, F.S., for a refund of the fee for an estoppel certificate paid to a cooperative association.

## Summary Proceedings

A condominium association and a homeowners' association may be compelled to comply with the requirements in ss. 718.116(8) and 720.30851, F.S., respectively, by a summary proceeding pursuant to s. 51.011, F.S.<sup>23</sup> The prevailing party in the summary proceeding is entitled to recover reasonable attorney fees.<sup>24</sup> Current law does not provide a comparable provision to compel compliance with the estoppel certificate requirements for cooperative associations.

## *Community Association Living Study Council*

After a series of public meetings in 2014, the Community Association Living Study Council,<sup>25</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 the sale is a bulk purchase.<sup>26</sup>

## 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 issued by condominium, cooperative, and homeowners' associations, respectively.

## Delivery of Estoppel Certificates

The bill revises the period in which an association must respond to a request for an estoppel certificate from 15 days to 10 *business* days. An association is required to designate on its website a person or entity with a street or e-mail address for receipt of a request for an estoppel certificate.

The bill requires that an association deliver an estoppel certificate by hand, mail, or e-mail to the requestor on the date of issuance. A certificate that is hand delivered or sent by electronic means has a 30-day effective period, and a certificate sent by regular mail has a 35-day effective period.

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<sup>23</sup> Section 51.011, F.S., specifies a summary procedure for actions that specifically authorize this procedure by statute or rule. Under the summary procedure, the defendant's answer must contain all defenses of law or fact and 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, be filed 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 provides for an immediate trial, if requested.

<sup>24</sup> See 718.116(8)(b) and 720.30851(2), F.S.

<sup>25</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. The Director of the Division of Florida Condominiums, Timeshares, and Mobile Homes appointed an ex officio nonvoting member. The Legislature abolished the Council in 2014. See ch. 2014-133, Laws of Fla.

<sup>26</sup> Final Report Community Association Living Study Council, *Final Report*, March 31, 2014, p. 6, available at <http://www.myfloridalicense.com/dbpr/lsc/documents/2014CALSCReport.pdf> (last visited Feb. 12, 2017).

## Required Form

The bill revises requirements for the issuance of an estoppel certificate to provide that an association must include all of the following information in substantially the following form in each certificate:<sup>27</sup>

- Date of issuance;
- Name of the unit or parcel owner(s) reflected in the books and records of the association;
- Unit designation and address;
- Parking or garage space number, if any;
- Storage locker number, if any;
- Attorney's name and contact information if the account is delinquent and has been turned over to an attorney for collection (no fee may be charged for this information);
- Fee for the preparation and delivery of the estoppel certificate;
- Name of the requestor; and
- Assessment information and other information.

The bill requires that the "Assessment Information" provided by an association contains the following information in substantially the form provided in the bill:

- The amount of regular periodic assessment levied against the unit or parcel;
- The amount of regular periodic assessment is paid to date;
- The date the next installment of the regular periodic assessment is due;
- An itemized list of all assessments, special assessments, and other moneys owed on the date the certificate is issued to the association by the unit or parcel owner; and
- An itemized list of any additional assessments, special assessments, and other moneys that are scheduled to become due during the effective period of the estoppel certificate.

The bill provides that the association, at its option, may include additional information in the estoppel certificate. The bill also provides the form for the following "Other Information," which requires that the association answer specific questions. In the "Other Information" section, the association must:

- Provide the amount, if any, of a capital contribution fee, resale fee, transfer fee, or other fee due;
- Provide the amount, if any, of an association application fee;
- Provide the amount, if any, of a credit balance on the current account, and state whether the amount will be transferred to the new owner account or to the association;
- State whether the association's records include any notice to the unit or parcel owner of violation of rule or regulation;
- Indicate whether the rules or regulations of the association require the approval of the board of directors of the association required for the transfer of the unit or parcel, and if applicable, has the board approved the transfer;
- Indicate whether the rules or regulations of the association provide a right of first refusal in favor of the members or association, and if applicable, include the applicable rules or regulations;

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<sup>27</sup> See ss. 718.116(8), 719.108(6), and 720.30851, F.S.

- Provide a list of utilities provided to the unit which are included in the assessments paid to the association;
- Provide a list of all recreational or land leases to the association affecting the unit;
- Provide a list of, and contact information for, all other associations of which the unit is a member;
- Provide a description of any litigation or administrative proceedings in which the association is a party;
- Provide contact information for all insurance maintained by the association; and
- Provide the signature of an officer or authorized agent of the association.

### **Amending Estoppel Certificates**

The bill permits the association to amend an estoppel certificate within the applicable effective period if additional information or a mistake becomes known. An association may not charge a fee for an amended estoppel certificate. An amended estoppel certificate:

- Becomes effective on the date it is issued and delivered if a sale or refinancing of the unit or parcel has not been completed during the effective period;
- Must be delivered on the date of issuance; and
- Has a new applicable effective period of 30 or 35 days, depending on the method used to deliver the amended certificate, beginning on the date the amended estoppel certificate is issued.

### **Effect of Estoppel Certificates**

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 his or her successors and assigns, who in good faith relies upon the certificate.

### **Requests from Designees or Mortgagees**

The bill requires the association to respond if it receives a request for an estoppel certificate from a unit owner or the unit or parcel owner's designee, or a unit or parcel mortgagee or the unit or parcel mortgagee's designee. If the association fails to deliver the estoppel certificate:

- Within 10 business days, it may not charge a fee for preparation and delivery of that estoppel certificate; or
- Within 15 business days, it waives any claim, including a claim for a lien, against a purchaser and mortgagee who would have relied on the estoppel certificate, and the purchaser's and mortgagee's successors and assigns, for any amount that is owed to the association through the date of closing and that should have been shown on the estoppel certificate.

### **Summary Proceedings**

The bill provides for the use of a summary proceeding pursuant to s. 51.011, F.S., to compel compliance with the estoppel certificate requirements for a cooperative association. This provision is identical to the existing provisions in ss. 718.116(8)(b) and 720.30851(2), F.S., for condominium and homeowners' associations, respectively.



**Fees – Single Units or Parcels**

The bill provides that an association charge a reasonable fee for preparation and delivery of an estoppel certificate for a single unit or parcel. Current law does not authorize a delivery fee. The bill establishes a maximum fee of \$200 for the preparation and delivery of an estoppel certificate, if there are no delinquent amounts owed to the association on the date the certificate is issued. The association may charge an additional \$100 fee for an expedited estoppel certificate delivered within three business days after the request for issuance of an expedited estoppel certificate. The association may charge an additional maximum fee of \$200, if there is a delinquent amount owed to the association.

**Fees – Multiple Units or Parcels**

The bill provides the maximum fees that an association may charge when it receives simultaneous requests for estoppel certificates for multiple units or parcels owned by the same person and there are no past due monetary obligations owed to the association. The association may deliver the statement of moneys due in one or more estoppel certificates. However, the association may not charge a total fee that exceeds:

- \$750 for 25 or fewer units or parcels;
- \$1,000 for 26 to 50 units or parcels;
- \$1,500 for 51 to 100 units or parcels; or
- \$2,500 for more than 100 units or parcels.

**Payments and Refunds**

The bill also repeals the requirements in ss. 718.116(8)(d) and 720.30851(3), F.S., that the fee for an estoppel certificate in a condominium and homeowners' association, respectively, is payable upon preparation by an association. For condominium or homeowners' associations, the bill also repeals the requirement that the preparer of the certificate must refund the fee to a third party payor within 30 days after receipt of the request for refund, if the request is in conjunction with the sale or mortgage of a unit or parcel and the closing does not occur. The bill also repeals the requirement that a refund from a condominium and homeowners' association has to be made no later than 30 days after the closing date for which the certificate was sought and that the request include reasonable documentation that the sale did not occur.

The bill provides that the fees for an estoppel certificate requested in conjunction with the sale or mortgage of a unit or parcel in a condominium, cooperative, or homeowners' association must be paid to the association from the closing or settlement proceeds.

The bill provides that, if the closing does not occur, the preparation and delivery fee remains the obligation of the unit or parcel owner, and the association may collect the fee in the same manner as an assessment against the unit or parcel. Current law does not provide a comparable provision for cooperative associations, and does not specify the condominium unit owner's or homeowners' association parcel owner's obligation to pay the delivery fee.

The bill provides that an association may not condition the preparation and delivery of an estoppel certificate on the payment of any other fees.

**Effective Date**

The bill provides an effective date of July 1, 2017.

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

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

The bill establishes maximum fees for estoppel certificates, specifies time frames for providing the certificate, and provides the form of the certificate. These provisions may affect existing management, bookkeeping, or maintenance contracts that provide for the issuance of estoppel certificates and the fees for that service. Therefore, these provisions may implicate constitutional impairment of contract concerns.

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

None.

**B. Private Sector Impact:**

CS/SB 398 may cause condominium, cooperative, and homeowners' associations to incur costs to prepare and deliver an estoppel certificate. It is not clear whether the maximum fees permitted by the bill are sufficient to cover an association's costs.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

CS/SB 398 (lines 46-49) requires that an association designate on its website a person or entity with a street or e-mail address for receipt of requests for estoppel certificates. No alternative method is provided if an association does not maintain a website, and the term "website" is not

used in connection with the duties of associations in ch. 718 (Condominiums), ch. 719 (Cooperatives), or ch. 720 (Homeowners' Associations), F.S.<sup>28</sup>

## VII. Related Issues:

The bill requires that an estoppel certificate include information on the form provided by the bill. Some of the information, if provided by a person who is not a lawyer, may constitute the unlicensed practice of law.

The Florida Bar has a standing committee that focuses on the unlicensed practice of law.<sup>29</sup> The committee issues advisory opinions to individuals or organizations seeking guidance as to whether certain activities constitute the unlicensed practice of law. In 1995, a community association manager (CAM) requested an advisory opinion to determine if certain practices constituted the unlicensed practice of law. The committee held hearings and issued a proposed advisory opinion that was reviewed by the Florida Supreme Court in 1996 when it determined that certain activities by a CAM were ministerial in nature and did not constitute the unlicensed practice of law because the activities that did not require significant legal expertise and interpretation to complete; such activities include drafting certificates of assessments and written notices of annual meetings.<sup>30</sup> The court found that other activities performed by a nonlawyer constitute the unlicensed practice of law, including the determination of ownership of property in preparation of a statutory pre-lien letter.

In 2015, the Florida Supreme Court determined that its previous advisory opinion should not be disturbed.<sup>31</sup> The Court concluded that certain activities were ministerial and do not constitute the unlicensed practice of law when performed by a CAM, including preparing a certificate of assessments due once the delinquent account is turned over to the association's lawyer, a foreclosure against the unit has commenced, or a member disputes in writing the amount due to the association.<sup>32</sup> The court found that a CAM engages in the unlicensed practice of law if he or she reviews title instruments to determine ownership of property for preparation of a pre-lien letter.<sup>33</sup> The court relied on a prior decision to determine if an activity constitutes the practice of law:

[I]n determining whether the giving of advice and counsel and the performance of services in legal matters for compensation constitute the practice of law it is safe to follow the rule that if the giving of [the] advice and performance of [the] services affect important rights of a person under the law, and if the reasonable protection of the rights and property of those advised and served requires that the persons giving such advice possess legal skill and a knowledge of the law greater than that possessed by the

<sup>28</sup> The term "website" is used in another context in s. 720.303(13(d), F.S., a provision that expired July 1, 2016 and has not been re-enacted.

<sup>29</sup> See Florida Supreme Court, Standing Committees, Unlicensed Practice of Law, at: <https://www.floridabar.org/DIVEXE/BD/CMStanding.nsf/2021e58ed0c7505585256e45004b060d/494974ec1e28b2a785256c5b0055481e?OpenDocument> (Last visited February 14, 2017).

<sup>30</sup> *The Florida Bar re Advisory Opinion – Activities of Community Association Managers*, 681 So. 2d 1119, 1123 (Fla. 1996).

<sup>31</sup> *The Florida Bar re Advisory Opinion – Activities of Community Association Managers*, 164 So. 3d 650 (Fla. 2015).

<sup>32</sup> *Id.* at 657.

<sup>33</sup> *The Florida Bar re Advisory Opinion* 164 So. 3d at 661, 662.

average citizen, then the giving of such advice and the performance of such services by one for another as a course of conduct constitute the practice of law.<sup>34</sup>

The following information or questions that must be provided or answered in the form of the estoppel certificate provided in the bill may require the retention of legal counsel for preparation of a suitable response:

- Whether the rules or regulations of the association provide a right of first refusal in favor of the members or association, and if applicable, providing copies of the applicable rules or regulations; and
- The utilities that are provided to the unit or parcel which are included in the assessments paid to the association.

### **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 Substantial Changes:**

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

The committee substitute revises the form for the estoppel certificate in ss. 718.116(8)(a), 719.108(6)(a), and 720.30851(1), F.S., to:

- Require that it include the name of the unit or parcel owner(s) “reflected in the books and records of the association;”
- Delete the provision that requires the association to state whether the amount of any credit balance will be transferred to the new owner’s account or to the association;
- Require that it indicate whether the rules or regulations of the association require the approval of the board for the transfer of the unit or parcel, and if applicable, whether the board has approved the transfer; and
- Revise the requirement related to a description of litigation to require that the certificate provide a description of litigation or administrative proceedings in which the association is a party.

#### **B. Amendments:**

None.

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

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<sup>34</sup> *The Florida Bar re Advisory Opinion* 164 So. 3d at 655, quoting *State ex rel. Florida Bar v. Sperry*, 140 So. 2d 587, 591 (Fla. 1962), vacated on other grounds, 373 U.S. 379, 83 S.Ct. 1322, 10 L. Ed. 2d 428 (1963).

## The Florida Senate COMMITTEE VOTE RECORD

**COMMITTEE:** Regulated Industries  
**ITEM:** SB 398  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Wednesday, February 22, 2017  
**TIME:** 12:30—3:00 p.m.  
**PLACE:** 301 Senate Office Building

FINAL VOTE			2/22/2017 Amendment 742226					
			Passidomo					
Yea	Nay	SENATORS	Yea	Nay	Yea	Nay	Yea	Nay
X		Benacquisto						
X		Bracy						
	X	Brandes						
X		Braynon						
		Gibson						
X		Perry						
X		Steube						
X		Thurston						
X		Young						
		Hukill, VICE CHAIR						
X		Hutson, CHAIR						
8	1	<b>TOTALS</b>	RCS	-				
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

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



742226

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/23/2017	.	
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The Committee on Regulated Industries (Passidomo) 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 business ~~15~~ days after receiving a written or  
electronic request therefor from a unit owner or the unit



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owner's ~~his or her~~ designee, or a unit mortgagee or the unit  
mortgagee's ~~his or her~~ designee, the association shall issue the  
estoppel ~~provide a~~ certificate. Each association shall designate  
on its website a person or entity with a street or e-mail  
address for receipt of a request for an estoppel certificate  
issued pursuant to this section. The estoppel certificate must  
be provided by hand delivery, regular mail, or e-mail to the  
requestor on the date of issuance of the estoppel certificate  
signed by an officer or agent of the association stating all  
assessments and other moneys owed to the association by the unit  
owner with respect to the condominium parcel.

(a) The estoppel certificate must contain all of the  
following information and must be substantially in the following  
form:

1. Date of issuance:....
2. Name of the unit owner(s) reflected in the books and  
records of the association:....
3. Unit designation and address:....
4. Parking or garage space number, if any:....
5. Storage locker number, if any:....
6. Attorney's name and contact information if the account  
is delinquent and has been turned over to an attorney for  
collection. No fee may be charged for this information.
7. Fee for the preparation and delivery of the estoppel  
certificate:....
8. Name of the requestor:....
9. Assessment information and other information:

ASSESSMENT INFORMATION:



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40        a. The regular periodic assessment levied against the unit  
41 is \$.... per ...(insert frequency of payment)....

42        b. The regular periodic assessment is paid through  
43 ...(insert date paid through)....

