

SB 986 by **Altman (CO-INTRODUCERS) Hays**; (Similar to H 0883) Slot Machines and Slot Machine Components

331510	D	S	L	RCS	RI, Altman	Delete everything after	02/07 04:27 PM
140816	AA	S		WD	RI, Diaz de la Portilla	btw L.103 - 104:	02/07 04:27 PM
699574	AA	S		WD	RI, Diaz de la Portilla	btw L.103 - 104:	02/07 04:27 PM
342936	AA	S		OO	RI, Sachs	btw L.4 - 5:	02/07 04:27 PM
203754	AA	S		RCS	RI, Sachs	btw L.94 - 95:	02/07 04:27 PM
233724	A	S		WD	RI, Altman	Delete L.253 - 256:	02/07 04:27 PM
207754	A	S		WD	RI, Diaz de la Portilla	btw L.255 - 256:	02/07 04:27 PM
224720	A	S		WD	RI, Diaz de la Portilla	btw L.255 - 256:	02/07 04:27 PM
690838	A	S		WD	RI, Sachs	btw L.243 - 244:	02/07 04:27 PM
725726	A	S		WD	RI, Sachs	btw L.23 - 24:	02/07 04:27 PM

SB 632 by **Benacquisto (CO-INTRODUCERS) Gaetz, Montford, Ring, Richter, Gibson, Dean, Gardiner, Flores, Fasano, Jones, Storms, Norman, Detert, Hays, Siplin, Altman, Thrasher, Evers, Latvala, Oelrich**; (Compare to CS/H 0031) Funerals, Burials, and Memorial Services

CS/SB 888 by **CM, Flores**; (Similar to CS/CS/H 0749) Consumer Services

373374	A	S	L	RCS	RI, Diaz de la Portilla	Delete L.413:	02/08 12:43 PM
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SB 956 by **Hays**; (Similar to CS/CS/H 0625) Disposition of Human Remains

317402	D	S	L	RCS	RI, Thrasher	Delete everything after	02/08 01:38 PM
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SB 1166 by **Simmons**; (Similar to H 7095) Clerks of Court

424110	D	S	L	RCS	RI, Altman	Delete everything after	02/08 12:43 PM
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SB 1656 by **Latvala**; (Compare to CS/CS/H 0769) Public Accounting

383894	D	S		RCS	RI, Altman	Delete everything after	02/08 11:12 AM
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Jones, Chair
Senator Sachs, Vice Chair

MEETING DATE: Tuesday, February 7, 2012
TIME: 1:30 —3:30 p.m.
PLACE: *Toni Jennings Committee Room, 110 Senate Office Building*

MEMBERS: Senator Jones, Chair; Senator Sachs, Vice Chair; Senators Altman, Bogdanoff, Braynon, Dean, Diaz de la Portilla, Rich, Siplin, and Thrasher

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 986 Altman (Similar H 883)	Slot Machines and Slot Machine Components; Requiring the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation to adopt rules regulating slot machines and providing specifications for the internal components of slot machines; requiring that the division adopt specifications and procedures to ensure random probabilities of winning plays and provide for the operation of random-number generators; deleting obsolete provisions; clarifying duties of a slot machine licensee to conform to changes made by the act; prohibiting a slot machine's random-number generator from serving more than one station or terminal where an individual player places his or her wagers; providing for progressive jackpot payouts except in conjunction with slot machines between other licensed facilities, etc. RI 02/02/2012 Temporarily Postponed RI 02/07/2012 Unfavorable BC RC	Unfavorable Yeas 3 Nays 7
2	SB 632 Benacquisto (Compare CS/H 31)	Funerals, Burials, and Memorial Services; Prohibiting picketing or engaging in other protest activities within a specified distance of the property line of the location of a funeral, burial, or memorial service for certain persons; providing criminal penalties, etc. RI 02/07/2012 Favorable CJ	Favorable Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Regulated Industries

Tuesday, February 7, 2012, 1:30 —3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/SB 888 Commerce and Tourism / Flores (Similar CS/CS/H 749)	Consumer Services; Deleting provisions establishing the Division of Standards within the Department of Agriculture and Consumer Services; repealing provisions relating to responsibilities of the department for compliance with certain federal requirements related to consumer conciliatory conferences and energy conservation products, services, and loans; authorizing the department to waive license renewal fees for land surveyors and mappers under certain circumstances; authorizing the department to waive firearms training requirements for the initial licensure of private investigative, private security, or repossession services under certain circumstances, etc. CM 01/19/2012 Fav/CS RI 02/07/2012 Fav/CS BC	Fav/CS Yeas 10 Nays 0
4	SB 956 Hays (Similar CS/CS/H 625)	Disposition of Human Remains; Revising procedures for the reporting and disposition of unclaimed remains; revising procedures for the anatomical board's retention of human remains before their use; providing for claims by, and the release of human remains to, legally authorized persons after payment of certain expenses; revising exceptions from requirements for notice to the anatomical board of the death of indigent persons; revising provisions prohibiting the selling, buying, or bartering of human remains or the transmitting or conveying of such remains outside the state to include application to transmissions and conveyances within the state; allowing certain accredited schools and organizations to convey human remains in or out of state for medical or research purposes; requiring the anatomical board to establish criteria to approve the conveyance of human remains, etc. RI 02/07/2012 Fav/CS HR BC	Fav/CS Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Regulated Industries

Tuesday, February 7, 2012, 1:30 —3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 1166 Simmons (Similar H 7095)	Clerks of Court; Requiring the Department of the Lottery to use the Comprehensive Case Information System of the Florida Association of Court Clerks and Comptroller, Inc., to determine whether a prize winner owes outstanding fines, fees, or court costs to the state; requiring clerks of the circuit courts to use the Comprehensive Case Information System and to submit data to the system based on case types designated by the Supreme Court of Florida; providing that an action to collect any court costs or fines owed to the state may be commenced at any time; deleting a requirement that a clerk of court send criminal conviction information to the state agency that has issued a business or professional license to a person who is convicted of certain types of criminal offenses, etc. RI 02/07/2012 Fav/CS JU BC	Fav/CS Yeas 10 Nays 0
6	SB 1656 Latvala (Compare CS/CS/H 769)	Public Accounting; Requiring that the Department of Business and Professional Regulation conduct a feasibility study to assess the privatization of the Division of Certified Public Accounting; revising the criteria for the work experience that is required for obtaining a license as a certified public accountant in this state; requiring that the department renew a license upon certification by the board that the sole proprietor, partnership, corporation, limited liability company, or other firm engaged in the practice of public accounting is enrolled in a peer review program, etc. RI 02/07/2012 Fav/CS BC	Fav/CS Yeas 10 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: SB 986

INTRODUCER: Senator Altman and others

SUBJECT: Slot machines and slot machine components

DATE: February 7, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harrington	Imhof	RI	Unfavorable
2.	_____	_____	BC	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill clarifies that the Division of Pari-mutuel Wagering (division) has authority to adopt rules regarding slot machines including all components, hardware, and software. The bill amends the rulemaking authority for the division to add specific rule authority regarding specifications of the required internal components of a slot machine, including the location, configuration, and function of the components, as well as the operating requirements for slot machine hardware and software. The bill provides that the division shall have rulemaking authority over the procedures and specifications for slot machines to ensure the random probabilities of winning plays and the specifications for the operation of the random-number generator of each slot machine.

The bill prohibits a slot machine’s random number generator from serving more than one station or terminal where a player places wagers. In addition, the bill clarifies that slot machines may be linked to other slot machines within the facility of a slot machine licensee for progressive jackpot payouts. Currently, the bill includes a scrivener’s error to prevent progressive systems.

This bill substantially amends the following sections of the Florida Statutes: 551.103, 551.104, and 551.121.

II. Present Situation:

The Division of Pari-mutuel Wagering

The Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation provides regulatory oversight to pari-mutuel wagering activities, cardrooms located at pari-mutuel facilities, and slot machines located at pari-mutuel facilities located in Miami-

Dade and Broward Counties. The mission of the division is the efficient, effective and fair regulation of authorized gaming at pari-mutuel facilities in Florida.¹

The division's primary responsibilities include:

- Ensuring that races and games are conducted fairly and accurately;
- Ensuring the safety and welfare of racing animals;
- Collecting state revenue accurately and timely;
- Issuing occupational and permitholder operating licenses;
- Regulating pari-mutuel, cardroom, and slot machine operations;
- Ensuring that permitholders, licensees, and businesses related to the industries comply with state law; and
- Serving as the State Compliance Agency for the Compact between the Seminole Tribe of Florida and the State of Florida.

The division provides oversight to:

- 35 permitholders operating at 29 facilities:
 - 16 Greyhound
 - 3 Thoroughbred
 - 1 Harness
 - 6 Jai-Alai
 - 1 track offering limited intertrack wagering and horse sales
 - 2 Quarter Horse
- 24 Cardrooms operating at pari-mutuel facilities
- 6 Slot facilities located in Broward and Miami-Dade County pari-mutuel facilities.