44        c. The next installment of the regular periodic assessment  
45 is due ...(insert due date)... in the amount of \$.....

46        d. An itemized list of all assessments, special  
47 assessments, and other moneys owed on the date of issuance to  
48 the association by the unit owner for a specific unit is  
49 provided.

50        e. An itemized list of any additional assessments, special  
51 assessments, and other moneys that are scheduled to become due  
52 for each day after the date of issuance for the effective period  
53 of the estoppel certificate is provided. In calculating the  
54 amounts that are scheduled to become due, the association may  
55 assume that any delinquent amounts will remain delinquent during  
56 the effective period of the estoppel certificate.

57  
58                    OTHER INFORMATION:

59        f. Is there a capital contribution fee, resale fee,  
60 transfer fee, or other fee due? ...(Yes)... ...(No).... If yes,  
61 specify the type and the amount of the fee.

62        g. What is the amount, if any, of an association  
63 application fee?

64        h. Is there a credit balance on the current account?  
65 ...(Yes)... ...(No)....

66        i. Is there any violation of rule or regulation noticed to  
67 the unit owner in the association official records? ...(Yes)...  
68 ...(No)....





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j. Do the rules and regulations of the association applicable to the unit require approval by the board of directors of the association for the transfer of the unit? ... (Yes) ... (No) ... If yes, has the board approved the transfer of the unit? ... (Yes) ... (No) ....

k. Do rules or regulations applicable to the unit provide for a right of first refusal in favor of the members or association? ... (Yes) ... (No) .... If yes, include applicable rules or regulations.

l. Provide a list of utilities provided to the unit which are included in the assessments paid to the association.

m. Provide a list of all recreational or land leases to the association affecting the unit.

n. Provide a list of, and contact information for, all other associations of which the unit is a member.

o. Provide a description of any litigation or administrative proceedings in which the association is a party.

p. Provide contact information for all insurance maintained by the association.

q. Provide the signature of an officer or authorized agent of the association.

The association, at its option, may include additional information in the estoppel certificate ~~Any person other than the owner who relies upon such certificate shall be protected thereby.~~

(b) An estoppel certificate that is hand delivered or sent by electronic means has a 30-day effective period. An estoppel certificate that is sent by regular mail has a 35-day effective



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period. If additional information or a mistake related to the estoppel certificate becomes known to the association within the effective period, an amended estoppel certificate may be delivered and becomes effective if a sale or refinancing of the unit has not been completed during the effective period. A fee may not be charged for an amended estoppel certificate. An amended estoppel certificate must be delivered on the date of issuance, and a new 30-day or 35-day effective period begins on such date.

(c) An association waives the right to collect any moneys owed in excess of the amounts specified in the estoppel certificate from any person who in good faith relies upon the estoppel certificate and from the person's successors and assigns.

(d) If an association receives a request for an estoppel certificate from a unit owner or the unit owner's designee, or a unit mortgagee or the unit mortgagee's designee, and fails to deliver the estoppel certificate within 10 business days, a fee may not be charged for the preparation and delivery of that estoppel certificate. If the association fails to deliver the estoppel certificate within 15 business days, the association waives any claim, including a claim for a lien against the unit, against a purchaser and mortgagee of the unit who would have relied on the estoppel certificate, and the purchaser's and mortgagee's successors and assigns, for any amount that is owed to the association through the date of closing and that should have been shown on the estoppel certificate.

(e) ~~(b)~~ A summary proceeding pursuant to s. 51.011 may be brought to compel compliance with this subsection, and in any



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such action the prevailing party is entitled to recover  
reasonable attorney ~~attorney's~~ fees.

(f) ~~(e)~~ 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 for the preparation  
and delivery of an estoppel certificate, which may not exceed  
\$200 if, on the date the certificate is issued, no delinquent  
amounts are owed to the association for the applicable unit. If  
an estoppel certificate is requested on an expedited basis and  
delivered within 3 business days after the request, the  
association may charge an additional fee of \$100. If a  
delinquent amount is owed to the association for the applicable  
unit, an additional fee for the estoppel certificate may not  
exceed \$200 ~~for the preparation of the certificate. The amount~~  
~~of the fee must be included on the certificate.~~

(g)1. If estoppel certificates for multiple units owned by  
the same 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, even  
though the fee for each unit shall be computed as set forth in  
paragraph (f), the total fee that the association may charge for  
the preparation and delivery of the estoppel certificates may  
not exceed, in the aggregate:

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

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

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

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

2. If an estoppel certificate is requested in conjunction



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with the sale or refinancing of a unit, the fee for the preparation and delivery of the estoppel certificate shall be paid to the association from the closing or settlement proceeds. If the closing does not occur, the fee for the preparation and delivery of the estoppel certificate remains the obligation of the unit owner, and the association may collect the fee in the same manner as an assessment against the unit. An association may not require the payment of any other fee as a condition for the preparation or delivery of an estoppel certificate.

~~(h)(d) The authority to charge a fee for the preparation and delivery of the estoppel certificate must 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.~~

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 business ~~15~~ days after receiving a written or



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electronic request for an estoppel certificate from a unit owner or the unit owner's designee, or a unit mortgagee or the unit mortgagee's designee, the association shall issue the estoppel certificate. Each association shall designate on its website a person or entity with a street or e-mail address for receipt of a request for an estoppel certificate issued pursuant to this section. The estoppel certificate must be provided by hand delivery, regular mail, or e-mail to the requestor on the date of issuance of the estoppel certificate.

(a) The estoppel certificate must contain all of the following information and must be substantially in the following form:

1. Date of issuance:....
2. Name of the unit owner(s) reflected in the books and records of the association:....
3. Unit designation and address:....
4. Parking or garage space number, if any:....
5. Storage locker number, if any:....
6. Attorney's name and contact information if the account is delinquent and has been turned over to an attorney for collection. No fee may be charged for this information.
7. Fee for the preparation and delivery of the estoppel certificate:....
8. Name of the requestor:....
9. Assessment information and other information:

ASSESSMENT INFORMATION:

a. The regular periodic assessment levied against the unit is \$. .... per ... (insert frequency of payment) ....



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b. The regular periodic assessment is paid through  
...(insert date paid through)....

c. The next installment of the regular periodic assessment  
is due...(insert due date)... in the amount of \$.....

d. An itemized list of all assessments, special  
assessments, and other moneys owed by the unit owner on the date  
of issuance to the association for a specific unit is provided.

e. An itemized list of any additional assessments, special  
assessments, and other moneys that are scheduled to become due  
for each day after the date of issuance for the effective period  
of the estoppel certificate is provided. In calculating the  
amounts that are scheduled to become due, the association may  
assume that any delinquent amounts will remain delinquent during  
the effective period of the estoppel certificate.

OTHER INFORMATION:

f. Is there a capital contribution fee, resale fee,  
transfer fee, or other fee due? ...(Yes)... ...(No).... If yes,  
specify the type and amount of the fee.

g. What is the amount, if any, of an association  
application fee?

h. Is there a credit balance on the current account?  
...(Yes)... ...(No)....

i. Is there any violation of rule or regulation noticed to  
the unit owner in the association official records? ...(Yes)...  
...(No)....

j. Do the rules and regulations of the association  
applicable to the unit require approval by the board of  
directors of the association for the transfer of the unit?



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...Yes... (No)... If yes, has the board approved the transfer of the unit?... (Yes)... (No)....

k. Do rules or regulations applicable to the unit provide for a right of first refusal in favor of the members or association? ... (Yes)... (No).... If yes, include applicable rules or regulations.

l. Provide a list of utilities provided to the unit which are included in the assessments paid to the association.

m. Provide a list of all recreational or land leases to the association affecting the unit.

n. Provide a list of, and contact information for, all other associations of which the unit is a member.

o. Provide a description of any litigation or administrative proceedings in which the association is a party.

p. Provide contact information for all insurance maintained by the association.

q. Provide the signature of an officer or authorized agent of the association.

The association, at its option, may include additional information in the estoppel certificate.

(b) An estoppel certificate that is hand delivered or sent by electronic means has a 30-day effective period. An estoppel certificate that is sent by regular mail has a 35-day effective period. If additional information or a mistake related to the estoppel certificate becomes known to the association within the effective period, an amended estoppel certificate may be delivered and becomes effective if a sale or refinancing of the unit has not been completed during the effective period. A fee



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may not be charged for an amended estoppel certificate. An amended estoppel certificate must be delivered on the date of issuance, and a new 30-day or 35-day effective period begins on such date.

(c) An association waives the right to collect any moneys owed in excess of the amounts specified in the estoppel certificate from any person who in good faith relies upon the estoppel certificate and from the person's successors and assigns.

(d) If an association receives a request for an estoppel certificate from a unit owner or the unit owner's designee, or a unit mortgagee or the unit mortgagee's designee, and fails to deliver the estoppel certificate within 10 business days, a fee may not be charged for the preparation and delivery of that estoppel certificate. If the association fails to deliver the estoppel certificate within 15 business days, the association waives any claim, including a claim for a lien against the unit, against a purchaser and mortgagee of the unit who would have relied on the estoppel certificate, and the purchaser's and mortgagee's successors and assigns, for any amount that is owed to the association through the date of closing and that should have been shown on the estoppel certificate.

(e) 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 fees.

(f) Notwithstanding any limitation on transfer fees contained in s. 719.106(1)(i), an association or its authorized agent may charge a reasonable fee for the preparation and





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delivery of an estoppel certificate, which may not exceed \$200  
if, on the date the certificate is issued, no delinquent amounts  
are owed to the association for the applicable unit. If an  
estoppel certificate is requested on an expedited basis and  
delivered within 3 business days after the request, the  
association may charge an additional fee of \$100. If a  
delinquent amount is owed to the association for the applicable  
unit, an additional fee for the estoppel certificate may not  
exceed \$200.

(g)1. If estoppel certificates for multiple units owned by  
the same 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, even  
though the fee for each unit shall be computed as set forth in  
paragraph (f), the total fee that the association may charge for  
the preparation and delivery of the estoppel certificates may  
not exceed, in the aggregate:

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

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

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

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

2. If an estoppel certificate is requested in conjunction  
with the sale or refinancing of a unit, the fee for the  
preparation and delivery of the estoppel certificate shall be  
paid to the association from the closing or settlement proceeds.  
If the closing does not occur, the fee for the preparation and  
delivery of the estoppel certificate remains the obligation of  
the unit owner, and the association may collect the fee in the



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330 same manner as an assessment against the unit. An association  
331 may not require the payment of any other fee as a condition for  
332 the preparation or delivery of an estoppel certificate.

333 (h) The authority to charge a fee for the preparation and  
334 delivery of the estoppel certificate must be established by a  
335 written resolution adopted by the board or provided by a written  
336 management, bookkeeping, or maintenance contract ~~by a unit owner~~  
337 ~~or mortgagee, the association shall provide a certificate~~  
338 ~~stating all assessments and other moneys owed to the association~~  
339 ~~by the unit owner with respect to the cooperative parcel. Any~~  
340 ~~person other than the unit owner who relies upon such~~  
341 ~~certificate shall be protected thereby. Notwithstanding any~~  
342 ~~limitation on transfer fees contained in s. 719.106(1)(i), the~~  
343 ~~association or its authorized agent may charge a reasonable fee~~  
344 ~~for the preparation of the certificate.~~

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

347 720.30851 Estoppel certificates.—Within 10 business ~~15~~ days  
348 after receiving a written or electronic ~~the date on which a~~  
349 request for an estoppel certificate from a parcel owner or the  
350 parcel owner's designee, or a parcel mortgagee or the parcel  
351 mortgagee's designee, the association shall issue the estoppel  
352 certificate. Each association shall designate on its website a  
353 person or entity with a street or e-mail address for receipt of  
354 a request for an estoppel certificate issued pursuant to this  
355 section. The estoppel certificate must be provided by hand  
356 delivery, regular mail, or e-mail to the requestor on the date  
357 of issuance of the estoppel certificate.

358 (1) The estoppel certificate must contain all of the



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following information and must be substantially in the following form:

(a) Date of issuance:....

(b) Name of the parcel owner(s) reflected in the books and records of the association:....

(c) Parcel designation and address:....

(d) Parking or garage space number, if any:....

(e) Storage locker number, if any:....

(f) Attorney's name and contact information if the account is delinquent and has been turned over to an attorney for collection. No fee may be charged for this information.

(g) Fee for the preparation and delivery of the estoppel certificate:....

(h) Name of the requestor:....

(i) Assessment information and other information:

ASSESSMENT INFORMATION:

1. The regular periodic assessment levied against the parcel is \$.... per ...(insert frequency of payment)....

2. The regular periodic assessment is paid through ...(insert date paid through)....

3. The next installment of the regular periodic assessment is due ...(insert due date)... in the amount of \$.....

4. An itemized list of all assessments, special assessments, and other moneys owed on the date of issuance to the association by the parcel owner for a specific parcel is provided.

5. An itemized list of any additional assessments, special assessments, and other moneys that are scheduled to become due



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for each day after the date of issuance for the effective period of the estoppel certificate is provided. In calculating the amounts that are scheduled to become due, the association may assume that any delinquent amounts will remain delinquent during the effective period of the estoppel certificate.

OTHER INFORMATION:

6. Is there a capital contribution fee, resale fee, transfer fee, or other fee due? ...(Yes)... ...(No).... If yes, specify the type and amount of the fee.

7. What is the amount, if any, of an association application fee?

8. Is there a credit balance on the current account?  
...(Yes)... ...(No)...

9. Is there any violation of rule or regulation noticed to the parcel owner in the association official records?  
...(Yes)... ...(No)....

10. Do the rules and regulations of the association applicable to the parcel require approval by the board of directors of the association for the transfer of the parcel?  
...(Yes)... ...(No).... If yes, has the board approved the transfer of the parcel?... (Yes)... (No)....

11. Do rules or regulations applicable to the parcel provide for a right of first refusal in favor of the members or association? ...(Yes)... ...(No).... If yes, include applicable rules or regulations.

12. Provide a list of utilities provided to the parcel which are included in the assessments paid to the association.

13. Provide a list of all recreational or land leases to



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the association affecting the parcel.

14. Provide a list of, and contact information for, all other associations of which the parcel is a member.

15. Provide a description of any litigation or administrative proceedings in which the association is a party.

16. Provide contact information for all insurance maintained by the association.

17. Provide the signature of an officer or authorized agent of the association.

The association, at its option, may include additional information in the estoppel certificate.

(2) An estoppel certificate that is hand delivered or sent by electronic means has a 30-day effective period. An estoppel certificate that is sent by regular mail has a 35-day effective period. If additional information or a mistake related to the estoppel certificate becomes known to the association within the effective period, an amended estoppel certificate may be delivered and becomes effective if a sale or refinancing of the parcel has not been completed during the effective period. A fee may not be charged for an amended estoppel certificate. An amended estoppel certificate must be delivered on the date of issuance, and a new 30-day or 35-day effective period begins on such date.

(3) An association waives the right to collect any moneys owed in excess of the amounts specified in the estoppel certificate from any person who in good faith relies upon the estoppel certificate and from the person's successors and assigns.



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446       (4) If an association receives a request for an estoppel  
447 certificate from a parcel owner or the parcel owner's designee,  
448 or a parcel mortgagee or the parcel mortgagee's designee, and  
449 fails to deliver an estoppel certificate within 10 business  
450 days, a fee may not be charged for the preparation and delivery  
451 of that estoppel certificate. If the association fails to  
452 deliver the estoppel certificate within 15 business days, the  
453 association waives any claim, including a claim for a lien  
454 against the parcel, against a purchaser and mortgagee of the  
455 parcel who would have relied on the estoppel certificate, and  
456 the purchaser's and mortgagee's successors and assigns, for any  
457 amount that is owed to the association through the date of  
458 closing and that should have been shown on the estoppel  
459 certificate ~~for an estoppel certificate is received from a~~  
460 ~~parcel owner or mortgagee, or his or her designee, the~~  
461 ~~association shall provide a certificate signed by an officer or~~  
462 ~~authorized agent of the association stating all assessments and~~  
463 ~~other moneys owed to the association by the parcel owner or~~  
464 ~~mortgagee with respect to the parcel. An association may charge~~  
465 ~~a fee for the preparation of such certificate, and the amount of~~  
466 ~~such fee must be stated on the certificate.~~

467       ~~(1) Any person other than a parcel owner who relies upon a~~  
468 ~~certificate receives the benefits and protection thereof.~~

469       (5)(2) A summary proceeding pursuant to s. 51.011 may be  
470 brought to compel compliance with this section, and the  
471 prevailing party is entitled to recover reasonable attorney  
472 attorney's fees.

473       (6) An association or its authorized agent may charge a  
474 reasonable fee for the preparation and delivery of an estoppel



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certificate, which may not exceed \$200 if on the date the  
certificate is issued, no delinquent amounts are owed to the  
association for the applicable parcel. If an estoppel  
certificate is requested on an expedited basis and delivered  
within 3 business days after the request, the association may  
charge an additional fee of \$100. If a delinquent amount is owed  
to the association for the applicable parcel, an additional fee  
for the estoppel certificate may not exceed \$200.

(7) (a) If estoppel certificates for multiple parcels owned  
by the same 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, even though the fee for each parcel shall be computed as  
set forth in subsection (6), the total fee that the association  
may charge for the preparation and delivery of the estoppel  
certificates may not exceed, in the aggregate:

1. For 25 or fewer parcels, \$750.
2. For 26 to 50 parcels, \$1,000.
3. For 51 to 100 parcels, \$1,500.
4. For more than 100 parcels, \$2,500.

(b) If an estoppel certificate is requested in conjunction  
with the sale or refinancing of a parcel, the fee for the  
preparation and delivery of the estoppel certificate shall be  
paid to the association from the closing or settlement proceeds.  
If the closing does not occur, the fee for the preparation and  
delivery of the estoppel certificate remains the obligation of  
the parcel owner, and the association may collect the fee in the  
same manner as an assessment against the parcel. An association



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may not require the payment of any other fee as a condition for the preparation or delivery of an estoppel certificate.

~~(8)(3) The authority to charge a fee for the preparation and delivery of the estoppel certificate must 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 parcel 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 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, 2017.

===== 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 estoppel certificates; amending ss.  
718.116, 719.108, and 720.30851, F.S.; revising  
requirements relating to the issuance of an estoppel  
certificate to specified persons; requiring a  
condominium, cooperative, or homeowners' association





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to designate a street or e-mail address on its website for estoppel certificate requests; specifying delivery requirements for an estoppel certificate; requiring that an estoppel certificate contain certain information; providing an effective period for an estoppel certificate based upon the date of issuance and form of delivery; providing that an association waives a specified claim against a person or such person's successors or assigns who in good faith rely on the estoppel certificate; prohibiting an association from charging a preparation and delivery fee or making certain claims if it fails to deliver an estoppel certificate within certain timeframes; revising fee requirements for preparing and delivering an estoppel certificate under various circumstances; authorizing the statement of moneys due to be delivered in one or more estoppel certificates under certain circumstances; providing limits on a total fee charged for the preparation and delivery of estoppel certificates; requiring the fee for an estoppel certificate to be paid from specified proceeds under certain circumstances; requiring that the authority to charge a fee for the estoppel certificate be established by a specified written resolution or provided by a written management, bookkeeping, or maintenance contract; deleting obsolete provisions; conforming provisions to changes made by the act; providing an effective date.

By Senator Passidomo

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A bill to be entitled  
An act relating to estoppel certificates; amending ss.  
718.116, 719.108, and 720.30851, F.S.; revising  
requirements relating to the issuance of an estoppel  
certificate to specified persons; requiring a  
condominium, cooperative, or homeowners' association  
to designate a street or e-mail address on its website  
for estoppel certificate requests; specifying delivery  
requirements for an estoppel certificate; requiring  
that an estoppel certificate contain certain  
information; providing an effective period for an  
estoppel certificate based upon the date of issuance  
and form of delivery; providing that an association  
waives a specified claim against a person or such  
person's successors or assigns who in good faith rely  
on the estoppel certificate; prohibiting an  
association from charging a preparation and delivery  
fee or making certain claims if it fails to deliver an  
estoppel certificate within certain timeframes;  
revising fee requirements for preparing and delivering  
an estoppel certificate under various circumstances;  
authorizing the statement of moneys due to be  
delivered in one or more estoppel certificates under  
certain circumstances; providing limits on a total fee  
charged for the preparation and delivery of estoppel  
certificates; requiring the fee for an estoppel  
certificate to be paid from specified proceeds under  
certain circumstances; requiring that the authority to  
charge a fee for the estoppel certificate be  
established by a specified written resolution or  
provided by a written management, bookkeeping, or  
maintenance contract; deleting obsolete provisions;

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conforming provisions to changes made by the act;  
providing an effective date.

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

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 business ~~15~~ days after receiving a written or  
electronic request therefor from a unit owner or the unit  
owner's ~~his or her~~ designee, or a unit mortgagee or the unit  
mortgagee's ~~his or her~~ designee, the association shall issue the  
estoppel ~~provide a~~ certificate. Each association shall designate  
on its website a person or entity with a street or e-mail  
address for receipt of a request for an estoppel certificate  
issued pursuant to this section. The estoppel certificate must  
be provided by hand delivery, regular mail, or e-mail to the  
requestor on the date of issuance of the estoppel certificate  
signed by an officer or agent of the association stating all  
assessments and other moneys owed to the association by the unit  
owner with respect to the condominium parcel.

(a) The estoppel certificate must contain all of the  
following information and must be substantially in the following  
form:

1. Date of issuance:....
2. Name of the unit owner(s):....
3. Unit designation and address:....
4. Parking or garage space number, if any:....

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5. Storage locker number, if any:....

6. Attorney's name and contact information if the account is delinquent and has been turned over to an attorney for collection. No fee may be charged for this information.

7. Fee for the preparation and delivery of the estoppel certificate:....

8. Name of the requestor:....

9. Assessment information and other information:

ASSESSMENT INFORMATION:

a. The regular periodic assessment levied against the unit is \$.... per ...(insert frequency of payment)....

b. The regular periodic assessment is paid through ...(insert date paid through)....

c. The next installment of the regular periodic assessment is due ...(insert due date)... in the amount of \$.....

d. An itemized list of all assessments, special assessments, and other moneys owed on the date of issuance to the association by the unit owner for a specific unit is provided.

e. An itemized list of any additional assessments, special assessments, and other moneys that are scheduled to become due for each day after the date of issuance for the effective period of the estoppel certificate is provided. In calculating the amounts that are scheduled to become due, the association may assume that any delinquent amounts will remain delinquent during the effective period of the estoppel certificate.

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91 f. Is there a capital contribution fee, resale fee,  
92 transfer fee, or other fee due? ...(Yes)... ...(No).... If yes,  
93 specify the type and the amount of the fee.

94 g. What is the amount, if any, of an association  
95 application fee?

96 h. Is there a credit balance on the current account?  
97 ...(Yes)... ...(No).... If yes, provide the following  
98 information:

99 Yes, a balance of \$.... will be transferred to the new  
100 owner account.

101 Yes, a balance of \$.... will be transferred to the seller  
102 by the association.

103 i. Is there any violation of rule or regulation noticed to  
104 the unit owner in the association official records? ...(Yes)...  
105 ...(No)....

106 j. Is approval by the board of directors of the association  
107 required for the transfer of the unit? ...(Yes)... ...(No)....

108 k. Do rules or regulations applicable to the unit provide  
109 for a right of first refusal in favor of the members or  
110 association? ...(Yes)... ...(No).... If yes, include applicable  
111 rules or regulations.

112 l. Provide a list of utilities provided to the unit which  
113 are included in the assessments paid to the association.

114 m. Provide a list of all recreational or land leases to the  
115 association affecting the unit.

116 n. Provide a list of, and contact information for, all  
117 other associations of which the unit is a member.

118 o. Provide a description of any pending or threatened  
119 litigation or administrative proceedings in which the

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association is a party or which otherwise affect the  
association.

p. Provide contact information for all insurance maintained  
by the association.

q. Provide the signature of an officer or authorized agent  
of the association.

The association, at its option, may include additional  
information in the estoppel certificate ~~Any person other than  
the owner who relies upon such certificate shall be protected  
thereby.~~

(b) An estoppel certificate that is hand delivered or sent  
by electronic means has a 30-day effective period. An estoppel  
certificate that is sent by regular mail has a 35-day effective  
period. If additional information or a mistake related to the  
estoppel certificate becomes known to the association within the  
effective period, an amended estoppel certificate may be  
delivered and becomes effective if a sale or refinancing of the  
unit has not been completed during the effective period. A fee  
may not be charged for an amended estoppel certificate. An  
amended estoppel certificate must be delivered on the date of  
issuance, and a new 30-day or 35-day effective period begins on  
such date.

(c) An association waives the right to collect any moneys  
owed in excess of the amounts specified in the estoppel  
certificate from any person who in good faith relies upon the  
estoppel certificate and from the person's successors and  
assigns.

(d) If an association receives a request for an estoppel

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149 certificate from a unit owner or the unit owner's designee, or a  
150 unit mortgagee or the unit mortgagee's designee, and fails to  
151 deliver the estoppel certificate within 10 business days, a fee  
152 may not be charged for the preparation and delivery of that  
153 estoppel certificate. If the association fails to deliver the  
154 estoppel certificate within 15 business days, the association  
155 waives any claim, including a claim for a lien against the unit,  
156 against a purchaser and mortgagee of the unit who would have  
157 relied on the estoppel certificate, and the purchaser's and  
158 mortgagee's successors and assigns, for any amount that is owed  
159 to the association through the date of closing and that should  
160 have been shown on the estoppel certificate.

161 (e) ~~(b)~~ A summary proceeding pursuant to s. 51.011 may be  
162 brought to compel compliance with this subsection, and in any  
163 such action the prevailing party is entitled to recover  
164 reasonable attorney ~~attorney's~~ fees.

165 (f) ~~(e)~~ Notwithstanding any limitation on transfer fees  
166 contained in s. 718.112(2)(i), an ~~the~~ association or its  
167 authorized agent may charge a reasonable fee for the preparation  
168 and delivery of an estoppel certificate, which may not exceed  
169 \$200 if, on the date the certificate is issued, no delinquent  
170 amounts are owed to the association for the applicable unit. If  
171 an estoppel certificate is requested on an expedited basis and  
172 delivered within 3 business days after the request, the  
173 association may charge an additional fee of \$100. If a  
174 delinquent amount is owed to the association for the applicable  
175 unit, an additional fee for the estoppel certificate may not  
176 exceed \$200 ~~for the preparation of the certificate. The amount~~  
177 ~~of the fee must be included on the certificate.~~

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178       (g)1. If estoppel certificates for multiple units owned by  
179 the same owner are simultaneously requested from the same  
180 association and there are no past due monetary obligations owed  
181 to the association, the statement of moneys due for those units  
182 may be delivered in one or more estoppel certificates, and, even  
183 though the fee for each unit shall be computed as set forth in  
184 paragraph (f), the total fee that the association may charge for  
185 the preparation and delivery of the estoppel certificates may  
186 not exceed, in the aggregate:

187           a. For 25 or fewer units, \$750.

188           b. For 26 to 50 units, \$1,000.

189           c. For 51 to 100 units, \$1,500.

190           d. For more than 100 units, \$2,500.

191       2. If an estoppel certificate is requested in conjunction  
192 with the sale or refinancing of a unit, the fee for the  
193 preparation and delivery of the estoppel certificate shall be  
194 paid to the association from the closing or settlement proceeds.  
195 If the closing does not occur, the fee for the preparation and  
196 delivery of the estoppel certificate remains the obligation of  
197 the unit owner, and the association may collect the fee in the  
198 same manner as an assessment against the unit. An association  
199 may not require the payment of any other fee as a condition for  
200 the preparation or delivery of an estoppel certificate.

201       (h)-(d) The authority to charge a fee for the preparation  
202 and delivery of the estoppel certificate must shall be  
203 established by a written resolution adopted by the board or  
204 provided by a written management, bookkeeping, or maintenance  
205 contract and is payable upon the preparation of the certificate.  
206 If the certificate is requested in conjunction with the sale or



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~~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.~~

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 business ~~15~~ days after receiving a written or electronic request for an estoppel certificate from a unit owner or the unit owner's designee, or a unit mortgagee or the unit mortgagee's designee, the association shall issue the estoppel certificate. Each association shall designate on its website a person or entity with a street or e-mail address for receipt of a request for an estoppel certificate issued pursuant to this section. The estoppel certificate must be provided by hand delivery, regular mail, or e-mail to the requestor on the date of issuance of the estoppel certificate.

(a) The estoppel certificate must contain all of the following information and must be substantially in the following form:

1. Date of issuance:....

2. Name of the unit owner(s):....

3. Unit designation and address:....

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236       4. Parking or garage space number, if any:....

237       5. Storage locker number, if any:....

238       6. Attorney's name and contact information if the account  
239 is delinquent and has been turned over to an attorney for  
240 collection. No fee may be charged for this information.

241       7. Fee for the preparation and delivery of the estoppel  
242 certificate:....

243       8. Name of the requestor:....

244       9. Assessment information and other information:

245  
246                   ASSESSMENT INFORMATION:

247       a. The regular periodic assessment levied against the unit  
248 is \$.... per ...(insert frequency of payment)....

249       b. The regular periodic assessment is paid through  
250 ...(insert date paid through)....

251       c. The next installment of the regular periodic assessment  
252 is due...(insert due date)... in the amount of \$.....

253       d. An itemized list of all assessments, special  
254 assessments, and other moneys owed by the unit owner on the date  
255 of issuance to the association for a specific unit is provided.

256       e. An itemized list of any additional assessments, special  
257 assessments, and other moneys that are scheduled to become due  
258 for each day after the date of issuance for the effective period  
259 of the estoppel certificate is provided. In calculating the  
260 amounts that are scheduled to become due, the association may  
261 assume that any delinquent amounts will remain delinquent during  
262 the effective period of the estoppel certificate.

263  
264                   OTHER INFORMATION:

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265 f. Is there a capital contribution fee, resale fee,  
266 transfer fee, or other fee due? ...(Yes)... ...(No).... If yes,  
267 specify the type and amount of the fee.

268 g. What is the amount, if any, of an association  
269 application fee?

270 h. Is there a credit balance on the current account?  
271 ...(Yes)... ...(No).... If yes, provide the following  
272 information:

273 Yes, a balance of \$.... will be transferred to the new  
274 owner account.

275 Yes, a balance of \$.... will be transferred to the seller  
276 by the association.

277 i. Is there any violation of rule or regulation noticed to  
278 the unit owner in the association official records? ...(Yes)...  
279 ...(No)....

280 j. Is approval by the board of directors of the association  
281 required for the transfer of the unit? ...Yes... ...(No)....

282 k. Do rules or regulations applicable to the unit provide  
283 for a right of first refusal in favor of the members or  
284 association? ...(Yes)... ...(No).... If yes, include applicable  
285 rules or regulations.

286 l. Provide a list of utilities provided to the unit which  
287 are included in the assessments paid to the association.

288 m. Provide a list of all recreational or land leases to the  
289 association affecting the unit.

290 n. Provide a list of, and contact information for, all  
291 other associations of which the unit is a member.

292 o. Provide a description of any pending or threatened  
293 litigation or administrative proceedings in which the

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association is a party or which otherwise affect the  
association.

p. Provide contact information for all insurance maintained  
by the association.

q. Provide the signature of an officer or authorized agent  
of the association.

The association, at its option, may include additional  
information in the estoppel certificate.