Slot Machine Gaming

During the 2004 General Election, the electors approved Amendment 4 to the Florida Constitution, codified as s. 23, Art. X, Florida Constitution, which authorized slot machines at existing pari-mutuel facilities in Miami-Dade and Broward Counties upon an affirmative vote of the electors in those counties. Both Miami-Dade and Broward Counties held referenda elections on March 8, 2005. The electors approved slot machines at the pari-mutuel facilities in Broward County, but the measure was defeated in Miami-Dade County. On January 29, 2008, another referendum was held under the provisions of Amendment 4, in which the slot machines in Miami-Dade County were approved. Under the provisions of the amendment, seven pari-mutuel facilities are eligible to conduct slot machine gaming. Of the seven, six are operating slot machines.²

In addition to the seven locations authorized for slot machines under the Florida Constitution, on July 1, 2010, a statutory amendment expanded the locations that were authorized slot machine gaming to include pari-mutuel facilities located in a charter county or a county that has a referendum approving slots where the referendum was held pursuant to a statutory or

¹ <http://www.myflorida.com/dbpr/pmw/index.html> (last visited January 23, 2012).

² The Isle Casino and Racing at Pompano Park, Mardi Gras Racetrack and Gaming Center, Gulfstream Park, Calder/Tropical Park Racetrack, Flagler Dog Track and Magic City, and Miami/Summer Jai Alai are currently operating slot machines.

constitutional authorization after the effective date of the amendment. The facility must have conducted live racing for two calendar years preceding its application and must comply with other requirements for slot machine licensure.³ Currently, only existing pari-mutuel facilities in Miami-Dade County qualify for slot machine authorization. Under the statutory provision, one additional facility became eligible for slot machine gaming, Hialeah Park (a quarter horse facility).⁴ Hialeah Park has been granted a license to conduct slot machine gaming but is not currently operating slot machine gaming.

In order to conduct slot machine gaming, the slot machine applicant and licensee must conduct a full schedule of live racing.⁵ Slot machine licensees may make available for play up to 2,000 slot machines within the property of the facilities of the slot machine licensee.⁶ Slot machine licensees are required to pay an annual licensure fee of \$2 million.⁷

In addition to the license fees, the tax rate on slot machine revenues at each facility is 35 percent.⁸ If, during any state fiscal year, the aggregate amount of tax paid to the state by all slot machine licensees in Broward and Miami-Dade counties is less than the aggregate amount of tax paid to the state by all slot machine licensees in the 2008-2009 fiscal year, each slot machine licensee shall pay to the state within 45 days after the end of the state fiscal year a surcharge equal to its pro rata share of an amount equal to the difference between the aggregate amount of tax paid to the state by all slot machine licensees in the 2008-2009 fiscal year and the amount of tax paid during the fiscal year.⁹

Rulemaking Authority

Section 551.103, F.S., provides that the division shall adopt all rules necessary to implement, administer, and regulate slot machine gaming. Such rules must, in pertinent part, include:

- Procedures for applying for a slot machine license and renewal of a slot machine license;
- Technical requirements and the qualifications contained in this chapter that are necessary to receive a slot machine license or slot machine occupational license;
- Procedures to scientifically test and technically evaluate slot machines for compliance with [ch. 550, F.S.];

³ See, ch. 2010-29, L.O.F. and s 551.102(4), F.S.

⁴ Currently the provision is being challenged as violating s. 23, Art. X, Florida Constitution. The trial court upheld the constitutionality in Leon County. That decision was upheld by the First District Court of Appeal. See consolidated cases, *Calder Race Course, Inc. v. Department of Business and Professional Regulation and South Florida Racing Association*, 1D11-130 (Fla. 1st DCA) and *Florida Gaming Centers, Inc. v. Department of Business and Professional Regulation and South Florida Racing Association*, 1D10-6780 (Fla. 1st DCA). The case has been appealed to the Florida Supreme Court. See *Florida Gaming Centers, Inc. v. Florida Department of Business and Professional Regulation, et al*, SC11-2182 (Fla.)

⁵ Section 551.104(4)(c), F.S.

⁶ Section 551.114(1), F.S.

⁷ Section 551.106(1), F.S. Prior to the effective date of ch. 2010-29, L.O.F., the license fee was \$3 million.

⁸ Section 551.106(1), F.S. Prior to the effective date of ch. 2010-29, L.O.F., the tax rate was 50 percent.

⁹ Section 551.106(2), F.S. The 2008-2009 tax paid on slot machine revenue was \$103,895,349. It does not appear that this provision will be triggered because of the additional facilities beginning slot operations. Calder began slot operations in January 2010 and Flagler began operations in October 2009. During fiscal year 2009-2010, the tax paid on slot machine revenues was \$138,125,105. In 2010-2011, after the tax rate was reduced, the tax paid on slot machine revenues exceeded \$125 million. Miami Jai Alai began slot operations in January 2012. Dania Jai Alai and Hialeah Park have not begun slot operations.

- Procedures relating to slot machine revenues, including verifying and accounting for such revenues, auditing, and collecting taxes and fees;
- Procedures for regulating, managing, and auditing the operation, financial data, and program information relating to slot machine gaming that allow the division and the Department of Law Enforcement to audit the operation, financial data, and program information of a slot machine licensee, and provide the division and the Department of Law Enforcement with the ability to monitor, at any time on a real-time basis, wagering patterns, payouts, tax collection, and compliance with any rules;
- Procedures for requiring each licensee at his or her own cost and expense to supply the division with a bond having the penal sum of \$2 million;
- Procedures for requiring licensees to maintain specified records and submit any data, information, record, or report, including financial and income records necessary to the proper implementation and enforcement of [ch. 550, F.S.];
- A requirement that the payout percentage of a slot machine be no less than 85 percent;
- Minimum standards for security of the facilities, including floor plans, security cameras, and other security equipment; and
- Procedures for requiring slot machine licensees to implement and establish a drug-testing program for all slot machine occupational licensees.

Division of Administrative Hearing

On July 5, 2006, the division adopted Rule 61D-14.041, F.A.C., as part of its original slot machine regulations. This rule established a requirement that a slot machine have an internal random number generator, as well as establishing criteria for the operation of the random number generator. According to the division, a random number generator is a vital slot machine component that produces the random outcomes used in modern slot machines to determine whether a play is a win or a loss. Once the random number generator has determined whether the play is a win or loss, the slot machine's programming displays the outcome to the player through spinning wheels or video displays.

On February 28, 2011, a Rule Challenge Petition was filed with the Division of Administrative Hearings (DOAH) by Interblock USA, LLC (Interblock).¹⁰ Interblock manufactures gambling machines that play automated table games such as roulette and craps with physical wheels or dice, instead of using all electronic images. A single random number generator, external to the player stations, can operate the results for multiple player stations. The results of those games are shared by multiple players at separate terminals. The petition challenged the division's authority to adopt a rule that required a slot machine to have a random number generator.

On March 11, 2011, Shuffle Master, Inc., which manufactures a variety of gaming devices, including slot machines, intervened in the case.¹¹ Shuffle Master, like Interblock, manufactures electronic games that play table games such as roulette and craps through the use of a random number generator and video presentation of results. The results of those games are shared by multiple players at separate terminals.

¹⁰ A copy of the Petition can be viewed at: <http://www.doah.state.fl.us/DocDoc/2011/001075/11001075M-030111-09265926.PDF> (Last viewed January 30, 2012).

¹¹ A copy of the Petition to Intervene can be viewed at: <http://www.doah.state.fl.us/DocDoc/2011/001075/11001075PI-031111-12085208.PDF> (Last viewed January 30, 2012).

After a motion hearing on March 18, 2011 regarding Interblock's challenge to the authority of the division's ability to require each slot machine to have a random number generator, Interblock and Shuffle Master filed a stipulation that changed the case to challenge the requirement of Rule 61D-14.041, F.A.C., that the random number generator be "internal" rather than shared by multiple player terminals.¹²

On March 22, 2011, DOAH entered an order in the case finding that the division does not have the authority under ch. 551, F.S., to adopt a rule requiring a slot machine to have an "internal" random number generator.¹³ The Final Order was entered on April 7, 2011.¹⁴ On May 6, 2011, the division filed an appeal with the First District Court of Appeal. On January 23, 2012, the First District Court of Appeal affirmed the decision of DOAH.¹⁵

According to the division, the reasoning applied in this court decision could be applied to the other rules of the division concerning standards for internal components of a slot machine. This could result in machines that are simply automated table games, such as roulette and craps, to be played at licensed slot machine facilities.¹⁶

III. Effect of Proposed Changes:

The bill authorizes the Division of Pari-mutuel Wagering to adopt rules related to slot machines, including:

- Procedures to scientifically test and technically evaluate slot machines, including all components, hardware, and software for the machines;
- Specifications of the required internal components for a slot machine, including the location, configuration, and function of the components, as well as the operating requirements for all hardware and software.
- Procedures and specifications for the slot machine to ensure the random probabilities of winning plays; and
- The specifications for the operation of the random-number generator of each slot machine.

¹² A copy of the Joint Stipulation can be viewed at:

http://www.doah.state.fl.us/DocDoc/2011/001075/11001075_0_03182011_04520644_e.pdf (Last viewed January 30, 2012).

¹³ A copy of the Order can be viewed at: <http://www.doah.state.fl.us/DocDoc/2011/001075/11001075OGEN-032111-08495549.pdf> (Last viewed on January 30, 2012).

¹⁴ A copy of the Final Order can be viewed at: <http://www.doah.state.fl.us/ROS/2011/11001075.pdf> (Last viewed on January 30, 2012).