(b) An estoppel certificate that is hand delivered or sent  
by electronic means has a 30-day effective period. An estoppel  
certificate that is sent by regular mail has a 35-day effective  
period. If additional information or a mistake related to the  
estoppel certificate becomes known to the association within the  
effective period, an amended estoppel certificate may be  
delivered and becomes effective if a sale or refinancing of the  
unit has not been completed during the effective period. A fee  
may not be charged for an amended estoppel certificate. An  
amended estoppel certificate must be delivered on the date of  
issuance, and a new 30-day or 35-day effective period begins on  
such date.

(c) An association waives the right to collect any moneys  
owed in excess of the amounts specified in the estoppel  
certificate from any person who in good faith relies upon the  
estoppel certificate and from the person's successors and  
assigns.

(d) If an association receives a request for an estoppel  
certificate from a unit owner or the unit owner's designee, or a  
unit mortgagee or the unit mortgagee's designee, and fails to

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323 deliver the estoppel certificate within 10 business days, a fee  
324 may not be charged for the preparation and delivery of that  
325 estoppel certificate. If the association fails to deliver the  
326 estoppel certificate within 15 business days, the association  
327 waives any claim, including a claim for a lien against the unit,  
328 against a purchaser and mortgagee of the unit who would have  
329 relied on the estoppel certificate, and the purchaser's and  
330 mortgagee's successors and assigns, for any amount that is owed  
331 to the association through the date of closing and that should  
332 have been shown on the estoppel certificate.

333 (e) A summary proceeding pursuant to s. 51.011 may be  
334 brought to compel compliance with this subsection, and in any  
335 such action the prevailing party is entitled to recover  
336 reasonable attorney fees.

337 (f) Notwithstanding any limitation on transfer fees  
338 contained in s. 719.106(1)(i), an association or its authorized  
339 agent may charge a reasonable fee for the preparation and  
340 delivery of an estoppel certificate, which may not exceed \$200  
341 if, on the date the certificate is issued, no delinquent amounts  
342 are owed to the association for the applicable unit. If an  
343 estoppel certificate is requested on an expedited basis and  
344 delivered within 3 business days after the request, the  
345 association may charge an additional fee of \$100. If a  
346 delinquent amount is owed to the association for the applicable  
347 unit, an additional fee for the estoppel certificate may not  
348 exceed \$200.

349 (g)1. If estoppel certificates for multiple units owned by  
350 the same owner are simultaneously requested from the same  
351 association and there are no past due monetary obligations owed

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to the association, the statement of moneys due for those units may be delivered in one or more estoppel certificates, and, even though the fee for each unit shall be computed as set forth in paragraph (f), the total fee that the association may charge for the preparation and delivery of the estoppel certificates may not exceed, in the aggregate:

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

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

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

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

2. If an estoppel certificate is requested in conjunction with the sale or refinancing of a unit, the fee for the preparation and delivery of the estoppel certificate shall be paid to the association from the closing or settlement proceeds. If the closing does not occur, the fee for the preparation and delivery of the estoppel certificate remains the obligation of the unit owner, and the association may collect the fee in the same manner as an assessment against the unit. An association may not require the payment of any other fee as a condition for the preparation or delivery of an estoppel certificate.

(h) The authority to charge a fee for the preparation and delivery of the estoppel certificate must be established by a written resolution adopted by the board or provided by a written management, bookkeeping, or maintenance contract ~~by a unit owner or mortgagee, the association shall provide a certificate stating all assessments and other moneys owed to the association by the unit owner with respect to the cooperative parcel. Any person other than the unit owner who relies upon such certificate shall be protected thereby. Notwithstanding any~~

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~~limitation on transfer fees contained in s. 719.106(1)(i), the association or its authorized agent may charge a reasonable fee for the preparation of the certificate.~~

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

720.30851 Estoppel certificates.—Within 10 business ~~15~~ days after receiving a written or electronic ~~the date on which a request for an estoppel certificate from a parcel owner or the parcel owner's designee, or a parcel mortgagee or the parcel mortgagee's designee, the association shall issue the estoppel certificate. Each association shall designate on its website a person or entity with a street or e-mail address for receipt of a request for an estoppel certificate issued pursuant to this section. The estoppel certificate must be provided by hand delivery, regular mail, or e-mail to the requestor on the date of issuance of the estoppel certificate.~~

(1) The estoppel certificate must contain all of the following information and must be substantially in the following form:

(a) Date of issuance:....

(b) Name of the parcel owner(s):....

(c) Parcel designation and address:....

(d) Parking or garage space number, if any:....

(e) Storage locker number, if any:....

(f) Attorney's name and contact information if the account is delinquent and has been turned over to an attorney for collection. No fee may be charged for this information.

(g) Fee for the preparation and delivery of the estoppel certificate:....

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410 (h) Name of the requestor:....

411 (i) Assessment information and other information:

412  
413 ASSESSMENT INFORMATION:

414 1. The regular periodic assessment levied against the  
415 parcel is \$.... per ...(insert frequency of payment)....

416 2. The regular periodic assessment is paid through  
417 ...(insert date paid through)....

418 3. The next installment of the regular periodic assessment  
419 is due ...(insert due date)... in the amount of \$.....

420 4. An itemized list of all assessments, special  
421 assessments, and other moneys owed on the date of issuance to  
422 the association by the parcel owner for a specific parcel is  
423 provided.

424 5. An itemized list of any additional assessments, special  
425 assessments, and other moneys that are scheduled to become due  
426 for each day after the date of issuance for the effective period  
427 of the estoppel certificate is provided. In calculating the  
428 amounts that are scheduled to become due, the association may  
429 assume that any delinquent amounts will remain delinquent during  
430 the effective period of the estoppel certificate.

431  
432 OTHER INFORMATION:

433 6. Is there a capital contribution fee, resale fee,  
434 transfer fee, or other fee due? ...(Yes)... ...(No).... If yes,  
435 specify the type and amount of the fee.

436 7. What is the amount, if any, of an association  
437 application fee?

438 8. Is there a credit balance on the current account?



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439 ...(Yes)... ...(No).... If yes, provide the following  
440 information:

441 Yes, a balance of \$.... will be transferred to the new  
442 owner account.

443 Yes, a balance of \$.... will be transferred to the seller  
444 by the association.

445 9. Is there any violation of rule or regulation noticed to  
446 the parcel owner in the association official records?

447 ...(Yes)... ...(No)....

448 10. Is approval by the board of directors of the  
449 association required for the transfer of the parcel? ...(Yes)...  
450 ...(No)....

451 11. Do rules or regulations applicable to the parcel  
452 provide for a right of first refusal in favor of the members or  
453 association? ...(Yes)... ...(No).... If yes, include applicable  
454 rules or regulations.

455 12. Provide a list of utilities provided to the parcel  
456 which are included in the assessments paid to the association.

457 13. Provide a list of all recreational or land leases to  
458 the association affecting the parcel.

459 14. Provide a list of, and contact information for, all  
460 other associations of which the parcel is a member.

461 15. Provide a description of any pending or threatened  
462 litigation or administrative proceedings in which the  
463 association is a party or which otherwise affect the  
464 association.

465 16. Provide contact information for all insurance  
466 maintained by the association.

467 17. Provide the signature of an officer or authorized agent

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468 of the association.

469  
470 The association, at its option, may include additional  
471 information in the estoppel certificate.

472 (2) An estoppel certificate that is hand delivered or sent  
473 by electronic means has a 30-day effective period. An estoppel  
474 certificate that is sent by regular mail has a 35-day effective  
475 period. If additional information or a mistake related to the  
476 estoppel certificate becomes known to the association within the  
477 effective period, an amended estoppel certificate may be  
478 delivered and becomes effective if a sale or refinancing of the  
479 parcel has not been completed during the effective period. A fee  
480 may not be charged for an amended estoppel certificate. An  
481 amended estoppel certificate must be delivered on the date of  
482 issuance, and a new 30-day or 35-day effective period begins on  
483 such date.

484 (3) An association waives the right to collect any moneys  
485 owed in excess of the amounts specified in the estoppel  
486 certificate from any person who in good faith relies upon the  
487 estoppel certificate and from the person's successors and  
488 assigns.

489 (4) If an association receives a request for an estoppel  
490 certificate from a parcel owner or the parcel owner's designee,  
491 or a parcel mortgagee or the parcel mortgagee's designee, and  
492 fails to deliver an estoppel certificate within 10 business  
493 days, a fee may not be charged for the preparation and delivery  
494 of that estoppel certificate. If the association fails to  
495 deliver the estoppel certificate within 15 business days, the  
496 association waives any claim, including a claim for a lien

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497 against the parcel, against a purchaser and mortgagee of the  
498 parcel who would have relied on the estoppel certificate, and  
499 the purchaser's and mortgagee's successors and assigns, for any  
500 amount that is owed to the association through the date of  
501 closing and that should have been shown on the estoppel  
502 certificate ~~for an estoppel certificate is received from a~~  
503 ~~parcel owner or mortgagee, or his or her designee, the~~  
504 ~~association shall provide a certificate signed by an officer or~~  
505 ~~authorized agent of the association stating all assessments and~~  
506 ~~other moneys owed to the association by the parcel owner or~~  
507 ~~mortgagee with respect to the parcel. An association may charge~~  
508 ~~a fee for the preparation of such certificate, and the amount of~~  
509 ~~such fee must be stated on the certificate.~~

510 ~~(1) Any person other than a parcel owner who relies upon a~~  
511 ~~certificate receives the benefits and protection thereof.~~

512 ~~(5)(2)~~ A summary proceeding pursuant to s. 51.011 may be  
513 brought to compel compliance with this section, and the  
514 prevailing party is entitled to recover reasonable attorney  
515 attorney's fees.

516 (6) An association or its authorized agent may charge a  
517 reasonable fee for the preparation and delivery of an estoppel  
518 certificate, which may not exceed \$200 if on the date the  
519 certificate is issued, no delinquent amounts are owed to the  
520 association for the applicable parcel. If an estoppel  
521 certificate is requested on an expedited basis and delivered  
522 within 3 business days after the request, the association may  
523 charge an additional fee of \$100. If a delinquent amount is owed  
524 to the association for the applicable parcel, an additional fee  
525 for the estoppel certificate may not exceed \$200.

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526 (7) (a) If estoppel certificates for multiple parcels owned  
527 by the same owner are simultaneously requested from the same  
528 association and there are no past due monetary obligations owed  
529 to the association, the statement of moneys due for those  
530 parcels may be delivered in one or more estoppel certificates,  
531 and, even though the fee for each parcel shall be computed as  
532 set forth in subsection (6), the total fee that the association  
533 may charge for the preparation and delivery of the estoppel  
534 certificates may not exceed, in the aggregate:

535 1. For 25 or fewer parcels, \$750.

536 2. For 26 to 50 parcels, \$1,000.

537 3. For 51 to 100 parcels, \$1,500.

538 4. For more than 100 parcels, \$2,500.

539 (b) If an estoppel certificate is requested in conjunction  
540 with the sale or refinancing of a parcel, the fee for the  
541 preparation and delivery of the estoppel certificate shall be  
542 paid to the association from the closing or settlement proceeds.  
543 If the closing does not occur, the fee for the preparation and  
544 delivery of the estoppel certificate remains the obligation of  
545 the parcel owner, and the association may collect the fee in the  
546 same manner as an assessment against the parcel. An association  
547 may not require the payment of any other fee as a condition for  
548 the preparation or delivery of an estoppel certificate.

549 (8) ~~(3)~~ The authority to charge a fee for the preparation  
550 and delivery of the estoppel certificate ~~must~~ shall be  
551 established by a written resolution adopted by the board or  
552 provided by a written management, bookkeeping, or maintenance  
553 contract and is payable upon the preparation of the certificate.  
554 If the certificate is requested in conjunction with the sale or

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~~mortgage of a parcel 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 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, 2017.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR KATHLEEN PASSIDOMO**

28th District

**COMMITTEES:**

Ethics and Elections, *Chair*  
Healthy Policy, *Vice Chair*  
Appropriations Subcommittee on Health and  
Human Services  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Commerce and Tourism

**SELECT COMMITTEE:**

Joint Select Committee on Collective Bargaining

**JOINT COMMITTEE:**

Joint Legislative Auditing Committee

January 4, 2017

Honorable Travis Hutson, Chair  
314 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399

**Re: Senate Bill 398**

Dear Chairman Hutson:

Senate Bill 398 and has been referred to the Regulated Industries Committee. Senate Bill 398 revises requirements relating to the issuance of an estoppel certificate to specified persons.

I respectfully request that you place SB 398 on your committee agenda at the earliest opportunity. I am available to speak with you at your convenience if you have any questions about the bill. Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "K. Passidomo", followed by a horizontal line.

Senator Kathleen Passidomo  
District 28

cc: Ross McSwain, Staff Director

**REPLY TO:**

- ☐ 3299 East Tamiami Trail, Suite 203, Naples, Florida 34112 (239) 417-6205
- ☐ 318 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5028

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

**JOE NEGRON**  
President of the Senate

**ANITERE FLORES**  
President Pro Tempore

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2-22-17  
Meeting Date

398

Bill Number (if applicable)

Strike-ALL  
Amendment Barcode (if applicable)

Topic Estoppel Fees

Name Richard Pinsky

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

Address 106 E. College Ave #1200  
Street  
Tallahassee FL 32301  
City State Zip

Phone \_\_\_\_\_

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Cyber Citizens

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)

2/22/17  
Meeting Date

398  
Bill Number (if applicable)

Topic Estoppels

Amendment Barcode (if applicable)

Name Mark Anderson

Job Title Lobbyist

Address 106 S. Monroe  
Street

Phone 813-205-0658

Tallahassee, FL 32301  
City State Zip

Email Mark@ConsultAnders.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing CEOMC

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)

2/22/17  
Meeting Date

398  
Bill Number (if applicable)

Topic Estoppeles

Amendment Barcode (if applicable)

Name Jim Eaton

Job Title Lobbyist

Address 106 S. Monroe

Phone 850-224-6789

Fallahassee FL 32301  
City State Zip

Email Jim.Eaton53@aol.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing QOMC

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)

2-22-17

Meeting Date

SB 398

Bill Number (if applicable)

Topic Estoppel certificates

Amendment Barcode (if applicable)

Name Travis Moore

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

Address P.O. Box 2020

Street

Phone 727.421.6902

St. Petersburg

City

FL

State

33731

Zip

Email travis@moore-relations.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Community Associations Institute & First Service Residential

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)

2/22/17

Meeting Date

SB 398

Bill Number (if applicable)

Topic Estoppel Certificates

Amendment Barcode (if applicable)

Name John Krueger

Job Title VP, Government Affairs

Address 5401 N. Central Expwy #290

Phone 214-272-4078

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

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)

2-22-2017

Meeting Date

396

Bill Number (if applicable)

Topic Estoppel Bill

Amendment Barcode (if applicable)

Name John T. LaJore

Job Title VP - Sensor Operations Counsel -

Address 2082 Summit Lake Drive

Phone (850) 445-9303

Street

Tallahassee

FL

32317

City

State

Zip

Email jlajore@firstam.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing First American Title Insurance Company

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)

Feb 22, 2017  
Meeting Date

SB 398  
Bill Number (if applicable)

Topic Estoppel

Amendment Barcode (if applicable)

Name DAVID DANIEL

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

Address 311 EAST PAUL AVENUE  
Street

Phone 224-5081

TALLAHASSEE FL 32301  
City State Zip

Email ddaniel@smithbryant.com  
llern

Speaking: ☒ For ☐ Against ☐ Information

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

Representing AGENT 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)

2/22/17  
Meeting Date

SB 398  
Bill Number (if applicable)

Topic Escaped Bill

Amendment Barcode (if applicable)

Name Timothy Steele

Job Title Title Agent

Address 2918 W Kennedy Blvd Ste 201  
Street  
Tampa FL 33609  
City State Zip

Phone 813-243-8443

Email tsteele@nat.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing North American Title Company

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)

2/22/17

*Meeting Date*

398

*Bill Number (if applicable)*

Topic Estoppel Certificates

*Amendment Barcode (if applicable)*

Name Greg Black

Job Title Attorney

Address 119 S. Monroe Street, Suite 200

Phone 8502059000

*Street*

Tallahassee

FL

32301

Email greg.black@mhdfirm.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, LLC

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)

Meeting Date \_\_\_\_\_

398  
Bill Number (if applicable) \_\_\_\_\_

Topic Estoppel Certificates

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

Name Doug Bell

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

Address 101 N. Monroe St  
Street

Phone 510-7146

TLH  
City State Zip

Email douglas.bell@bpc.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Westcor Title Ins Co

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)

2/22/2017

*Meeting Date*

398

*Bill Number (if applicable)*

Topic Estoppel Certificates

*Amendment Barcode (if applicable)*

Name Danielle Scoggins

Job Title Senior Public Policy Representative

Address 200 South Monroe Street

Phone 850-224-1400

*Street*

Tallahassee

Florida

32312

Email danielles@floridarealtors.org

*City*

*State*

*Zip*

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)

2.22.17

Meeting Date

398

Bill Number (if applicable)

Topic Estoppel Certificates

Amendment Barcode (if applicable)

Name Ron Book

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

Address 18851 NE 29 Ave, STE 1010

Street

Phone 305-935-1866

Aventura FL 33180

City

State

Zip

Email Ron@RLBOOKPA.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing First Service Residential

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)

2.22.17

Meeting Date

398

Bill Number (if applicable)

Topic estoppel Reform

Amendment Barcode (if applicable)

Name Ashley Kalifeh

Job Title lobbyist

Address 101 E. College Ave #502

Phone 222.9075

Street

Tallahassee

City

State

FL 32303

Zip

Email akalifeh@capitolconsult.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Old Republic Title

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: SB 400

INTRODUCER: Senator Grimsley

SUBJECT: Alcoholic Beverages

DATE: February 21, 2017

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

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Oxamendi</u>	<u>McSwain</u>	<u>RI</u>	<u><b>Pre-meeting</b></u>
2. _____	_____	<u>AGG</u>	_____
3. _____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 400 provides Select Exempt Service status to the following employees of the Division of Alcoholic Beverages and Tobacco (division) in the Department of Business and Professional Regulation (DBPR): chiefs, assistant chiefs, regional managers (including majors), and district or office managers (including captains).