¹⁵ A copy of the First District Court of Appeal, affirmed, per curiam, can be viewed at:

<http://www.doah.state.fl.us/ROS/2011/11001075%20OPINION.pdf> (Last viewed on January 30, 2012). An opinion that is affirmed per curiam with no written opinion has no precedential value. See *Department of Legal Affairs v. District Court of Appeal, 5th Dist.*, 434 So.2d 310 (Fla. 1983). The Supreme Court went on to state that "[a]n affirmance without an opinion is an approval only of the point decided or result reached by the court below, and not of the opinion and the conclusions of law of the lower court, so as to establish a precedent for future action."

¹⁶ Images and videos of the machines can be viewed at Interblock's website, which can be found at:

<http://www.interblock.eu/usa/products/G4/roulette/> (Last viewed January 31, 2012). This website highlights the technology that is available in electronic gaming and illustrates the types of games that may be authorized in the state without statutory oversight of the internal components of slot machines.

The bill amends s. 551.121(5), F.S., to provide that a slot machine's random-number generator may not serve more than one station or terminal where a patron places their wager. According to the division, requiring a single random number generator to operate a single player terminal reduces fraud. In addition, according to the department, this requirement ensures that the statutory limit of 2,000 machines per licensee is complied with. Otherwise, a random number generator could operate more than 10 player stations and could allow a licensee to operate well above the 2,000 machine limit.

The bill clarifies that a slot machine, or the computer operating system linking the slot machine, may be linked by any means to any other slot machines or computer operating system within the facility for progressive jackpot payouts.

The bill provides that a progressive system may not be used in conjunction with slot machines between licensed facilities. Committee staff has been informed that this change was done in error and will be corrected through an amendment.

The bill provides an effective date of July 1, 2012.

Other Potential Implications:

In 2010, the state entered into a tribal-state compact (compact) with the Seminole Indian Tribe of Florida (Tribe), granting the Tribe substantial exclusivity on Class III and casino-style gaming in exchange for revenue sharing with the state.¹⁷ The compact specified that if an expansion of gaming occurs, Tribal payments may be reduced or may cease.¹⁸

This bill attempts to restrict the type of slot machine games that may be conducted in the state. Without this bill, it is possible that multi-station games could be implemented in slot machine facilities that simulate the game of craps and roulette, two games that are currently not authorized anywhere in the state, even at tribal facilities. The Tribe has in the past argued that the state's "expansive definition of slot machines" that allowed for the operation of an electronically simulated blackjack game, which is played on an electronic table operated with an internal random number generator, constituted the authorization of Class III blackjack.¹⁹ Although this argument did not prove successful, it is possible that the Tribe may argue that the use of multi-station slot machines or machines that utilize real dice for craps or real balls on a roulette wheel may constitute an expansion of gaming.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁷ *Gaming Compact Between the Seminole Tribe of Florida and the State of Florida*, approved by the U.S. Department of the Interior effective July 6, 2010, 75 Fed. Reg. 128.

¹⁸ *Id.* See Part XII, Gaming Compact.

¹⁹ See *Memorandum to the National Indian Gaming Commission*, Seminole Tribe of Florida, January 8, 2010. A copy of the memorandum is on file with the committee.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

The bill limits the type of slot machines that may be utilized by slot machine facilities and which may be played by patrons of slot machine facilities to machines that operate a single player station off of a single random number generator. The bill would prohibit electronic multi-station games. According to an industry representative, over 200 game stations would have to be removed from the slot machine facilities, which would have an annual negative impact of approximately \$9 million to the slot machine facilities.

C. Government Sector Impact:

The bill provides clarity to the division regarding rulemaking authority concerning the internal components of slot machine gaming. Without this clarity, the division may continue to experience rule challenges. According to an industry representative, the result of the over 200 game stations being removed from the gaming floors would result in an annual negative impact of over \$4.8 million in gaming taxes to the state.

VI. Technical Deficiencies:

According to the division, on line 253, “not” was accidentally added. Committee staff has been informed that this was done in error and an amendment will be prepared to correct it.

VII. Related Issues:

None.

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

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

None.

B. Amendments:

None.

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



331510

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/07/2012	.	
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The Committee on Regulated Industries (Altman) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (1) of section 551.103, Florida
Statutes, is amended to read:

551.103 Powers and duties of the division and law
enforcement.—

(1) The division shall adopt, pursuant to the provisions of
ss. 120.536(1) and 120.54, all rules necessary to implement,
administer, and regulate slot machines and slot machine gaming
as authorized in this chapter. Such rules must include:



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13 (a) Procedures for applying for a slot machine license and
14 renewal of a slot machine license.

15 (b) Technical requirements and the qualifications contained
16 in this chapter that are necessary to receive a slot machine
17 license or slot machine occupational license.

18 (c) Procedures to scientifically test and technically
19 evaluate slot machines, including all components, hardware, and
20 software for slot machines, for compliance with this chapter.
21 The division may contract with an independent testing laboratory
22 to conduct any necessary testing under this section. The
23 independent testing laboratory must have a national reputation
24 which is demonstrably competent and qualified to scientifically
25 test and evaluate slot machines for compliance with this chapter
26 and to otherwise perform the functions assigned to it in this
27 chapter. An independent testing laboratory shall not be owned or
28 controlled by a licensee. The use of an independent testing
29 laboratory for any purpose related to the conduct of slot
30 machine gaming by a licensee under this chapter shall be made
31 from a list of one or more laboratories approved by the
32 division.

33 (d) Procedures relating to slot machine revenues, including
34 verifying and accounting for such revenues, auditing, and
35 collecting taxes and fees consistent with this chapter.

36 (e) Procedures for regulating, managing, and auditing the
37 operation, financial data, and program information relating to
38 slot machine gaming that allow the division and the Department
39 of Law Enforcement to audit the operation, financial data, and
40 program information of a slot machine licensee, as required by
41 the division or the Department of Law Enforcement, and provide



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42 the division and the Department of Law Enforcement with the
43 ability to monitor, at any time on a real-time basis, wagering
44 patterns, payouts, tax collection, and compliance with any rules
45 adopted by the division for the regulation and control of slot
46 machines operated under this chapter. Such continuous and
47 complete access, at any time on a real-time basis, shall include
48 the ability of either the division or the Department of Law
49 Enforcement to suspend play immediately on particular slot
50 machines if monitoring of the facilities-based computer system
51 indicates possible tampering or manipulation of those slot
52 machines or the ability to suspend play immediately of the
53 entire operation if the tampering or manipulation is of the
54 computer system itself. The division shall notify the Department
55 of Law Enforcement or the Department of Law Enforcement shall
56 notify the division, as appropriate, whenever there is a
57 suspension of play under this paragraph. The division and the
58 Department of Law Enforcement shall exchange such information
59 necessary for and cooperate in the investigation of the
60 circumstances requiring suspension of play under this paragraph.

61 (f) Procedures for requiring each licensee at his or her
62 own cost and expense to supply the division with a bond having
63 the penal sum of \$2 million payable to the Governor and his or
64 her successors in office for each year of the licensee's slot
65 machine operations. Any bond shall be issued by a surety or
66 sureties approved by the division and the Chief Financial
67 Officer, conditioned to faithfully make the payments to the
68 Chief Financial Officer in his or her capacity as treasurer of
69 the division. The licensee shall be required to keep its books
70 and records and make reports as provided in this chapter and to



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71 conduct its slot machine operations in conformity with this
72 chapter and all other provisions of law. Such bond shall be
73 separate and distinct from the bond required in s. 550.125.

74 (g) Procedures for requiring licensees to maintain
75 specified records and submit any data, information, record, or
76 report, including financial and income records, required by this
77 chapter or determined by the division to be necessary to the
78 proper implementation and enforcement of this chapter.

79 (h) A requirement that the payout percentage of a slot
80 machine be no less than 85 percent.

81 (i) Minimum standards for security of the facilities,
82 including floor plans, security cameras, and other security
83 equipment.

84 (j) Procedures for requiring slot machine licensees to
85 implement and establish drug-testing programs for all slot
86 machine occupational licensees.

87 (k) Specifications of the required internal components for
88 a slot machine, including the configuration and function of the
89 components, and the operating requirements for all hardware and
90 software.

91 (l) Procedures and specifications for slot machines to
92 ensure the random probabilities of winning plays and the
93 specifications for the operation of the random-number generator
94 of each slot machine.

95 Section 2. Present subsections (4), (5), and (6) of section
96 551.121, Florida Statutes are renumbered as (6), (7), and (8),
97 respectively and new subsections (4) and (5) are added to that
98 section to read:

99 551.121 Prohibited activities and devices; exceptions.—



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100 (4) A slot machine may not utilize tangible playing cards,
101 tangible roulette wheels, tangible dice, or tangible chips.

102 (5) A slot machine shall not allow players to wager on a
103 shared result.

104 Section 3. This act shall take effect upon becoming law.

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

107 And the title is amended as follows:

108 Delete everything before the enacting clause
109 and insert:

110 A bill to be entitled
111 An act relating to slot machines and slot machine
112 components; amending s. 551.103, F.S.; requiring the
113 Division of Pari-mutuel Wagering within the Department
114 of Business and Professional Regulation to adopt rules
115 regulating slot machines and providing specifications
116 for the internal components of slot machines;
117 requiring that the division adopt specifications and
118 procedures to ensure random probabilities of winning
119 plays and provide for the operation of random-number
120 generators; amending s. 551.121, F.S.; prohibiting a
121 slot machine from utilizing tangible playing cards,
122 roulette wheels, dice or chips; prohibiting players
123 from wagering on a shared result; providing an
124 effective date.