The bill adds the Agency for Health Care Administration as one of the agencies from which an applicant for an alcoholic beverage license for consumption on premises must obtain a certificate that the applicant's place of business meets all sanitary requirements.

Existing law requires that a caterer licensed to sell beer, wine, and distilled spirits must derive at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages. The bill provides that the percentage is based on a caterer's "gross food and nonalcoholic beverage revenue" instead of "gross revenue." A caterer must comply with the 51 percent requirement for each catered event.

Regarding a caterer's license to sell beer, wine and, distilled spirits, the bill expands the types of records that must be maintained to demonstrate compliance with its license. It requires that a caterer maintain all records and receipts for each catered event, including all contracts, customers' names, locations, dates, food purchases and sales, alcoholic beverage purchases and sales, nonalcoholic beverage purchases and sales, and any other records required by rule of the DBPR.

The bill repeals the fee for a temporary license issued in connection with an application to transfer an alcoholic beverage to the purchaser of a licensed business or to change the type or series of a license.

The bill reduces the annual license tax for a craft distillery from \$4,000 to \$1,000.

The bill will reduce net revenue available to the Alcoholic Beverage and Tobacco Trust Fund (AB&T TF) by \$138,814 and revenue from the General Revenue service charge by \$11,105. *See* Section V.

The effective date of the bill is July 1, 2017.

## **II. Present Situation:**

### **Division of Alcoholic Beverages and Tobacco**

The division<sup>1</sup> administers and enforces the Beverage Law,<sup>2</sup> which regulates the manufacture, distribution, and sale of wine, beer, and liquor. The division is also responsible for the administration and enforcement of tobacco products under ch. 569, F.S.

### **State Employment**

Parts I – V of ch. 110, F.S., provide the system of personnel management in the state. Part I contains general state employment provisions; part II addresses the Career Service System; part III deals with the Senior Management Service System; part IV relates to volunteers; and part V establishes the Select Exempt Service System.

The terms “career service” and “career service employee” are not defined in the statutes. A “career service employee” who has satisfactorily completed at least a one-year probationary period may only be suspended or dismissed for cause. Cause includes negligence, inefficiency or inability to perform assigned duties, insubordination, willful violation of the provisions of law or agency rules, conduct unbecoming a public employee, misconduct, habitual drug abuse, or conviction of any crime.<sup>3</sup> Career service employees are entitled a grievance process<sup>4</sup> and the right to appeal a suspension, reduction in pay, demotion, involuntary transfer of more than 50 miles by highway, or dismissal.<sup>5</sup>

Section 110.205(2), F.S., lists the personnel positions that are exempt from the career service classification, including all members, officers, and employees of the Legislature. The career service classification also does not include assistant division directors, deputy division directors, and bureau chief positions in any department, and those positions determined by a department to have managerial responsibilities comparable to those positions.<sup>6</sup> Each department head may exempt a maximum of 20 policymaking or managerial positions from the Career Service System.<sup>7</sup>

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<sup>1</sup> Section 561.02, F.S. Section 561.01(6), F.S., provides that the “Beverage Law” means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

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

<sup>3</sup> Section 110.227(1), F.S.

<sup>4</sup> Section 110.227(4), F.S.

<sup>5</sup> Sections 110.227(5) and (6), F.S.,

<sup>6</sup> Section 110.205(2)(m), F.S.

<sup>7</sup> Section 110.205(2)(n), F.S., provides that policymaking or managerial positions are defined by the Department of Management Services and approved by the Administration Commission. Created in 14.202, F.S., the Administration Commission is part of the Executive Office of the Governor and is composed of the Governor and Cabinet.

Select Exempt Service is a separate system of personnel administration for positions that are exempt from the Career Service System and have duties and responsibilities that are managerial/policymaking, professional, or nonmanagerial/nonpolicymaking.<sup>8</sup> Employees in the Select Exempt Service serve at the pleasure of the agency head and are subject to suspension, dismissal, reduction in pay, demotions, transfer, or other personnel action at the discretion of the agency head.<sup>9</sup>

### **Alcoholic Beverage License Applications – Sanitation Safety Certificate**

Section 561.17(2), F.S., requires that alcoholic beverage licenses for consumption on the premises include a certificate from the Division of Hotels and Restaurants of the DBPR, the Department of Agriculture and Consumer Services, the Department of Health, or the county health department that the place of business meets all of the sanitary requirements of the state.

### **Caterers**

Section 561.20(1), F.S., limits, by county, the number of alcoholic beverage licenses that may be issued for the sale of distilled spirits, to one license per 7,500 residents within the county. These limited alcoholic beverage licenses are known as “quota” licenses. New quota licenses are created and issued when there is an increase in the population of a county. The licenses can also be issued when a county initially changes its status from a county that does not permit the sale of intoxicating liquor to one that permits such sale. The quota license is the only alcoholic beverage license that is limited in number; all other types of alcoholic beverage licenses are available without limitation.

The limitation on the number of quota licenses per county does not apply to a caterer licensed by the Division of Hotels and Restaurants under ch. 509, F.S., who derives at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages, and sells or serves beer, wine, and distilled spirits only for consumption on the premises of a catered event at which the licensee provides prepared food. Current law does not specify the period during which the 51 percent requirement applies. In contrast, the quota license exception for restaurants requires that a restaurant derive at least 51 percent of its gross food and beverage revenue from the sale of food and non-alcoholic beverages for the initial 60-day operating period and each subsequent 12-month period.<sup>10</sup>

A caterer must also prominently display its license at any catered event at which the caterer is selling or serving alcoholic beverages.<sup>11</sup>

The annual fee is \$1,820 for a caterer’s alcoholic beverage license to sell or serve beer, wine, and distilled spirits on the premises of events at which the caterer provides prepared food.<sup>12</sup>

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<sup>8</sup> Section 110.602, F.S.

<sup>9</sup> Section 110.604, F.S.

<sup>10</sup> Section 561.20(2)(a)4., F.S.

<sup>11</sup> Section 561.20(2)(a)5., F.S.

<sup>12</sup> See ss. 561.20(2)(a)5., and 565.02(1)(b), F.S.

A caterer is required to maintain for three years all records required by the rule of the DBPR to demonstrate compliance with its license requirements.

### **Temporary License Application Fees**

An alcoholic beverages licensee may sell its licensed business and transfer its alcoholic beverages license to the purchaser of the business.<sup>13</sup> Section 561.331(1), F.S., provides the process for license transfers. The applicant for a transfer is entitled as a matter of right to receive a temporary license of the same type and series as that held by the seller of the business if the application does not on its face disclose a reason for denying the application. The temporary license is valid until the application is denied or 14 days after the initial approval of temporary license. The fee for a temporary license transferred to the purchaser of a business is \$100.

However, before the license is transferred, the purchaser of a beer, wine, or beer and wine license must pay a transfer fee of 10 percent of the annual license tax to the division. The fee to transfer a quota license is assessed on the average annual value of gross sales of alcoholic beverages for the license in the three years immediately preceding transfer. The fee is levied at the rate of 4 mills (four one-thousandths of a dollar), but the transfer fee may not exceed \$5,000. An applicant may elect to pay \$5,000 in lieu of the 4-mill assessment.<sup>14</sup>

An alcoholic beverage licensee may receive a temporary license upon an application to change the location of a license if the application does not on its face disclose a reason to deny the application. There is no temporary license fee to change the location of a license.<sup>15</sup>

An alcoholic beverages licensee may also apply to change the type or series of an alcoholic beverage license. The division may issue the temporary licenses if the application does not on its face disclose a reason to deny the application. These temporary licenses are valid until the application is denied or 14 days after the initial temporary license approval.<sup>16</sup> If the fee for the new license is greater than the fee of the license held by the applicant, the temporary license fee is \$100 or one-fourth of the difference between the license fees, whichever is greater. A fee for the temporary license is not required if the license fee is the same as or less than the license fee for the license then held by the applicant.<sup>17</sup>

### **Craft Distilleries**

Section 565.01, F.S., defines the terms “liquor,” “distilled spirits,” “spirituous liquors,” “spirituous beverages,” or “distilled spirituous liquors” to mean “that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.”

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<sup>13</sup> Section 561.32, F.S.

<sup>14</sup> Section 561.331(1), F.S.

<sup>15</sup> Section 561.331(2), F.S.

<sup>16</sup> Section 561.331(3), F.S.

<sup>17</sup> *Id.*

A “distillery” is a manufacturer of distilled spirits,<sup>18</sup> and a “craft distillery” is a licensed distillery that produces 75,000 or fewer gallons of distilled spirits per calendar year on its premises. A distillery must notify the division in writing of its decision to qualify as a craft distillery.<sup>19</sup>

Distilleries and craft distilleries pay the same amount of state license tax. All distilleries engaged solely in the business of manufacturing distilled spirits, or engaged in the business of blending and rectifying<sup>20</sup> distilled spirits must pay a state license tax of \$4,000 for each plant or branch operating in Florida. Persons who engage in the business of distilling spirits may also rectify and blend spirituous liquors without paying an additional license tax.<sup>21</sup>

A craft distillery may sell to consumers branded products<sup>22</sup> distilled on the licensed premises. The products must be in factory-sealed containers filled at the distillery and sold for off-premises consumption.<sup>23</sup> The sales must occur at the distillery’s souvenir gift shop located on private property contiguous to the licensed distillery premises, and included on the sketch submitted with the license application.<sup>24</sup> The craft distillery is not required to obtain, in addition to its manufacturer’s license, a vendor’s license in order to sell distilled spirits to consumers. Sales must be in face-to-face transactions with consumers<sup>25</sup> who are making a purchase of no more than:

- Two individual containers of each branded product;
- Three individual containers of a single branded product and up to one individual container of a second branded product; or
- Four individual containers of a single branded product.<sup>26</sup>

There are 17 distilleries currently designated as craft distilleries, and an additional 21 licensed distilleries that produce fewer than 75,000 gallons of distilled spirits a year.<sup>27</sup>

### III. Effect of Proposed Changes:

#### Division Personnel

The bill amends s. 561.11(2), F.S., dealing with the power and authority of the division, to provide Select Exempt Service status to chief, assistant chiefs, regional managers (including majors), and district or office managers (including captains).

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<sup>18</sup> Section 565.03(1)(c), F.S.

<sup>19</sup> Section 565.03(1)(b), F.S.

<sup>20</sup> Merriam-Webster defines rectify as the purification (of alcohol) especially by repeated or fractional distillation, *available at* <http://www.merriam-webster.com/dictionary/rectify> (last visited February 15, 2017).

<sup>21</sup> Section 565.03(3), F.S.

<sup>22</sup> Section 565.03(1)(a), F.S., defines “branded product” to mean “any distilled spirits product manufactured on site, which requires a federal certificate and label approval by the Federal Alcohol Administration Act or federal regulations.”

<sup>23</sup> Section 565.03(1)(c), F.S.

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

<sup>25</sup> Section 565.03(1)(c)4., F.S.

<sup>26</sup> Section 565.03(1)(c)1., F.S.

<sup>27</sup> See 2017 Agency Legislative Bill Analysis issued by the DBPR for SB 400, dated February 15, 2017 (on file with Senate Committee on Regulated Industries) at page 11.



**Alcoholic Beverage License Applications – Sanitation Safety Certificate**

The bill amends s. 561.17(2), F.S., to add the Agency for Health Care Administration as one of the agencies from which an applicant for a consumption on premises license must obtain a certificate that its place of business meets all sanitary requirements.

**Caterers**

The bill revises the method used to calculate the percentage of food and nonalcoholic beverages sold by a caterer licensed to sell beer, wine, and distilled spirits by amending s. 561.20(2)(a)5., F.S. It provides that the percentage is based on a caterer's gross food and nonalcoholic beverages revenue. A caterer must comply with the 51 percent requirement for each catered event.

The bill expands the types of records that a caterer must maintain to demonstrate compliance with its license. A caterer must maintain all records and receipts for each catered event, including all contracts, customers' names, locations, dates, food purchases and sales, alcoholic beverage purchases and sales, nonalcoholic beverage purchases and sales, and any other records required by rule of the DBPR.

**Temporary License Application Fees**

The bill amends s. 561.331(1), F.S., to repeal the \$100 fee for a temporary alcoholic beverage license issued in connection with the transfer of a license to the purchaser of a licensed business. It also repeals the fees in s. 561.331(3), F.S., for a temporary license issued in connection with an application to change the type or series of a license. The bill also provides that a temporary license issued in connection with a change of location may be issued without the assessment of any additional fee. Current law does not require the payment of such a fee.

**Craft Distilleries**

The bill amends s. 565.03(2)(a)1., F.S., to reduce the annual license tax for a craft distillery from \$4,000 to \$1,000 if the craft distillery is distilling and bottling all of its distilled products in containers approved for sale.

**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:**

SB 400 repeals the license \$100 fee for a temporary alcoholic beverage license issued in connection with the transfer of a license to the purchaser of a licensed business. The bill also repeals the fee for a temporary license issued in connection with an application to change the type or series of license. This temporary license fee is \$100 or one-fourth of the difference between the license fees, whichever is greater, if the fee for the new license is greater than the fee for the license held by the applicant. A fee for the temporary license is not required if the license fee is the same as or less than the license fee for the license then held by the applicant.

The bill reduces the annual license tax for a craft distillery from \$4,000 to \$1,000 if the craft distillery is distilling and bottling all of its distilled products in containers approved for sale.