140816

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/07/2012	.	
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The Committee on Regulated Industries (Diaz de la Portilla) recommended the following:

1 **Senate Amendment to Amendment (331510) (with title**
2 **amendment)**

3
4 Between lines 103 and 104
5 insert:

6 Section 3. Section 849.094, Florida Statutes, is amended to
7 read:

8 849.094 Game promotion in connection with sale of consumer
9 products or services.—

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

11 (a) "Department" means the Department of Agriculture and
12 Consumer Services.



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13 **(b)**~~(a)~~ "Game promotion" means, but is not limited to, a
14 contest, game of chance, or gift enterprise, conducted within or
15 throughout the state and other states in connection with the
16 sale of consumer products or services, and in which the elements
17 of chance and prize are present. However, the term does "game
18 ~~promotion"~~ shall not be construed to apply to bingo games
19 conducted pursuant to s. 849.0931.

20 **(c)**~~(b)~~ "Operator" means any person, firm, corporation, or
21 association or agent or employee thereof who ~~promotes, operates,~~
22 or conducts a game promotion to promote the sale of its consumer
23 products or services, except any charitable nonprofit
24 ~~organization.~~

25 (2) It is unlawful for any operator:

26 (a) To design, engage in, promote, or conduct such a game
27 promotion, in connection with the promotion or sale of consumer
28 products or services, wherein the winner may be predetermined or
29 the game may be manipulated or rigged so as to:

30 1. Allocate a winning game or any portion thereof to
31 certain lessees, agents, or franchises; or

32 2. Allocate a winning game or part thereof to a particular
33 period of the game promotion or to a particular geographic area;

34 (b) Arbitrarily to remove, disqualify, disallow, or reject
35 any entry;

36 (c) To fail to award any prizes offered;

37 (d) To print, publish, or circulate literature or
38 advertising material used in connection with such game
39 promotions which is false, deceptive, or misleading; or

40 (e) To require an entry fee, payment, or proof of purchase
41 as a condition of entering a game promotion.



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42 (3) (a) The operator of a game promotion in which the total
43 announced value of the prizes offered is greater than \$5,000
44 shall file with the department ~~of Agriculture and Consumer~~
45 ~~Services~~ a copy of the rules ~~and regulations~~ of the game
46 promotion and a list of all prizes and prize categories offered
47 at least 7 days before the commencement of the game promotion.

48 (b) Each operator of a game promotion who provides
49 electronic devices or computer terminals with video display
50 monitors that reveal or display the results of a game promotion
51 must file with the department at least 7 days before
52 commencement of the game promotion a copy of the rules and
53 regulations of the game promotion and a list of all prizes and
54 prize categories offered. The filing must include the physical
55 location of each electronic device or computer terminal and a
56 separate terminal fee pursuant to paragraph (11)(d) for each
57 electronic device or computer terminal that is a component of
58 the game promotion.

59 (c) Once filed, the ~~Such~~ rules and regulations may not
60 ~~thereafter~~ be changed, modified, or altered. The operator of a
61 game promotion shall conspicuously post the rules and
62 regulations of such game promotion in each ~~and every~~ retail
63 outlet or place where such game promotion is ~~may be~~ played or
64 participated in by the public and shall also publish the rules
65 and regulations in all advertising copy used in connection with
66 the game promotion ~~therewith~~. However, the ~~such~~ advertising copy
67 need ~~only~~ include only the material terms of the rules and
68 regulations if the advertising copy includes a website address,
69 a toll-free telephone number, or a mailing address where the
70 full rules and regulations may be viewed, heard, or obtained for



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71 the full duration of the game promotion. The ~~Such~~ disclosures
72 must be legible. Radio and television announcements may indicate
73 that the rules and regulations are available at retail outlets
74 or from the operator of the promotion.

75 (d) A nonrefundable filing fee of \$100 must ~~shall~~ accompany
76 each filing and must ~~shall~~ be used to pay the costs incurred in
77 administering and enforcing the provisions of this section.

78 (e) The department may not accept a filing from any
79 operator, person, firm, corporation, association, agent, or
80 employee who has been found guilty of or entered a plea of nolo
81 contendere to, regardless of adjudication, or who fails to
82 satisfy a judgment for, a violation of this section.

83 (4) (a) Each ~~Every~~ operator of ~~such~~ a game promotion in
84 which the total announced value of the prizes offered is greater
85 than \$5,000 shall establish a trust account, in a national or
86 state-chartered financial institution, with a balance equal to
87 ~~sufficient to pay or purchase~~ the total value of all prizes
88 offered. On a form supplied by the department ~~of Agriculture and~~
89 ~~Consumer Services~~, an official of the financial institution
90 holding the trust account shall provide ~~set forth~~ the account
91 number and dollar amount of the trust account, the identity of
92 the entity or individual establishing the trust account, and the
93 name of the game promotion for which the trust account has been
94 established. The ~~Such~~ form must ~~shall~~ be filed with the
95 department ~~of Agriculture and Consumer Services~~ at least 7 days
96 before ~~in advance of~~ the commencement of the game promotion. In
97 lieu of establishing a ~~such~~ trust account, the operator may
98 obtain a surety bond from a surety authorized to do business in
99 this state in an amount equal ~~equivalent~~ to the total value of



140816

100 all prizes offered in the promotion. The; and such bond must
101 ~~shall~~ be filed with the department of ~~Agriculture and Consumer~~
102 ~~Services~~ at least 7 days before ~~in advance of~~ the commencement
103 of the game promotion. Each operator of a game promotion who
104 provides electronic devices or computer terminals with video
105 display monitors that reveal or display the results of a game
106 promotion must obtain a surety bond in an amount equal to the
107 total value of all prizes offered, and the bond must be filed
108 with the department at least 7 days before the commencement of
109 the game promotion.

110 1. The moneys held in the trust account may be withdrawn in
111 order to pay the prizes offered only upon certification to the
112 department of ~~Agriculture and Consumer Services~~ of the name of
113 the winner ~~or winners~~ and the amount and value of the prize ~~or~~
114 ~~prizes and the value thereof.~~

115 2. If the operator of a game promotion obtains ~~has obtained~~
116 a surety bond in lieu of establishing a trust account, the
117 amount of the surety bond shall equal at all times the total
118 amount of the prizes offered. The bond must be in favor of the
119 department for the use and benefit of any consumer who qualifies
120 for the award of a prize under the rules and regulations of the
121 game promotion but who does not receive the prize awarded, and
122 must be in effect until 30 days after filing the list of winners
123 pursuant to subsection (5). The bond must be applicable and
124 liable only for the payment of the claims duly adjudicated by
125 order of the department. The proceedings to adjudicate the claim
126 must be conducted in accordance with ss. 120.569 and 120.57.

127 (b) The department of ~~Agriculture and Consumer Services~~ may
128 waive the provisions of this subsection for any operator who has



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129 conducted game promotions in the state for ~~not less than~~ 5 or
130 more consecutive years and who has not had any civil, criminal,
131 or administrative action instituted against him or her by the
132 state or an agency of the state for violation of this section
133 within that 5-year period. The department may revoke a waiver if
134 it finds that an operator committed a violation of this section.
135 ~~Such waiver may be revoked upon the commission of a violation of~~
136 ~~this section by such operator, as determined by the Department~~
137 ~~of Agriculture and Consumer Services.~~

138 (5) Each ~~Every~~ operator of a game promotion in which the
139 total announced value of the prizes offered is greater than
140 \$5,000 shall provide the department ~~of Agriculture and Consumer~~
141 ~~Services~~ with a certified list of the names and addresses of all
142 persons, whether from this state or from another state, who have
143 won prizes that ~~which~~ have a value of more than \$25, the value
144 of the ~~such~~ prizes, and the dates when the prizes were won
145 within 60 days after the ~~such~~ winners are ~~have been finally~~
146 determined. The date for the final determination of winners must
147 be 60 days after the ending date of the game promotion stated in
148 the original filing required in subsection (3). The operator
149 shall provide a copy of the list of winners, without charge, to
150 any person who requests it or shall. ~~In lieu of the foregoing,~~
151 ~~the operator of a game promotion may, at his or her option,~~
152 publish the same information about the winners in a ~~Florida~~
153 newspaper of general circulation in this state within 60 days
154 after the ~~such~~ winners are ~~have been~~ determined. If the operator
155 publishes the list of winners in a newspaper, the operator must
156 ~~and shall~~ provide to the department ~~of Agriculture and Consumer~~
157 ~~Services~~ a certified copy of the publication containing the



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158 information about the winners. The operator of a game promotion
159 is not required to notify a winner by mail or by telephone when
160 the winner is already in possession of a game card from which
161 the winner can determine that he or she has won a designated
162 prize. All winning entries must ~~shall~~ be held by the operator
163 for ~~a period of~~ 90 days after the close or completion of the
164 game.

165 (6) The department ~~of Agriculture and Consumer Services~~
166 shall keep the certified list of winners for a period of ~~at~~
167 ~~least~~ 6 months after receipt of the certified list. The
168 department thereafter may dispose of all records and lists.