**C. Government Sector Impact:**

**Division Personnel.** SB 400 provides Select Exempt Service status to specified employees of the division. The DBPR states that 11 positions are affected by this change, resulting in increased personnel costs of between \$5,499.12 and \$19,800 annually, depending on the type of health coverage (single or family) selected by the affected employees. The DBPR also anticipates a minimal, unspecified increase in costs related to annual leave payouts at each affected employee's time of separation. The DBPR states that it can absorb all of these costs with existing resources.<sup>28</sup>

**Temporary License Application Fees.** The DBPR states that the revenue from temporary licenses issued in connection with an application for a more expensive license type or series varies by year based on individual licensee circumstances and business discretion. Temporary license fees and transfer fees were \$191,600 for FY 2014-15 and \$251,300 for FY 2015-16.<sup>29</sup>

Current law requires that 24 percent of the license tax collected in a county for a manufacturer's license or the vendor's license authorized in the bill be returned to the appropriate county tax collector.<sup>30</sup> Thirty-eight percent of the license taxes collected within a municipality for those types of licenses are returned to the appropriate municipal officer.<sup>31</sup> The state receives the remaining revenue from those licenses, and that revenue is credited to the AB&T TF for the operation of the division and the DBPR.

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<sup>28</sup> See 2017 Agency Legislative Bill Analysis issued by the DBPR for SB 400, dated February 15, 2017 (on file with Senate Committee on Regulated Industries) at page 10.

<sup>29</sup> *Id.*

<sup>30</sup> Section 561.342(1), F.S.

<sup>31</sup> Section 561.342(2), F.S.

Assuming issuance of the same number of temporary licenses as the division issued in FY 2015-16, the bill may reduce annual license tax revenue returned to counties and municipalities by up to \$60,312 and \$95,494, respectively, with a reduction in payments to the AB&T TF of \$95,494.

**Craft Distilleries.** The bill reduces the annual license tax for a craft distillery from \$4,000 to \$1,000 if the craft distillery is distilling and bottling all of its distilled products in containers approved for sale. The DBPR states that there are 17 distilleries currently designated as a craft distillery, and an additional 21 licensed distilleries that produce fewer than the 75,000 gallons of distilled spirits a year required to qualify as a craft distillery, for a total of 38 distilleries that may be affected by the fee reduction.<sup>32</sup> The DBPR anticipates that the fee reduction will result in a \$114,000 revenue reduction if the 21 distilleries that are currently not designated as craft distillery become designated as such.

The DBPR anticipates the reduction may cause license taxes returned to counties and municipalities to be reduced annually by up to \$27,360 and \$43,320, respectively, and the reduction in payments to the AB&T TF to be \$43,320.

**Total Revenue Impact.** In total, the bill will reduce net revenue to the AB&T TF by \$138,814. The bill also will result in a decrease in General Revenue of approximately \$11,105, due to the 8 percent service charge for General Revenue.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 561.11, 561.17, 561.20, 561.331, and 565.03.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

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<sup>32</sup> See 2017 Agency Legislative Bill Analysis issued by the DBPR for SB 400, dated February 15, 2017 (on file with Senate Committee on Regulated Industries) at page 10.

B. Amendments:

None.

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

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477952

LEGISLATIVE ACTION

Senate

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House

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

**Senate Amendment**

Delete lines 310 - 319  
and insert:  
series is made without the assessment of any additional fee or tax. If the department issues a notice of intent to deny the license application for failure of the applicant to disclose the information required by s. 561.15(2) or (4), the temporary license for transfer, change of location, or change of type of series expires and shall not be extended during any proceeding



477952

11 for administrative or judicial review pursuant to chapter 120.  
12 ~~If the fee for the type or series or~~



201078

LEGISLATIVE ACTION

Senate

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House

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

**Senate Amendment (with title amendment)**

Between lines 329 and 330

insert:

Section 5. Section 564.09, Florida Statutes, is amended to read:

564.09 Restaurants; off-premises consumption of wine.—  
Notwithstanding any other provision of law, a restaurant  
licensed to sell wine on the premises may permit a patron to  
remove one unsealed bottle of wine for consumption off the



201078

premises if the patron has purchased a ~~full-course~~ meal  
~~consisting of a salad or vegetable, entree, a beverage, and~~  
~~bread~~ and consumed a portion of the bottle of wine ~~with such~~  
~~meal~~ on the restaurant premises. A partially consumed bottle of  
wine that is to be removed from the premises must be securely  
resealed by the licensee or its employees before removal from  
the premises. The partially consumed bottle of wine shall be  
placed in a bag or other container that is secured in such a  
manner that it is visibly apparent if the container has been  
subsequently opened or tampered with, and a dated receipt for  
the bottle of wine and ~~full-course~~ meal shall be provided by the  
licensee and attached to the container. If transported in a  
motor vehicle, the container with the resealed bottle of wine  
must be placed in a locked glove compartment, a locked trunk, or  
the area behind the last upright seat of a motor vehicle that is  
not equipped with a trunk.

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

And the title is amended as follows:

Between lines 18 and 19  
insert:  
amending s. 564.09, F.S.; revising provisions  
authorizing a restaurant to allow a patron to remove a  
resealed wine container from a restaurant for off-  
premises consumption;



By Senator Perry

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A bill to be entitled  
An act relating to alcoholic beverages; amending s.  
561.11, F.S.; authorizing the Division of Alcoholic  
Beverages and Tobacco of the Department of Business  
and Professional Regulation to appoint division  
personnel; requiring specified personnel to have  
Selected Exempt Service status; amending s. 561.17,  
F.S.; revising the entities that may issue a  
certificate indicating an alcoholic beverage license  
applicant's place of business meets all of the  
sanitary requirements of the state; amending s.  
561.20, F.S.; revising who may be issued a special  
license in counties otherwise subject to limits on the  
number of licenses issued; revising the requirements  
for retaining certain business records; amending s.  
561.331, F.S.; requiring certain temporary beverage  
licenses to be issued by the district supervisor of a  
district without assessing additional fees or taxes;  
amending s. 565.03, F.S.; specifying the state license  
tax for craft distilleries; providing an effective  
date.

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

Section 1. Subsection (2) of section 561.11, Florida  
Statutes, is amended to read:

561.11 Power and authority of division.—

(2) The division shall have full power and authority to  
provide for the continuous training, appointment, and upgrading

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of all division personnel in their respective positions with the division. Notwithstanding any other law, chiefs, assistant chiefs, regional managers, including majors, and district or office managers, including captains, shall have Selected Exempt Service status in the state personnel designation. The ~~This~~ training shall include the attendance of division personnel at workshops, seminars, or special schools established by the division or other organizations when attendance at such educational programs shall in the opinion of the division be deemed appropriate to the particular position that ~~which~~ the employee holds.

Section 2. Subsection (2) of section 561.17, Florida Statutes, is amended to read:

561.17 License and registration applications; approved person.—

(2) All applications for alcoholic beverage licenses for consumption on the premises shall be accompanied by a certificate of the Division of Hotels and Restaurants of the Department of Business and Professional Regulation or the Department of Agriculture and Consumer Services or the Department of Health or the Agency for Health Care Administration or the county health department that the place of business wherein the business is to be conducted meets all of the sanitary requirements of the state.

Section 3. Paragraph (a) of subsection (2) of section 561.20, Florida Statutes, is amended to read:

561.20 Limitation upon number of licenses issued.—

(2)(a) The limitation of the number of licenses as provided in this section does not prohibit the issuance of a special

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license to:

1. Any bona fide hotel, motel, or motor court of not fewer than 80 guest rooms in any county having a population of less than 50,000 residents, and of not fewer than 100 guest rooms in any county having a population of 50,000 residents or greater; or any bona fide hotel or motel located in a historic structure, as defined in s. 561.01(21), with fewer than 100 guest rooms which derives at least 51 percent of its gross revenue from the rental of hotel or motel rooms, which is licensed as a public lodging establishment by the Division of Hotels and Restaurants; provided, however, that a bona fide hotel or motel with no fewer than 10 and no more than 25 guest rooms which is a historic structure, as defined in s. 561.01(21), in a municipality that on the effective date of this act has a population, according to the University of Florida's Bureau of Economic and Business Research Estimates of Population for 1998, of no fewer than 25,000 and no more than 35,000 residents and that is within a constitutionally chartered county may be issued a special license. This special license shall allow the sale and consumption of alcoholic beverages only on the licensed premises of the hotel or motel. In addition, the hotel or motel must derive at least 60 percent of its gross revenue from the rental of hotel or motel rooms and the sale of food and nonalcoholic beverages; provided that ~~the provisions of~~ this subparagraph shall supersede local laws requiring a greater number of hotel rooms;

2. Any condominium accommodation of which no fewer than 100 condominium units are wholly rentable to transients and which is licensed under ~~the provisions of~~ chapter 509, except that the

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88 license shall be issued only to the person or corporation which  
89 operates the hotel or motel operation and not to the association  
90 of condominium owners;

91 3. Any condominium accommodation of which no fewer than 50  
92 condominium units are wholly rentable to transients, which is  
93 licensed under ~~the provisions of~~ chapter 509, and which is  
94 located in any county having home rule under s. 10 or s. 11,  
95 Art. VIII of the State Constitution of 1885, as amended, and  
96 incorporated by reference in s. 6(e), Art. VIII of the State  
97 Constitution, except that the license shall be issued only to  
98 the person or corporation that ~~which~~ operates the hotel or motel  
99 operation and not to the association of condominium owners;

100 4. A food service establishment that has 1,800 ~~2,500~~ square  
101 feet of service area, is equipped to serve meals to 100 ~~150~~  
102 persons at one time, and derives at least 51 percent of its  
103 gross food and beverage revenue from the sale of food and  
104 nonalcoholic beverages during the first 60-day operating period  
105 and each 12-month operating period thereafter. A food service  
106 establishment granted a special license on or after January 1,  
107 1958, pursuant to general or special law may not operate as a  
108 package store and may not sell intoxicating beverages under such  
109 license after the hours of serving or consumption of food have  
110 elapsed. Failure by a licensee to meet the required percentage  
111 of food and nonalcoholic beverage gross revenues during the  
112 covered operating period shall result in revocation of the  
113 license or denial of the pending license application. A licensee  
114 whose license is revoked or an applicant whose pending  
115 application is denied, or any person required to qualify on the  
116 special license application, is ineligible to have any interest

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in a subsequent application for such a license for a period of 120 days after the date of the final denial or revocation;

5. Any caterer, deriving at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages, licensed by the Division of Hotels and Restaurants under chapter 509. This subparagraph does not apply to a culinary education program, as defined in s. 381.0072(2), which is licensed as a public food service establishment by the Division of Hotels and Restaurants and provides catering services. Notwithstanding any other ~~provision of~~ law to the contrary, a licensee under this subparagraph shall sell or serve alcoholic beverages only for consumption on the premises of a catered event at which the licensee is also providing prepared food, and shall prominently display its license at any catered event at which the caterer is selling or serving alcoholic beverages. The caterer must ensure that each catered event meets the 51 percent food and nonalcoholic beverage requirement. A licensee under this subparagraph shall purchase all alcoholic beverages it sells or serves at a catered event from a vendor licensed under s. 563.02(1), s. 564.02(1), or licensed under s. 565.02(1) subject to the limitation imposed in subsection (1), as appropriate. A licensee under this subparagraph may not store any alcoholic beverages to be sold or served at a catered event. Any alcoholic beverages purchased by a licensee under this subparagraph for a catered event that are not used at that event must remain with the customer; provided that if the vendor accepts unopened alcoholic beverages, the licensee may return such alcoholic beverages to the vendor for a credit or reimbursement. Regardless of the county or counties in which the

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licensee operates, a licensee under this subparagraph shall pay the annual state license tax set forth in s. 565.02(1)(b). A licensee under this subparagraph must maintain for a period of 3 years all records and receipts for each catered event, including all contracts, customers' names, locations, dates, food purchases and sales, alcoholic beverage purchases and sales, nonalcoholic beverage purchases and sales, and any other records required by the department by rule to demonstrate compliance with the requirements of this subparagraph, ~~including licensed vendor receipts for the purchase of alcoholic beverages and records identifying each customer and the location and date of each catered event.~~ Notwithstanding any ~~provision of~~ law to the contrary, any vendor licensed under s. 565.02(1) subject to the limitation imposed in subsection (1), may, without any additional licensure under this subparagraph, serve or sell alcoholic beverages for consumption on the premises of a catered event at which prepared food is provided by a caterer licensed under chapter 509. If a licensee under this subparagraph also possesses any other license under the Beverage Law, the license issued under this subparagraph shall not authorize the holder to conduct activities on the premises to which the other license or licenses apply that would otherwise be prohibited by the terms of that license or the Beverage Law. Nothing in this section shall permit the licensee to conduct activities that are otherwise prohibited by the Beverage Law or local law. The Division of Alcoholic Beverages and Tobacco is hereby authorized to adopt rules to administer the license created in this subparagraph, to include rules governing licensure, recordkeeping, and enforcement. The first \$300,000 in fees

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collected by the division each fiscal year pursuant to this subparagraph shall be deposited in the Department of Children and Families' Operations and Maintenance Trust Fund to be used only for alcohol and drug abuse education, treatment, and prevention programs. The remainder of the fees collected shall be deposited into the Hotel and Restaurant Trust Fund created pursuant to s. 509.072; or

6. A culinary education program as defined in s. 381.0072(2) which is licensed as a public food service establishment by the Division of Hotels and Restaurants.

a. This special license shall allow the sale and consumption of alcoholic beverages on the licensed premises of the culinary education program. The culinary education program shall specify designated areas in the facility where the alcoholic beverages may be consumed at the time of application. Alcoholic beverages sold for consumption on the premises may be consumed only in areas designated pursuant to s. 561.01(11) and may not be removed from the designated area. Such license shall be applicable only in and for designated areas used by the culinary education program.

b. If the culinary education program provides catering services, this special license shall also allow the sale and consumption of alcoholic beverages on the premises of a catered event at which the licensee is also providing prepared food. A culinary education program that provides catering services is not required to derive at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages. Notwithstanding any other provision of law to the contrary, a licensee that provides catering services under this sub-

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subparagraph shall prominently display its beverage license at any catered event at which the caterer is selling or serving alcoholic beverages. Regardless of the county or counties in which the licensee operates, a licensee under this subparagraph shall pay the annual state license tax set forth in s. 565.02(1)(b). A licensee under this sub-subparagraph must maintain for a period of 3 years all records required by the department by rule to demonstrate compliance with the requirements of this sub-subparagraph.

c. If a licensee under this subparagraph also possesses any other license under the Beverage Law, the license issued under this subparagraph does not authorize the holder to conduct activities on the premises to which the other license or licenses apply that would otherwise be prohibited by the terms of that license or the Beverage Law. Nothing in this subparagraph shall permit the licensee to conduct activities that are otherwise prohibited by the Beverage Law or local law. Any culinary education program that holds a license to sell alcoholic beverages shall comply with the age requirements set forth in ss. 562.11(4), 562.11(2), and 562.13.

d. The Division of Alcoholic Beverages and Tobacco may adopt rules to administer the license created in this subparagraph, to include rules governing licensure, recordkeeping, and enforcement.

e. A license issued pursuant to this subparagraph does not permit the licensee to sell alcoholic beverages by the package for off-premises consumption.

However, any license heretofore issued to any such hotel, motel,



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233 motor court, or restaurant or hereafter issued to any such  
234 hotel, motel, or motor court, including a condominium  
235 accommodation, under the general law shall not be moved to a new  
236 location, such license being valid only on the premises of such  
237 hotel, motel, motor court, or restaurant. Licenses issued to  
238 hotels, motels, motor courts, or restaurants under the general  
239 law and held by such hotels, motels, motor courts, or  
240 restaurants on May 24, 1947, shall be counted in the quota  
241 limitation contained in subsection (1). Any license issued for  
242 any hotel, motel, or motor court under ~~the provisions of this~~  
243 law shall be issued only to the owner of the hotel, motel, or  
244 motor court or, in the event the hotel, motel, or motor court is  
245 leased, to the lessee of the hotel, motel, or motor court; and  
246 the license shall remain in the name of the owner or lessee so  
247 long as the license is in existence. Any special license now in  
248 existence heretofore issued under ~~the provisions of this law~~  
249 cannot be renewed except in the name of the owner of the hotel,  
250 motel, motor court, or restaurant or, in the event the hotel,  
251 motel, motor court, or restaurant is leased, in the name of the  
252 lessee of the hotel, motel, motor court, or restaurant in which  
253 the license is located and must remain in the name of the owner  
254 or lessee so long as the license is in existence. Any license  
255 issued under this section shall be marked "Special," and nothing  
256 herein provided shall limit, restrict, or prevent the issuance  
257 of a special license for any restaurant or motel which shall  
258 hereafter meet the requirements of the law existing immediately  
259 prior to the effective date of this act, if construction of such  
260 restaurant has commenced prior to the effective date of this act  
261 and is completed within 30 days thereafter, or if an application

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is on file for such special license at the time this act takes effect; and any such licenses issued under this proviso may be annually renewed as now provided by law. Nothing herein prevents an application for transfer of a license to a bona fide purchaser of any hotel, motel, motor court, or restaurant by the purchaser of such facility or the transfer of such license pursuant to law.