169 (7) An ~~No~~ operator may not ~~shall~~ force, directly or
170 indirectly, a lessee, agent, or franchise dealer to purchase or
171 participate in any game promotion. For the purpose of this
172 section, coercion or force is ~~shall be~~ presumed in these
173 circumstances in which a course of business extending over a
174 period of 1 year or longer is materially changed coincident with
175 a failure or refusal of a lessee, agent, or franchise dealer to
176 participate in such game promotions. Such force or coercion is
177 ~~shall further be~~ presumed when an operator advertises generally
178 that game promotions are available at its lessee dealers or
179 agent dealers.

180 (8) (a) The department may adopt ~~Department of Agriculture~~
181 ~~and Consumer Services shall have the power to promulgate such~~
182 rules regulating and regulations respecting the operation of
183 game promotions which are necessary to administer this section
184 ~~as it may deem advisable.~~

185 (b) If ~~Whenever~~ the department ~~of Agriculture and Consumer~~
186 ~~Services~~ or the Department of Legal Affairs has reason to



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187 believe that a game promotion is being operated in violation of
188 this section, it may bring an action in the circuit court of any
189 judicial circuit in which the game promotion is being operated
190 in the name and on behalf of the people of the state against any
191 operator thereof to enjoin the continued operation of such game
192 promotion anywhere within the state.

193 (9) (a) Any person, firm, or corporation, or association or
194 agent or employee thereof, who engages in any acts or practices
195 stated in this section to be unlawful, or who violates any of
196 the rules adopted and ~~regulations made~~ pursuant to this section,
197 commits ~~is guilty of~~ a misdemeanor of the second degree,
198 punishable as provided in s. 775.082 or s. 775.083.

199 (b) Any person, firm, corporation, association, agent, or
200 employee who violates any provision of this section or any of
201 the rules adopted and ~~regulations made~~ pursuant to this section
202 is ~~shall be~~ liable for a civil penalty of not more than \$1,000
203 for each such violation, which shall accrue to the state and may
204 be recovered in a civil action brought by the department ~~of~~
205 ~~Agriculture and Consumer Services~~ or the Department of Legal
206 Affairs.

207 (10) ~~This section does not apply to actions or transactions~~
208 ~~regulated by the Department of Business and Professional~~
209 ~~Regulation or to the activities of nonprofit organizations or to~~
210 ~~any other organization engaged in any enterprise other than the~~
211 ~~sale of consumer products or services.~~ Subsections (3), (4),
212 (5), (6), and (7) and paragraph (8) (a) and ~~any of~~ the rules
213 adopted ~~made~~ pursuant to these subsections ~~thereto~~ do not apply
214 to television or radio broadcasting companies licensed by the
215 Federal Communications Commission.



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216 (11) Each operator of a game promotion who provides
217 electronic devices or computer terminals with video display
218 monitors that reveal or display the results of a game promotion
219 shall:

220 (a) File with the department, at least 7 days before the
221 commencement of the game promotion, a certification from an
222 independent testing laboratory that the electronic game
223 promotion software:

224 1. Operates only games having a preconfigured finite pool
225 or pools of entries;

226 2. Provides an entrant with the ability to participate in
227 the absence of a purchase;

228 3. Does not distinguish an entrant who has made a purchase
229 from one who has not, with respect to all advertised prizes;

230 4. Uses video displays that do not determine the result;
231 and

232 5. Complies with the requirements of subsection (2).

233 (b) Post a sign inside the premise which must include the
234 following language in at least 26-point type: "The video
235 displays are for amusement and entertainment only. The video
236 displays do not determine the result of your game promotion
237 entries."

238 (c) Affix signage that must include the following language
239 in at least 10-point type on each piece of electronic equipment:
240 "The video displays are for amusement and entertainment only.
241 The video displays do not determine the result of your game
242 promotion entries."

243 (d) Pay to the department annually a nonrefundable terminal
244 fee of \$100 per electronic device or computer terminal which



140816

245 must be remitted by the department to the Department of Revenue
246 for deposit into the General Revenue Fund.

247 (12) Operators that provide electronic devices or computer
248 terminals with video display monitors that reveal or display the
249 results of a game promotion or electronic game promotion shall
250 limit the advertisement on the exterior of the premise to the
251 consumer product or service sold on the premise and to game
252 promotions that are offered in connection with the sale of the
253 consumer product or service. A sign may not be posted on the
254 exterior of the premises which suggests gambling takes place on
255 the premise or which displays any image commonly associated with
256 slot machines.

257 (13) Electronic devices or computer terminals with video
258 display monitors that reveal or display the results of a game
259 promotion may not dispense coins or currency.

260 (14) This section does not allow the use of mechanical or
261 electromechanical reels in connection with a game promotion.

262 (15) Electronic devices or computer terminals with video
263 display monitors that reveal or display the results of a game
264 promotion which are in compliance with this section may not be
265 construed as slot machines or devices as defined in s.
266 551.102(8), s. 849.15, or s. 849.16.

267 (16) A county or municipality may adopt an ordinance, code,
268 plan, rule, resolution, or other measure that further regulates
269 an existing or future operator who provides electronic devices
270 or computer terminals with video display monitors that reveal or
271 display the results of a game promotion or electronic game
272 promotion. A county or municipality may prohibit a future
273 operator from providing electronic devices or computer terminals



140816

274 with video display monitors that reveal or display the results
275 of a game promotion or electronic game promotion.

276
277 ===== T I T L E A M E N D M E N T =====

278 And the title is amended as follows:

279 Delete line 123

280 and insert:

281 from wagering on a shared result; amending s. 849.094,
282 F.S.; adding and revising definitions; providing for
283 the registration of electronic devices and computer
284 terminals used to conduct electronic game promotions;
285 prohibiting the Department of Agriculture and Consumer
286 Services from accepting a filing from certain
287 entities; establishing requirements for electronic
288 game promotions; requiring certification of game
289 promotion software; requiring that an operator of an
290 electronic game production pay to the department an
291 annual nonrefundable terminal fee per electronic
292 device or computer terminal; requiring the department
293 to remit the fees to the Department of Revenue for
294 deposit into the General Revenue Fund; prohibiting
295 certain conduct; limiting the applicability of the
296 act; authorizing a county or municipality to adopt an
297 ordinance, code, plan, rule, resolution, or other
298 measure to regulate an operator that provides
299 electronic devices or computer terminals for
300 electronic game promotion or to prohibit the future
301 operation of game promotions; providing an



699574

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/07/2012	.	
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The Committee on Regulated Industries (Diaz de la Portilla) recommended the following:

1 **Senate Amendment to Amendment (331510) (with title**
2 **amendment)**

3
4 Between lines 103 and 104
5 insert:

6 Section 3. Electronic devices or computer terminals that
7 have video display monitors that reveal or display the results
8 of a game promotion and that are in compliance with s. 849.094,
9 Florida Statutes, or games operated under s. 849.161, Florida
10 Statutes, may not be construed as slot machines or devices as
11 defined in s. 551.102(8) or s. 849.16, Florida Statutes, or as
12 described in s. 849.15, Florida Statutes.



699574

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

And the title is amended as follows:

Delete line 123

and insert:

from wagering on a shared result; providing that
certain electronic devices or computer terminals with
video display monitors that reveal or display the
results of a game promotion meeting specified
criteria, or certain games operated under specified
rules, are not slot machines or devices; providing an



342936

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
02/07/2012	.	
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The Committee on Regulated Industries (Sachs) recommended the following:

Senate Amendment to Amendment (331510) (with title amendment)

Between lines 4 and 5
insert:

Section 1. Subsection (4) of section 551.102, Florida Statutes, is amended to read:

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

(4) (a) "Eligible facility" means any licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution which ~~that~~ has conducted live racing or games



342936

13 during calendar years 2002 and 2003 and has been approved by a
14 majority of voters in a countywide referendum to have slot
15 machines at such facility in the respective county; any licensed
16 pari-mutuel facility located within a county as defined in s.
17 125.011, if the ~~provided such~~ facility has conducted live racing
18 for 2 consecutive calendar years immediately preceding its
19 application for a slot machine license, pays the required
20 license fee, and meets the other requirements of this chapter;
21 or any licensed pari-mutuel facility in any other county in
22 which a majority of voters have approved slot machines at such
23 facilities in a countywide referendum held pursuant to a
24 statutory or constitutional authorization after the effective
25 date of this section in the respective county, provided such
26 facility has conducted a full schedule of live racing for 2
27 consecutive calendar years immediately preceding its application
28 for a slot machine license, pays the required licensed fee, and
29 meets the other requirements of this chapter. A county that does
30 not hold, or take action to hold, a slot machine referendum by
31 January 31, 2012, must obtain specific legislative or
32 constitutional authorization for the countywide referendum.

33 (b) For purposes of paragraph (a), the county takes action
34 by January 31, 2012, if it:

35 1. Adopts an ordinance or resolution setting a countywide
36 referendum;

37 2. Approves a countywide referendum and directs county
38 staff to prepare a resolution or ordinance to implement the
39 approval; or

40 3. Places a resolution or ordinance on the agenda for the
41 county's next scheduled meeting of its governing body.



342936

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Notwithstanding any other provision of law or court decision, a slot machine license may be issued to an eligible facility outside Miami-Dade County or Broward County; however, the license may not authorize slot machine gaming or require payment of any license fees or regulatory fees before July 7, 2015.

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

And the title is amended as follows:

 Delete line 112

and insert:

 components; amending s. 551.102, F.S.; revising the definition of the term "eligible facility"; amending s. 551.103, F.S.; requiring the



203754

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/07/2012	.	
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The Committee on Regulated Industries (Sachs) recommended the following:

Senate Amendment to Amendment (331510) (with title amendment)

Between lines 94 and 95
insert:

Section 2. Subsection (3) of section 551.118, Florida Statutes, is amended to read:

551.118 Compulsive or addictive gambling prevention program.—

(3) The compulsive or addictive gambling prevention program shall be funded from an annual nonrefundable regulatory fee of \$250,000 paid by the licensee to the private provider pursuant



203754

13 to subsection (2) ~~division.~~

14

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

16 And the title is amended as follows:

17 Delete line 120

18 and insert:

19 generators; amending s. 551.118, F.S.; requiring that
20 the annual nonrefundable regulatory fee that funds the
21 compulsive or addictive gambling prevention program be
22 paid to certain private providers rather than the
23 division; amending s. 551.121, F.S.; prohibiting a



233724

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/07/2012	.	
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The Committee on Regulated Industries (Altman) recommended the following:

Senate Amendment (with title amendment)

Delete lines 253 - 256
and insert:
for progressive jackpot payouts. A progressive system may be used in conjunction with slot machines between licensed facilities in this state ~~Florida~~ or in other jurisdictions.

Section 4. This act shall take effect upon becoming a law.

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

And the title is amended as follows:

Delete lines 17 - 19



233724

13 and insert:
14 player places his or her wagers;



207754

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/07/2012	.	
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The Committee on Regulated Industries (Diaz de la Portilla) recommended the following:

Senate Amendment (with title amendment)

Between lines 255 and 256
insert:

Section 4. Section 849.094, Florida Statutes, is amended to read:

849.094 Game promotion in connection with sale of consumer products or services.-

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

(a) "Department" means the Department of Agriculture and Consumer Services.

(b) ~~(a)~~ "Game promotion" means, but is not limited to, a



207754

13 contest, game of chance, or gift enterprise, conducted within or
14 throughout the state and other states in connection with the
15 sale of consumer products or services, and in which the elements
16 of chance and prize are present. However, the term does ~~"game~~
17 ~~promotion"~~ shall not be construed to apply to bingo games
18 conducted pursuant to s. 849.0931.

19 (c) ~~(b)~~ "Operator" means any person, firm, corporation, or
20 association or agent or employee thereof who ~~promotes, operates,~~
21 or conducts a game promotion to promote the sale of its consumer
22 products or services, except any charitable nonprofit
23 organization.

24 (2) It is unlawful for any operator:

25 (a) To design, engage in, promote, or conduct such a game
26 promotion, in connection with the promotion or sale of consumer
27 products or services, wherein the winner may be predetermined or
28 the game may be manipulated or rigged so as to:

29 1. Allocate a winning game or any portion thereof to
30 certain lessees, agents, or franchises; or

31 2. Allocate a winning game or part thereof to a particular
32 period of the game promotion or to a particular geographic area;

33 (b) Arbitrarily to remove, disqualify, disallow, or reject
34 any entry;

35 (c) To fail to award any prizes offered;

36 (d) To print, publish, or circulate literature or
37 advertising material used in connection with such game
38 promotions which is false, deceptive, or misleading; or

39 (e) To require an entry fee, payment, or proof of purchase
40 as a condition of entering a game promotion.

41 (3) (a) The operator of a game promotion in which the total



207754

42 announced value of the prizes offered is greater than \$5,000
43 shall file with the department ~~of Agriculture and Consumer~~
44 ~~Services~~ a copy of the rules and regulations of the game
45 promotion and a list of all prizes and prize categories offered
46 at least 7 days before the commencement of the game promotion.

47 (b) Each operator of a game promotion who provides
48 electronic devices or computer terminals with video display
49 monitors that reveal or display the results of a game promotion
50 must file with the department at least 7 days before
51 commencement of the game promotion a copy of the rules and
52 regulations of the game promotion and a list of all prizes and
53 prize categories offered. The filing must include the physical
54 location of each electronic device or computer terminal and a
55 separate terminal fee pursuant to paragraph (11)(d) for each
56 electronic device or computer terminal that is a component of
57 the game promotion.

58 (c) Once filed, the ~~Such~~ rules and regulations may not
59 ~~thereafter~~ be changed, modified, or altered. The operator of a
60 game promotion shall conspicuously post the rules and
61 regulations of such game promotion in each ~~and every~~ retail
62 outlet or place where such game promotion is ~~may be~~ played or
63 participated in by the public and shall also publish the rules
64 and regulations in all advertising copy used in connection with
65 the game promotion ~~therewith~~. However, the ~~such~~ advertising copy
66 need ~~only~~ include only the material terms of the rules and
67 regulations if the advertising copy includes a website address,
68 a toll-free telephone number, or a mailing address where the
69 full rules and regulations may be viewed, heard, or obtained for
70 the full duration of the game promotion. The ~~Such~~ disclosures



207754

71 must be legible. Radio and television announcements may indicate
72 that the rules and regulations are available at retail outlets
73 or from the operator of the promotion.

74 (d) A nonrefundable filing fee of \$100 must ~~shall~~ accompany
75 each filing and must ~~shall~~ be used to pay the costs incurred in
76 administering and enforcing the provisions of this section.

77 (e) The department may not accept a filing from any
78 operator, person, firm, corporation, association, agent, or
79 employee who has been found guilty of or entered a plea of nolo
80 contendere to, regardless of adjudication, or who fails to
81 satisfy a judgment for, a violation of this section.

82 (4) (a) Each ~~Every~~ operator of ~~such~~ a game promotion in
83 which the total announced value of the prizes offered is greater
84 than \$5,000 shall establish a trust account, in a national or
85 state-chartered financial institution, with a balance equal to
86 ~~sufficient to pay or purchase~~ the total value of all prizes
87 offered. On a form supplied by the department ~~of Agriculture and~~
88 ~~Consumer Services~~, an official of the financial institution
89 holding the trust account shall provide ~~set forth~~ the account
90 number and dollar amount of the trust account, the identity of
91 the entity or individual establishing the trust account, and the
92 name of the game promotion for which the trust account has been
93 established. The ~~Such~~ form must ~~shall~~ be filed with the
94 department ~~of Agriculture and Consumer Services~~ at least 7 days
95 before ~~in advance of~~ the commencement of the game promotion. In
96 lieu of establishing a ~~such~~ trust account, the operator may
97 obtain a surety bond from a surety authorized to do business in
98 this state in an amount equal ~~equivalent~~ to the total value of
99 all prizes offered in the promotion. ~~The; and such~~ bond must



207754

100 ~~shall~~ be filed with the department of ~~Agriculture and Consumer~~
101 ~~Services~~ at least 7 days before in advance of the commencement
102 of the game promotion. Each operator of a game promotion who
103 provides electronic devices or computer terminals with video
104 display monitors that reveal or display the results of a game
105 promotion must obtain a surety bond in an amount equal to the
106 total value of all prizes offered, and the bond must be filed
107 with the department at least 7 days before the commencement of
108 the game promotion.

109 1. The moneys held in the trust account may be withdrawn in
110 order to pay the prizes offered only upon certification to the
111 department of ~~Agriculture and Consumer Services~~ of the name of
112 the winner ~~or winners~~ and the amount and value of the prize ~~or~~
113 ~~prizes and the value thereof.~~

114 2. If the operator of a game promotion obtains ~~has obtained~~
115 a surety bond in lieu of establishing a trust account, the
116 amount of the surety bond shall equal at all times the total
117 amount of the prizes offered. The bond must be in favor of the
118 department for the use and benefit of any consumer who qualifies
119 for the award of a prize under the rules and regulations of the
120 game promotion but who does not receive the prize awarded, and
121 must be in effect until 30 days after filing the list of winners
122 pursuant to subsection (5). The bond must be applicable and
123 liable only for the payment of the claims duly adjudicated by
124 order of the department. The proceedings to adjudicate the claim
125 must be conducted in accordance with ss. 120.569 and 120.57.

126 (b) The department of ~~Agriculture and Consumer Services~~ may
127 waive the provisions of this subsection for any operator who has
128 conducted game promotions in the state for ~~not less than 5 or~~



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129 more consecutive years and who has not had any civil, criminal,
130 or administrative action instituted against him or her by the
131 state or an agency of the state for violation of this section
132 within that 5-year period. The department may revoke a waiver if
133 it finds that an operator committed a violation of this section.
134 ~~Such waiver may be revoked upon the commission of a violation of~~
135 ~~this section by such operator, as determined by the Department~~
136 ~~of Agriculture and Consumer Services.~~

137 (5) Each ~~Every~~ operator of a game promotion in which the
138 total announced value of the prizes offered is greater than
139 \$5,000 shall provide the department ~~of Agriculture and Consumer~~
140 ~~Services~~ with a certified list of the names and addresses of all
141 persons, whether from this state or from another state, who have
142 won prizes that ~~which~~ have a value of more than \$25, the value
143 of the ~~such~~ prizes, and the dates when the prizes were won
144 within 60 days after the ~~such~~ winners are ~~have been finally~~
145 ~~determined.~~ The date for the final determination of winners must
146 be 60 days after the ending date of the game promotion stated in
147 the original filing required in subsection (3). The operator
148 shall provide a copy of the list of winners, without charge, to
149 any person who requests it or shall. ~~In lieu of the foregoing,~~
150 ~~the operator of a game promotion may, at his or her option,~~
151 publish the same information about the winners in a ~~Florida~~
152 newspaper of general circulation in this state within 60 days
153 after the ~~such~~ winners are ~~have been~~ determined. If the operator
154 publishes the list of winners in a newspaper, the operator must
155 ~~and shall~~ provide to the department ~~of Agriculture and Consumer~~
156 ~~Services~~ a certified copy of the publication containing the
157 information about the winners. The operator of a game promotion



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158 is not required to notify a winner by mail or by telephone when
159 the winner is already in possession of a game card from which
160 the winner can determine that he or she has won a designated
161 prize. All winning entries must ~~shall~~ be held by the operator
162 for ~~a period of~~ 90 days after the close or completion of the
163 game.