Section 4. Subsections (1) and (3) of section 561.331, Florida Statutes, are amended to read:

561.331 Temporary license upon application for transfer, change of location, or change of type or series.—

(1) Upon the filing of a properly completed application for transfer pursuant to s. 561.32, which application does not on its face disclose any reason for denying an alcoholic beverage license, by any purchaser of a business that ~~which~~ possesses a beverage license of any type or series, the purchaser of such business and the applicant for transfer are entitled as a matter of right to receive a temporary beverage license of the same type and series as that held by the seller of such business. The temporary license will be valid for all purposes under the Beverage Law until the application is denied or until 14 days after the application is approved. Such temporary beverage license shall be issued by the district supervisor of the district in which the application for transfer is made without the assessment of any additional fee or tax ~~upon the payment of a fee of \$100~~. A purchaser operating under ~~the provisions of~~ this subsection is subject to the same rights, privileges, duties, and limitations of a beverage licensee as are provided by law, except that purchases of alcoholic beverages during the

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term of such temporary license shall be for cash only. However, such cash-only restriction does not apply if the entity holding a temporary license pursuant to this section purchases alcoholic beverages as part of a single-transaction cooperative purchase placed by a pool buying agent or if such entity is also the holder of a state beverage license authorizing the purchase of the same type of alcoholic beverages as authorized under the temporary license.

(3) Upon the filing of a properly completed application to change the type or series of a beverage license by any qualified licensee having a beverage license of any type or series, which application does not on its face disclose any reason for denying an alcoholic beverage license, the licensee is entitled as a matter of right to receive a temporary beverage license of the type or series applied for, which temporary license is valid for all purposes under the Beverage Law until the application is denied or until 14 days after the application is approved. Such temporary license shall be issued by the district supervisor of the district in which the application for change of type or series is made. If the department issues a notice of intent to deny the license application for failure of the applicant to disclose the information required by s. 561.15(2) or (4), the temporary license for transfer, change of location, or change of type of series expires and shall not be extended during any proceeding for administrative or judicial review pursuant to chapter 120. Such temporary license shall be issued by the district supervisor of the district in which the application for change of location is made without the assessment of any additional fee or tax ~~If the fee for the type or series or~~

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~~license applied for is greater than the fee for the license then held by the applicant, the applicant for such temporary license must pay a fee in the amount of \$100 or one-fourth of the difference between the fees, whichever amount is greater. A fee is not required for an application for a temporary license of a type or series for which the fee is the same as or less than the fee for the license then held by the applicant.~~ The holder of a temporary license under this subsection is subject to the same rights, privileges, duties, and limitations of a beverage licensee as are provided by law.

Section 5. Paragraph (a) of subsection (2) of section 565.03, Florida Statutes, is amended to read:

565.03 License fees; manufacturers, distributors, brokers, sales agents, and importers of alcoholic beverages; vendor licenses and fees; craft distilleries.—

(2)(a) A distillery authorized to do business under the Beverage Law shall pay an annual state license tax for each plant or branch operating in the state, as follows:

1. If engaged in the business of manufacturing distilled spirits, not including craft distilleries, a state license tax of \$4,000.

2. If engaged in the business of manufacturing distilled spirits as a craft distillery, a state license tax of \$1,000.

~~3.2.~~ If engaged in the business of rectifying and blending spirituous liquors and nothing else, a state license tax of \$4,000.

Section 6. This act shall take effect July 1, 2017.



The Florida Senate

## Committee Agenda Request

**To:** Senator Travis Hutson, Chair  
Committee on Regulated Industries

**Subject:** Committee Agenda Request

**Date:** February 6, 2017

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I respectfully request that **Senate Bill #400**, relating to Alcoholic Beverages, be placed on the:

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

A handwritten signature in cursive script that reads "Denise Grimsley".

---

Senator Denise Grimsley  
Florida Senate, District 26

SB400-TP'D

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/22/17

Meeting Date

400

Bill Number (if applicable)

Topic Alcoholic Beverages

Amendment Barcode (if applicable)

Name Greg Black

Job Title Attorney

Address 119 S. Monroe Street, Suite 200

Phone 8502059000

Street

Tallahassee

FL

32301

City

State

Zip

Email greg.black@mhdfirm.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Restaurant & Lodging Association (FRLA)

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**

SB 400-TP'D

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

February 22

*Meeting Date*

400

*Bill Number (if applicable)*Topic Alcoholic Beverages*Amendment Barcode (if applicable)*Name Jason Unger

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

Address 301 South Bronough Street, Suite 600Phone 577-9090*Street*TallahasseeFL32301Email junger@gray-robinson.com*City**State**Zip*Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against  
*(The Chair will read this information into the record.)*Representing Florida Distillers GuildAppearing 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.***

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: CS/SB 554

INTRODUCER: Regulated Industries Committee and Senators Young and Latvala

SUBJECT: Craft Breweries

DATE: February 22, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	McSwain	RI	<b>Fav/CS</b>
2.			CM	
3.			AGG	
4.			AP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 554 authorizes a craft brewery with a retail vendor's license to sell, transport, and deliver its own beer from its brewery to other vendors. A craft brewery that distributes beer to a vendor is subject to the same restrictions as a licensed distributor (i.e., the brewer cannot give the vendor any financial assistance, such as a gift, loan, or rebate).

A craft brewery may self-distribute to a vendor only beer in kegs or similar containers that hold 5.16 gallons (i.e., a 1/6<sup>th</sup> keg), 7.75 gallons (i.e., a "pony keg") or 15.5 gallons (i.e., a keg). A craft brewery may not distribute its own beer to a vendor if it has a franchise agreement with a distributor to distribute its product anywhere in the state, or has a total production volume of more than 7,000 kegs (i.e., 108,500 gallons) of malt beverages a year.

Deliveries of beer to a vendor must be made in vehicles owned by the brewery or in a vehicle owned by a person required to be disclosed on the alcoholic beverage application.

The bill has no fiscal impact on state government.

The bill has an effective date of July 1, 2017.



## II. Present Situation:

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

### Three-Tier System

In the United States, the regulation of alcohol since the repeal of Prohibition has traditionally been based upon a “three-tier system.” The system requires separation of the manufacture, distribution, and sale of alcoholic beverages. The manufacturer creates the beverages, and the distributor obtains the beverages from the manufacturer to deliver to the vendor. The vendor makes the ultimate sale to the consumer.<sup>4</sup> A manufacturer, distributor, or exporter may not be licensed as a vendor to sell directly to consumers.<sup>5</sup>

Generally, in Florida, only licensed vendors are permitted to sell alcoholic beverages directly to consumers at retail.<sup>6</sup> Licensed manufacturers, distributors, and registered exporters are prohibited from also being licensed as vendors.<sup>7</sup> Manufacturers are also generally prohibited from having an interest in a vendor and from distributing directly to a vendor.<sup>8</sup>

### Tied House Evil Prohibitions

The three-tier system is deeply rooted in the perceived evils of the “tied house” in which a bar is owned or operated by a manufacturer or the manufacturer exercises undue influence over the retail vendor.<sup>9</sup> Section 561.42, F.S., regulates the permitted and prohibited relationships and interactions of manufacturers and distributors with vendors in order to prevent a manufacturer or distributor from having a financial interest, directly or indirectly, in the establishment or business of a licensed vendor, and to prevent a manufacturer or distributor from giving a vendor gifts, loans or property, or rebates. However, s. 561.423, F.S., permits a distributor of beer or malt beverages to provide in-store servicing of beer or malt beverages.

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

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

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

<sup>4</sup> Section 561.14, F.S.

<sup>5</sup> Section 561.22(1), F.S.

<sup>6</sup> Section 561.14(3), F.S. However, see the exceptions provided in ss. 561.221 and 565.03, F.S.

<sup>7</sup> Section 561.22, F.S.

<sup>8</sup> Sections 563.022(14) and 561.14(1), F.S.

<sup>9</sup> Erik D. Price, *Time to Untie the House? Revisiting the Historical Justifications of Washington’s Three-Tier System Challenged by Costco v. Washington State Liquor Control Board*, (June 2004) available at: [http://www.lanepowell.com/wp-content/uploads/2009/04/pricee\\_001.pdf](http://www.lanepowell.com/wp-content/uploads/2009/04/pricee_001.pdf) (last visited February 13, 2017).

### **Three-Tier System Exceptions**

Exceptions to the three-tier regulatory system permit in-state wineries,<sup>10</sup> breweries,<sup>11</sup> and craft distilleries to be licensed as a vendor and sell directly to consumers.<sup>12</sup> Restaurants licensed as vendors (brew pubs) may manufacture a limited quantity of malt beverages and sell directly to consumers for consumption on the licensed premises of a restaurant.<sup>13</sup>

### **Craft Breweries**

Section 561.221(2), F.S., authorizes the division to issue a vendor's license to a manufacturer of malt beverages for the sale of alcoholic beverages on property consisting of a single complex that includes a brewery (craft brewery), which may be divided by no more than one public street or highway. A vendor license to a craft brewery is an exception to the three-tier system described in ss. 561.14 and 561.22, F.S., and to the tied-house evil restrictions in s. 561.42, F.S.

A craft brewery with multiple manufacturing licenses may transfer malt beverages that it produces between its breweries, as provided in s. 563.022(14)(d), F.S. Such transfers are limited to an amount equal to 100 percent of the yearly production of the receiving brewery.

All malt beverages and other alcoholic beverages that are not manufactured by the craft brewery must be obtained through a distributor, an importer, sales agent, or broker.

A craft brewery may not make deliveries as provided in s. 561.57(1), F.S., which permits a vendor to deliver products sold at the licensed place of business to an off-site location. Telephone or mail orders received at a vendor's licensed place of business are considered a sale actually made at the vendor's licensed place of business. However, deliveries made by a vendor away from his or her place of business may only be made in vehicles that are owned or leased by the licensee. By acceptance of an alcoholic beverage licensee, the vendor is presumed to have agreed to the inspection of the vehicle without a search warrant by employees of the division or law enforcement officers to ascertain compliance with all provisions of the alcoholic beverage laws.<sup>14</sup>

The division may not issue more than eight vendor's licenses to a manufacturer of malt beverages.

### **Come-to-Rest Requirement**

Section 561.5101, F.S., requires, for purposes of inspection and tax-revenue control, all malt beverages to come to rest at the licensed premises of an alcoholic beverage wholesaler in this state before being sold to a vendor by the wholesaler. The come-to-rest requirement does not apply to malt beverages that a craft brewery manufacturers and sells to consumers as a vendor, or to malt beverages manufactured and sold by a brew pub. It is a felony of the third degree,

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<sup>10</sup> See s. 561.221(1), F.S.

<sup>11</sup> See s. 561.221(2), F.S.

<sup>12</sup> See s. 565.03, F.S.

<sup>13</sup> See s. 561.221(3), F.S.

<sup>14</sup> Section 561.57(2), F.S.

punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.,<sup>15</sup> for any person in the business of selling alcoholic beverages to knowingly and intentionally sell malt beverages in a manner inconsistent with the come-to-rest requirement, whether the sale is to a vendor or to an ultimate consumer.

### **Excise Tax Reporting and Payment**

Craft brewers are required to report and pay the excise tax on malt beverages imposed by s. 563.05, F.S. Manufacturers and distributors are required to compute and submit the applicable excise taxes on alcoholic beverages with the report required by s. 561.55, F.S., to the division, on or before the 10th of each month, for all beverages sold during the previous calendar month.<sup>16</sup>

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

The bill creates s. 561.221(2)(f), F.S., to authorize a craft brewery to sell, transport, and deliver (distribute) its own beer from its licensed premises to vendors.

A craft brewery that distributes beer to a vendor is subject to the same restrictions as a licensed distributor under ss. 561.42 and 561.423, F.S., (e.g., the brewer cannot give the vendor any financial assistance, such as a gift, loan, or rebate).

A craft brewery may distribute to a vendor only beer in kegs<sup>17</sup> or similar containers that hold 5.16 gallons (i.e., a 1/6<sup>th</sup> keg), 7.75 gallons (i.e., a “pony keg”) or 15.5 gallons (i.e., a keg).

A craft brewery may not distribute to a vendor, if it:

- Has a franchise agreement with a distributor to distribute its product anywhere in the state; or
- Has a total production volume of more than 7,000 kegs (i.e., 108,500 gallons) of malt beverages a year.

The brewery must deliver beer to a vendor in a vehicle owned by the brewery or in a vehicle owned by a person required to be disclosed on the alcoholic beverage application,<sup>18</sup> as provided in s. 561.57, F.S.

The bill amends the come-to-rest requirement in s. 561.5101, F.S., to provide that this requirement does not apply to deliveries by a craft distillery to a vendor as provided in s. 561.221(2)(f), F.S.

The bill also amends s. 561.022(14)(d), F.S., to provide that the Beverage Law does not prohibit a delivery from a brewery to a vendor’s licensed premises as provided in s. 561.221(2)(f), F.S.

---

<sup>15</sup> Section 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not to exceed five years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not to exceed \$5,000. Section 775.084, F.S., provides increased penalties for habitual offenders.

<sup>16</sup> Section 561.50, F.S.

<sup>17</sup> Section 561.221(3)(a)1., F.S. provides that a “keg” equals 15.5 gallons.

<sup>18</sup> Section 561.17, F.S., requires that the alcoholic beverage license application include all persons, officers, shareholders, and directors of the applicant that have a direct or indirect interest in the business seeking to be licensed under the Beverage Law.

The effective date of the bill is July 1, 2017.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 561.221, 561.5101, 561.57, and 563.022.

**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 February 22, 2017:**

The committee substitute:

- Allows a craft brewery to distribute kegs or similar containers that hold 5.16 gallons (i.e., a 1/6<sup>th</sup> keg), 7.75 gallons (i.e., a “pony keg”) or 15.5 gallons (i.e., a keg), of malt beverages manufactured on its licensed premises; and
- Clarifies that the authority to distribute does not apply to a manufacturer who has a total production volume of more than 7,000 kegs, (i.e., 108,500 gallons) of malt beverages a year.

B. Amendments:

None.

## The Florida Senate COMMITTEE VOTE RECORD

**COMMITTEE:** Regulated Industries  
**ITEM:** SB 554  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Wednesday, February 22, 2017  
**TIME:** 12:30—3:00 p.m.  
**PLACE:** 301 Senate Office Building

FINAL VOTE			2/22/2017 Amendment 282536					
		SENATORS	Young					
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
	X	Benacquisto						
	X	Bracy						
X		Brandes						
X		Braynon						
		Gibson						
X		Perry						
X		Steube						
	X	Thurston						
X		Young						
		Hukill, VICE CHAIR						
X		Hutson, CHAIR						
6	3	TOTALS	RCS	-				
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



282536

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/23/2017	.	
	.	
	.	
	.	

---

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

**Senate Amendment**

Delete lines 33 - 41  
and insert:

distributor.

1. The authority provided in this section is limited to the sale, transport, and delivery of kegs or similar containers that hold 5.16 gallons, 7.75 gallons, or 15.5 gallons.