164 (6) The department ~~of Agriculture and Consumer Services~~
165 shall keep the certified list of winners for a period of ~~at~~
166 ~~least~~ 6 months after receipt of the certified list. The
167 department thereafter may dispose of all records and lists.

168 (7) An ~~No~~ operator may not ~~shall~~ force, directly or
169 indirectly, a lessee, agent, or franchise dealer to purchase or
170 participate in any game promotion. For the purpose of this
171 section, coercion or force is ~~shall be~~ presumed in these
172 circumstances in which a course of business extending over a
173 period of 1 year or longer is materially changed coincident with
174 a failure or refusal of a lessee, agent, or franchise dealer to
175 participate in such game promotions. Such force or coercion is
176 ~~shall further be~~ presumed when an operator advertises generally
177 that game promotions are available at its lessee dealers or
178 agent dealers.

179 (8) (a) The department may adopt ~~Department of Agriculture~~
180 ~~and Consumer Services shall have the power to promulgate such~~
181 ~~rules regulating and regulations respecting~~ the operation of
182 game promotions which are necessary to administer this section
183 ~~as it may deem advisable.~~

184 (b) If ~~Whenever~~ the department ~~of Agriculture and Consumer~~
185 ~~Services~~ or the Department of Legal Affairs has reason to
186 believe that a game promotion is being operated in violation of



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187 this section, it may bring an action in the circuit court of any
188 judicial circuit in which the game promotion is being operated
189 in the name and on behalf of the people of the state against any
190 operator thereof to enjoin the continued operation of such game
191 promotion anywhere within the state.

192 (9) (a) Any person, firm, or corporation, or association or
193 agent or employee thereof, who engages in any acts or practices
194 stated in this section to be unlawful, or who violates any of
195 the rules adopted ~~and regulations made~~ pursuant to this section,
196 commits ~~is guilty of~~ a misdemeanor of the second degree,
197 punishable as provided in s. 775.082 or s. 775.083.

198 (b) Any person, firm, corporation, association, agent, or
199 employee who violates any provision of this section or any of
200 the rules adopted ~~and regulations made~~ pursuant to this section
201 is ~~shall be~~ liable for a civil penalty of not more than \$1,000
202 for each such violation, which shall accrue to the state and may
203 be recovered in a civil action brought by the department ~~of~~
204 ~~Agriculture and Consumer Services~~ or the Department of Legal
205 Affairs.

206 (10) ~~This section does not apply to actions or transactions~~
207 ~~regulated by the Department of Business and Professional~~
208 ~~Regulation or to the activities of nonprofit organizations or to~~
209 ~~any other organization engaged in any enterprise other than the~~
210 ~~sale of consumer products or services.~~ Subsections (3), (4),
211 (5), (6), and (7) and paragraph (8) (a) and ~~any of~~ the rules
212 adopted ~~made~~ pursuant to these subsections ~~there~~ do not apply
213 to television or radio broadcasting companies licensed by the
214 Federal Communications Commission.

215 (11) Each operator of a game promotion who provides



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216 electronic devices or computer terminals with video display
217 monitors that reveal or display the results of a game promotion
218 shall:

219 (a) File with the department, at least 7 days before the
220 commencement of the game promotion, a certification from an
221 independent testing laboratory that the electronic game
222 promotion software:

223 1. Operates only games having a preconfigured finite pool
224 or pools of entries;

225 2. Provides an entrant with the ability to participate in
226 the absence of a purchase;

227 3. Does not distinguish an entrant who has made a purchase
228 from one who has not, with respect to all advertised prizes;

229 4. Uses video displays that do not determine the result;
230 and

231 5. Complies with the requirements of subsection (2).

232 (b) Post a sign inside the premise which must include the
233 following language in at least 26-point type: "The video
234 displays are for amusement and entertainment only. The video
235 displays do not determine the result of your game promotion
236 entries."

237 (c) Affix signage that must include the following language
238 in at least 10-point type on each piece of electronic equipment:
239 "The video displays are for amusement and entertainment only.
240 The video displays do not determine the result of your game
241 promotion entries."

242 (d) Pay to the department annually a nonrefundable terminal
243 fee of \$100 per electronic device or computer terminal which
244 must be remitted by the department to the Department of Revenue



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245 for deposit into the General Revenue Fund.

246 (12) Operators that provide electronic devices or computer
247 terminals with video display monitors that reveal or display the
248 results of a game promotion or electronic game promotion shall
249 limit the advertisement on the exterior of the premise to the
250 consumer product or service sold on the premise and to game
251 promotions that are offered in connection with the sale of the
252 consumer product or service. A sign may not be posted on the
253 exterior of the premises which suggests gambling takes place on
254 the premise or which displays any image commonly associated with
255 slot machines.

256 (13) Electronic devices or computer terminals with video
257 display monitors that reveal or display the results of a game
258 promotion may not dispense coins or currency.

259 (14) This section does not allow the use of mechanical or
260 electromechanical reels in connection with a game promotion.

261 (15) Electronic devices or computer terminals with video
262 display monitors that reveal or display the results of a game
263 promotion which are in compliance with this section may not be
264 construed as slot machines or devices as defined in s.
265 551.102(8), s. 849.15, or s. 849.16.

266 (16) A county or municipality may adopt an ordinance, code,
267 plan, rule, resolution, or other measure that further regulates
268 an existing or future operator who provides electronic devices
269 or computer terminals with video display monitors that reveal or
270 display the results of a game promotion or electronic game
271 promotion. A county or municipality may prohibit a future
272 operator from providing electronic devices or computer terminals
273 with video display monitors that reveal or display the results



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274 of a game promotion or electronic game promotion.

275

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

277 And the title is amended as follows:

278 Between lines 19 and 20

279 insert:

280 amending s. 849.094, F.S.; adding and revising
281 definitions; providing for the registration of
282 electronic devices and computer terminals used to
283 conduct electronic game promotions; prohibiting the
284 Department of Agriculture and Consumer Services from
285 accepting a filing from certain entities; establishing
286 requirements for electronic game promotions; requiring
287 certification of game promotion software; requiring
288 that an operator of an electronic game production pay
289 to the department an annual nonrefundable terminal fee
290 per electronic device or computer terminal; requiring
291 the department to remit the fees to the Department of
292 Revenue for deposit into the General Revenue Fund;
293 prohibiting certain conduct; limiting the
294 applicability of the act; authorizing a county or
295 municipality to adopt an ordinance, code, plan, rule,
296 resolution, or other measure to regulate an operator
297 that provides electronic devices or computer terminals
298 for electronic game promotion or to prohibit the
299 future operation of game promotions;



224720

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/07/2012	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Diaz de la Portilla) recommended the following:

Senate Amendment (with title amendment)

Between lines 255 and 256
insert:

Section 4. Electronic devices or computer terminals that have video display monitors that reveal or display the results of a game promotion and that are in compliance with s. 849.094, Florida Statutes, or games operated under s. 849.161, Florida Statutes, may not be construed as slot machines or devices as defined in s. 551.102(8) or s. 849.16, Florida Statutes, or as described in s. 849.15, Florida Statutes.



224720

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

14 And the title is amended as follows:

15 Delete line 19

16 and insert:

17 slot machines between other licenses facilities;
18 providing that certain electronic devices or computer
19 terminals with video display monitors that reveal or
20 display the results of a game promotion meeting
21 specified criteria, or certain games operated under
22 specified rules, are not slot machines or devices;



690838

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/07/2012	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 243 and 244
insert:

Section 3. Subsection (3) of section 551.118, Florida Statutes, is amended to read:

551.118 Compulsive or addictive gambling prevention program.—

(3) The compulsive or addictive gambling prevention program shall be funded from an annual nonrefundable regulatory fee of \$250,000 paid by the licensee to the private provider pursuant to subsection (2) division.



690838

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23

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

And the title is amended as follows:

Delete line 14

and insert:

act; amending s. 551.118, F.S.; requiring that the
annual nonrefundable regulatory fee that funds the
compulsive or addictive gambling prevention program be
paid to certain private providers rather than the
division; amending s. 551.121, F.S.; prohibiting a
slot



725726

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/07/2012	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 23 and 24
insert:

Section 1. Subsection (4) of section 551.102, Florida Statutes, is amended to read:

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

(4) (a) "Eligible facility" means any licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution which ~~that~~ has conducted live racing or games during calendar years 2002 and 2003 and has been approved by a



725726

13 majority of voters in a countywide referendum to have slot
14 machines at such facility in the respective county; any licensed
15 pari-mutuel facility located within a county as defined in s.
16 125.011, if the ~~provided~~ such facility has conducted live racing
17 for 2 consecutive calendar years immediately preceding its
18 application for a slot machine license, pays the required
19 license fee, and meets the other requirements of this chapter;
20 or any licensed pari-mutuel facility in any other county in
21 which a majority of voters have approved slot machines at such
22 facilities in a countywide referendum held pursuant to a
23 statutory or constitutional authorization after the effective
24 date of this section in the respective county, provided such
25 facility has conducted a full schedule of live racing for 2
26 consecutive calendar years immediately preceding its application
27 for a slot machine license, pays the required licensed fee, and
28 meets the other requirements of this chapter. A county that does
29 not hold, or take action to hold, a slot machine referendum by
30 January 31, 2012, must obtain specific legislative or
31 constitutional authorization for the countywide referendum.