2. Any delivery under this paragraph is subject to the provisions of s. 561.57(2) related to deliveries by licensees.



282536

11       3. This paragraph does not apply to a manufacturer who:  
12       a. Has a franchise agreement with a distributor pursuant to  
13 s. 563.022.  
14       b. Has a total production volume of more than 7,000 kegs of  
15 malt beverages a year.



By Senator Young

18-00400A-17

2017554\_\_

A bill to be entitled  
An act relating to craft breweries; amending s.  
561.221, F.S.; exempting certain vendors from  
specified delivery restrictions under certain  
circumstances; amending s. 561.5101, F.S.; revising  
applicability; amending s. 561.57, F.S.; providing  
that certain manufacturers may transport malt  
beverages in vehicles owned or leased by certain  
persons other than the manufacturer; amending s.  
563.022, F.S.; conforming a provision to changes made  
by the act; providing an effective date.

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

Section 1. Paragraph (d) of subsection (2) of section  
561.221, Florida Statutes, is amended, paragraph (f) is added to  
that subsection, and paragraph (a) of subsection (3) is amended,  
to read:

561.221 Licensing of manufacturers and distributors as  
vendors and of vendors as manufacturers; conditions and  
limitations.—

(2)

(d) A manufacturer possessing a vendor's license under this  
subsection is not permitted to make deliveries under s.  
561.57(1), except as provided in paragraph (f).

(f) Notwithstanding any other provision of the Beverage  
Law, a manufacturer possessing a vendor's license under this  
subsection may sell, transport, and deliver to vendors, from the  
manufacturer's licensed premises, malt beverages that have been  
manufactured on its licensed premises, if the manufacturer  
complies with the requirements in ss. 561.42 and 561.423, as  
applicable, to the same extent as if the manufacturer were a

18-00400A-17

2017554\_\_

distributor.

1. The authority provided in this section is limited to the sale, transport, and delivery of kegs.

2. Any delivery under this paragraph is subject to the provisions of s. 561.57(2) related to deliveries by licensees.

3. This paragraph does not apply to a manufacturer who:

a. Has a franchise agreement with a distributor pursuant to s. 563.022.

b. Produces more than 7,000 kegs of malt beverages a year.

(3)(a) Notwithstanding other provisions of the Beverage Law, any vendor licensed in this state may be licensed as a manufacturer of malt beverages upon a finding by the division that:

1. The vendor will be engaged in brewing malt beverages at a single location and in an amount which will not exceed 10,000 kegs per year. For purposes of this section ~~subsection~~, the term "keg" means 15.5 gallons.

2. The malt beverages so brewed will be sold to consumers for consumption on the vendor's licensed premises or on contiguous licensed premises owned by the vendor.

Section 2. Subsection (1) of section 561.5101, Florida Statutes, is amended to read:

561.5101 Come-to-rest requirement; exceptions; penalties.—

(1) For purposes of inspection and tax-revenue control, all malt beverages, except those manufactured and sold by the same licensee, pursuant to s. 561.221(2) or (3), must come to rest at the licensed premises of an alcoholic beverage wholesaler in this state before being sold to a vendor by the wholesaler. The prohibition contained in this subsection does not apply to the

18-00400A-17

2017554\_\_

shipment of malt beverages commonly known as private labels. The prohibition contained in this subsection shall not prevent a manufacturer from shipping malt beverages for storage at a bonded warehouse facility, provided that such malt beverages are distributed as provided in this subsection or to an out-of-state entity. The prohibition contained in this subsection does not apply to a manufacturer delivering alcoholic beverages to a licensed vendor as provided in s. 561.221(2)(f).

Section 3. Subsection (2) of section 561.57, Florida Statutes, is amended to read:

561.57 Deliveries by licensees.—

(2) Deliveries made by a manufacturer, distributor, or vendor away from his or her place of business may be made only in vehicles that ~~which~~ are owned or leased by the licensee. However, a manufacturer authorized to make deliveries under s. 561.221(2)(f) to the licensed premises of a vendor may transport malt beverages if the vehicle used to transport the alcoholic beverages is owned or leased by the manufacturer or any person who has been disclosed on a license application filed by the manufacturer and approved by the division. By acceptance of an alcoholic beverage license and the use of such vehicles, the licensee agrees that such vehicle shall always be subject to be inspected and searched without a search warrant, for the purpose of ascertaining that all provisions of the alcoholic beverage laws are complied with, by authorized employees of the division and also by sheriffs, deputy sheriffs, and police officers during business hours or other times the vehicle is being used to transport or deliver alcoholic beverages.

Section 4. Paragraph (d) of subsection (14) of section

18-00400A-17

2017554\_\_

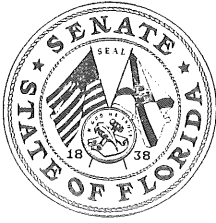
563.022, Florida Statutes, is amended to read:

563.022 Relations between beer distributors and  
manufacturers.—

(14) MANUFACTURER; PROHIBITED INTERESTS.—

(d) Nothing in the Beverage Law shall be construed to  
prohibit a manufacturer from shipping products to or between its  
breweries, or between its breweries and the licensed premises of  
a vendor as provided in s. 561.221(2)(f), without a  
distributor's license.

Section 5. This act shall take effect July 1, 2017.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Health Policy, *Chair*  
Appropriations Subcommittee on Pre-K - 12  
Education, *Vice Chair*  
Commerce and Tourism  
Communications, Energy, and Public Utilities  
Regulated Industries

### JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

**SENATOR DANA YOUNG**

18th District

February 13, 2017

Senator Travis Hutson, Chair  
Regulated Industries Committee  
330 Knott Building  
404 S. Monroe Street  
Tallahassee, Florida 32399-1100

Dear Chair Hutson,

My Senate Bill 554, Craft Breweries has been referred to your committee for a hearing. I respectfully request that this bill be placed on the next available agenda.

If I may provide any additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Dana Young", is written over the word "Sincerely," and extends down over the printed name.

Dana Young  
State Senator - 18<sup>th</sup> District

DY:mfh

cc: Ross McSwain, Staff Director – Regulated Industries Committee

### REPLY TO:

- ☐ 1211 N. Westshore Blvd, Suite 409, Tampa, Florida 33607 (813) 281-5507
- ☐ 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018

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

**JOE NEGRON**  
President of the Senate

**ANITERE FLORES**  
President Pro Tempore

THE FLORIDA SENATE  
**COMMITTEE APPEARANCE RECORD**

(Submit to Committee Chair or Administrative Assistant)

2/22/17  
Date

554  
Bill Number

Name Mitch Rubin  
Address 215 S. Monroe St. #340  
Tallahassee, FL 32301  
City State Zip

Phone 850-224-2337  
E-mail MRubin2505@aol.com  
Job Title Ex Director

Speaking: ☐ For ☒ Against ☐ Information

Appearing at request of Chair ☐

Subject Craft Breweries

Representing Florida Beer Wholesalers Assn

Lobbyist registered with Legislature: ☒ Yes ☐ No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from \_\_\_\_\_ .m. to \_\_\_\_\_ .m.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

2-22-17

Meeting Date

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

554

Bill Number (if applicable)

Topic Craft Breweries

Amendment Barcode (if applicable)

Name Jon Costello

Job Title Lobbyist

Address 118. S. Monroe

Phone 850-766-8654

Street

Tallahassee

City

FL

State

32301

Zip

Email jc@ruthledgeccwa.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing MillerCoors

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**

Feb 22 / 17

Meeting Date

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

SB554

Bill Number (if applicable)

Topic Limited Self Distribution

Amendment Barcode (if applicable)

Name Ryan S. LaPete

Job Title Owner / Head Brewer

Address 2524 Calhoun Ct

Phone 850-570-1478

Street

Tallahassee

City

FL

State

32308

Zip

Email Ryan@DeepBrewing.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Deep Brewing, LLC

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)

2/22/17

*Meeting Date*

Topic Self distribution - beer

Bill Number SB 554  
*(if applicable)*

Name Eric Criss

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

Job Title President, Beer Industry of Florida

Address 110 S. Monroe St Suite B  
*Street*

Phone 850.491.3903

Tallahassee, FL 32301  
*City State Zip*

E-mail eric@floridabeer.org

Speaking: ☐ For ☒ Against ☐ Information

Representing Beer Industry of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*\*On the bill -- not the amendment.*

*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 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

February 22, 2017  
Meeting Date

554  
Bill Number (if applicable)

Topic Craft Breweries

Amendment Barcode (if applicable)

Name Josh Aubuchon

Job Title attorney

Address 315 S. Calhoun St.  
Street

Phone 224-7000

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 Brewers Guild

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

# CourtSmart Tag Report

**Room:** SB 301                      **Case No.:**  
**Caption:** Senate Committee on Regulated Industries

**Type:**  
**Judge:**

**Started:** 2/22/2017 12:31:50 PM  
**Ends:** 2/22/2017 2:16:09 PM              **Length:** 01:44:20

12:32:23 PM Roll call  
12:32:41 PM Quroum present  
12:32:51 PM Senators Hukill and Gibson are excused  
12:32:56 PM Chair comments  
12:33:16 PM SB 400--Alcoholic Beverages is TP'd  
12:33:42 PM SB 554 by Young --Craft Breweries  
12:33:50 PM Senator Young for explanation of the bill  
12:35:19 PM Take up amendment barcode: 282536  
12:35:45 PM Explanation of the amendment  
12:35:49 PM Questions?  
12:35:50 PM Debate?  
12:35:57 PM Without objection the amendment is adoped  
12:36:06 PM Questions on the bill as amended?  
12:36:10 PM Appearance Cards  
12:36:17 PM Mitch Rubin waives in oppostion  
12:36:23 PM Jon Costello Miller Coors waives against  
12:36:36 PM Eric Criss, Beer Industry of Florida  
12:37:54 PM Questions?  
12:38:00 PM Senator Stuebe for a question  
12:38:50 PM Eric Criss for a response  
12:41:16 PM Senator Thurston for a question  
12:41:57 PM Eric Criss for a response  
12:43:50 PM Senator Thurston for a series of questions  
12:45:32 PM Senator Braynon for a question  
12:46:09 PM Ryan LaPete Deep Brewing waives in support  
12:46:32 PM Josh Aubuchon, Florida Brewers Guild  
12:53:05 PM Senator Stuebe for a series of questions  
12:56:56 PM Senator Thurston for a series of questions  
1:01:13 PM In debate  
1:01:23 PM Senator Braynon in debate  
1:02:32 PM Senator Thurston in debate  
1:03:34 PM Senator Steube in debate  
1:04:32 PM Senator Young is recognized to close  
1:07:02 PM Roll call  
1:07:26 PM CS/SB 554 is reported favorably  
1:07:43 PM Take up Tab 1 -CS/SB 264--Self Storage  
1:07:59 PM Senator Artiles is recognized to explain the bill  
1:08:17 PM Are there questions?  
1:08:24 PM Appearance cards  
1:08:32 PM Joseph Salberg waives in support  
1:08:35 PM waive close  
1:08:37 PM Roll call  
1:08:55 PM CS/SB 264 is reported favorably  
1:09:16 PM Take up Tab 2 - EStoppel Certificates  
1:09:32 PM Senator Passidomo is recognized to explain the bill  
1:11:25 PM Take up amendment barcode: 742226  
1:11:37 PM Senator Passidomo for an explanation  
1:11:53 PM Questions?  
1:12:02 PM Senator Young for a question  
1:12:26 PM Senator Passidomo for a response  
1:12:48 PM Senator Thurston for a question  
1:13:13 PM Floor is opened for a series of questions

1:17:34 PM	Richard Pinsky, Cyber Citizens
1:18:17 PM	Back on the amendment
1:18:22 PM	Amendment is adopted
1:18:27 PM	Back on the bill as amended
1:18:31 PM	Questions?
1:18:34 PM	Senator Perry
1:18:47 PM	Senator Passidomo for a response
1:20:32 PM	Public comment
1:20:33 PM	Public comment
1:20:42 PM	Jim Eaton, waives in opposition
1:20:57 PM	Mark Anderson speaking against
1:27:03 PM	Senator Hutson for a question
1:27:27 PM	Mark Anderson for a response
1:28:08 PM	Senator Perry for a series of questions
1:32:26 PM	Senator Thurston for a series of questions
1:37:47 PM	Travis Moore, First Service Residential
1:43:26 PM	Series of questions and answers
1:44:03 PM	Response to Senator Perry's question
1:44:25 PM	Chair Hutson for a question
1:45:18 PM	John Krueger, Associa
1:50:31 PM	Senator Hutson for a question
1:51:35 PM	Senator Thurston for a series of questions/answers
1:55:11 PM	Timothy Steele, NA Title Company waives in support
1:55:26 PM	John Lajoie waives in support
1:55:44 PM	David Daniel, Florida Land Title Association
1:59:01 PM	Senator Thurston for a question
1:59:30 PM	Greg Black, waives in support
1:59:35 PM	Doug Bell waives in support
1:59:55 PM	Danielle Scoggins, FI Realtors waives in support
2:00:06 PM	Ron Book, First Service Residential
2:05:55 PM	Chair Hutson for a question
2:06:12 PM	Senator Thurston for a question
2:06:52 PM	Series of question with Ron Book
2:07:06 PM	Senator Brandes for a question
2:07:13 PM	Ron Book for a response
2:07:34 PM	Series of questions
2:07:53 PM	Ashley Kalifeh waives in support
2:07:58 PM	In Debate
2:08:05 PM	Senator Stuebe
2:08:27 PM	Senator Perry
2:09:07 PM	Senator Braynon in support
2:09:37 PM	Senator Thurston
2:10:11 PM	Chair Hutson
2:10:55 PM	Senator Passidomo to close on her bill
2:15:28 PM	Roll call
2:15:45 PM	CS/SB 398 is reported favorably
2:15:55 PM	Senator Thurston moves we adjourn
2:15:59 PM	Meeting adjourned



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Military and Veterans Affairs, Space, and  
Domestic Security, *Chair*  
Appropriations  
Appropriations Subcommittee on  
Transportation, Tourism, and Economic  
Development  
Commerce and Tourism  
Judiciary  
Regulated Industries  
Joint Legislative Auditing Committee

**SENATOR AUDREY GIBSON**  
6th District

February 20, 2017

Senator Travis Hutson, Chair  
Committee on Regulated Industries  
330 Knott Building  
404 South Monroe St.  
Tallahassee, FL 32399

Chair Hutson:

I respectfully request be excused from this week's committee meeting, because I am sick with the flu.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Audrey Gibson".

Audrey Gibson  
State Senator  
Senate District 6

A handwritten signature in black ink, appearing to read "Travis Hutson".

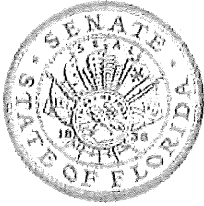
**REPLY TO:**

- ☐ 101 E. Union Street, Suite 104, Jacksonville, Florida 32202 (904)359-2553 FAX: (904) 359-2532
- ☐ 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

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

**JOE NEGRON**  
President of the Senate

**ANITERE FLORES**  
President Pro Tempore



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Education, *Chair*  
Regulated Industries, *Vice Chair*  
Appropriations Subcommittee on the Environment  
and Natural Resources  
Health Policy  
Transportation

### JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

**SENATOR DOROTHY L. HUKILL**  
14th District

February 17, 2017

The Honorable Travis Hutson  
Regulated Industries Committee, Chair  
330 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Re: Request for Excusal from Committee Meeting

Dear Chairman Hutson:

Please excuse me from the Regulated Industries Committee on February 22, 2017 at 12:30 p.m.  
as I will not be able to attend due to illness.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Handwritten signature of Dorothy L. Hukill in cursive script.

Handwritten signature of Travis Hutson in cursive script.

Dorothy L. Hukill  
State Senator, District 14

cc: Ross McSwain, Staff Director of the Regulated Industries Committee  
Lynn Koon, Committee Administrative Assistant of the Regulated Industries Committee

### REPLY TO:

□ 209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818

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

**JOE NEGRON**  
President of the Senate

**ANITERE FLORES**  
President Pro Tempore