32 (b) For purposes of paragraph (a), the county takes action
33 by January 31, 2012, if it:

34 1. Adopts an ordinance or resolution setting a countywide
35 referendum;

36 2. Approves a countywide referendum and directs county
37 staff to prepare a resolution or ordinance to implement the
38 approval; or

39 3. Places a resolution or ordinance on the agenda for the
40 county's next scheduled meeting of its governing body.

41



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42 Notwithstanding any other provision of law or court decision, a
43 slot machine license may be issued to an eligible facility
44 outside Miami-Dade County or Broward County; however, the
45 license may not authorize slot machine gaming or require payment
46 of any license fees or regulatory fees before July 7, 2015.

47
48 ===== T I T L E A M E N D M E N T =====

49 And the title is amended as follows:

50 Delete line 3

51 and insert:

52 components; amending s. 551.102, F.S.; revising the
53 definition of the term "eligible facility"; amending
54 s. 551.103, F.S.; requiring the

By Senator Altman

24-00339A-12

2012986

A bill to be entitled

An act relating to slot machines and slot machine components; amending s. 551.103, F.S.; requiring the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation to adopt rules regulating slot machines and providing specifications for the internal components of slot machines; requiring that the division adopt specifications and procedures to ensure random probabilities of winning plays and provide for the operation of random-number generators; amending s. 551.104, F.S.; deleting obsolete provisions; clarifying duties of a slot machine licensee to conform to changes made by the act; amending s. 551.121, F.S.; prohibiting a slot machine's random-number generator from serving more than one station or terminal where an individual player places his or her wagers; providing for progressive jackpot payouts except in conjunction with slot machines between other licensed facilities; providing an effective date.

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

Section 1. Subsection (1) of section 551.103, Florida Statutes, is amended to read:

551.103 Powers and duties of the division and law enforcement.—

(1) The division shall adopt, pursuant to ~~the provisions of~~ ss. 120.536(1) and 120.54, all rules necessary to ~~implement,~~

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administer, and regulate slot machines and slot machine gaming as authorized in this chapter. ~~The~~ ~~Such~~ rules must include:

(a) Procedures for applying for a slot machine license and renewal of a slot machine license.

(b) Technical requirements and the qualifications contained in this chapter that are necessary to receive a slot machine license or slot machine occupational license.

(c) Procedures to scientifically test and technically evaluate slot machines, including all components, hardware, and software for slot machines, for compliance with this chapter. The division may contract with an independent testing laboratory to conduct any necessary testing under this section. The independent testing laboratory must have a national reputation and be which is demonstrably competent and qualified to scientifically test and evaluate slot machines for compliance with this chapter and to otherwise perform the functions assigned to it in this chapter. An independent testing laboratory may ~~shall~~ not be owned or controlled by a licensee. The use of an independent testing laboratory for any purpose related to the conduct of slot machine gaming by a licensee under this chapter shall be made from a list of one or more laboratories approved by the division.

(d) Procedures relating to slot machine revenues, including verifying and accounting for such revenues, auditing, and collecting taxes and fees consistent with this chapter.

(e) Procedures for regulating, managing, and auditing the operation, financial data, and program information relating to slot machine gaming which ~~that~~ allow the division and the Department of Law Enforcement to audit the operation, financial

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59 data, and program information of a slot machine licensee, as
 60 required by the division or the Department of Law Enforcement,
 61 and provide the division and the Department of Law Enforcement
 62 with the ability to monitor, at any time on a real-time basis,
 63 wagering patterns, payouts, tax collection, and compliance with
 64 any rules adopted by the division for the regulation ~~and control~~
 65 of slot machines operated under this chapter. ~~The Such~~
 66 continuous and complete access, at any time on a real-time
 67 basis, shall include the ability of either the division or the
 68 Department of Law Enforcement to suspend play immediately on
 69 particular slot machines if monitoring of the facilities-based
 70 computer system indicates possible tampering or manipulation of
 71 those slot machines or the ability to suspend play immediately
 72 of the entire operation if the tampering or manipulation is of
 73 the computer system itself. The division shall notify the
 74 Department of Law Enforcement or the Department of Law
 75 Enforcement shall notify the division, as appropriate, whenever
 76 there is a suspension of play under this paragraph. The division
 77 and the Department of Law Enforcement shall exchange the such
 78 information necessary for and cooperate in the investigation of
 79 the circumstances requiring suspension of play under this
 80 paragraph.

81 (f) Procedures for requiring each licensee at his or her
 82 own cost and expense to supply the division with a bond having
 83 the penal sum of \$2 million payable to the Governor and his or
 84 her successors in office for each year of the licensee's slot
 85 machine operations. ~~The Any~~ bond shall be issued by a surety or
 86 sureties approved by the division and the Chief Financial
 87 Officer, conditioned to faithfully make the payments to the

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88 Chief Financial Officer in his or her capacity as treasurer of
 89 the division. The licensee shall ~~be required to~~ keep its books
 90 and records and make reports as provided in this chapter and ~~to~~
 91 conduct its slot machine operations in conformity with this
 92 chapter and all other provisions of law. ~~The Such~~ bond shall be
 93 separate and distinct from the bond required in s. 550.125.

94 (g) Procedures for requiring licensees to maintain
 95 specified records and submit any data, information, record, or
 96 report, including financial and income records, required by this
 97 chapter or determined by the division to be necessary to the
 98 proper implementation and enforcement of this chapter.

99 (h) A requirement that the payout percentage of a slot
 100 machine be no less than 85 percent.

101 (i) Minimum standards for security of the facilities,
 102 including floor plans, security cameras, and other security
 103 equipment.

104 (j) Procedures for requiring slot machine licensees to
 105 implement and establish drug-testing programs for all slot
 106 machine occupational licensees.

107 (k) Specifications of the required internal components for
 108 a slot machine, including the location, configuration, and
 109 function of the components, and the operating requirements for
 110 all hardware and software.

111 (l) Procedures and specifications for slot machines to
 112 ensure the random probabilities of winning plays and the
 113 specifications for the operation of the random-number generator
 114 of each slot machine.

115 Section 2. Subsection (4) of section 551.104, Florida
 116 Statutes, is amended to read:

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117 551.104 License to conduct slot machine gaming.-

118 (4) As a condition of licensure and to maintain continued
119 authority for the conduct of slot machine gaming, the slot
120 machine licensee shall:

121 (a) Continue to be in compliance with this chapter.

122 (b) Continue to be in compliance with chapter 550, where
123 applicable, and maintain the pari-mutuel permit and license in
124 good standing pursuant to the provisions of chapter 550.

125 ~~Notwithstanding any contrary provision of law and in order to~~
126 ~~expedite the operation of slot machines at eligible facilities,~~
127 ~~any eligible facility shall be entitled within 60 days after the~~
128 ~~effective date of this act to amend its 2006-2007 pari-mutuel~~
129 ~~wagering operating license issued by the division under ss.~~
130 ~~550.0115 and 550.01215. The division shall issue a new license~~
131 ~~to the eligible facility to effectuate any approved change.~~

132 (c) Conduct no fewer than a full schedule of live racing or
133 games as defined in s. 550.002(11). A permitholder's
134 responsibility to conduct such number of live races or games
135 shall be reduced by the number of races or games that could not
136 be conducted due to the direct result of fire, war, hurricane,
137 or other disaster or event beyond the control of the
138 permitholder.

139 (d) Upon approval of any changes relating to the pari-
140 mutuel permit by the division, be responsible for providing
141 appropriate current and accurate documentation on a timely basis
142 to the division in order to continue the slot machine license in
143 good standing. Changes in ownership or interest of a slot
144 machine license of 5 percent or more of the stock or other
145 evidence of ownership or equity in the slot machine license or

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146 any parent corporation or other business entity that in any way
147 owns or controls the slot machine license ~~must shall~~ be approved
148 by the division before the ~~prior to such~~ change, unless the
149 owner is an existing holder of that license who was previously
150 approved by the division. Changes in ownership or interest of a
151 slot machine license of less than 5 percent, unless such change
152 results in a cumulative total of 5 percent or more, shall be
153 reported to the division within 20 days after the change. The
154 division may then conduct an investigation to ensure that the
155 license is properly updated to show the change in ownership or
156 interest. Reporting ~~No reporting~~ is not required if the person
157 holds is holding 5 percent or less equity or securities of a
158 corporate owner of the slot machine licensee that has its
159 securities registered pursuant to s. 12 of the Securities
160 Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk, and if such
161 corporation or entity files with the United States Securities
162 and Exchange Commission the reports required by s. 13 of that
163 act or if the securities of the corporation or entity are
164 regularly traded on an established securities market in the
165 United States. A change in ownership or interest of less than 5
166 percent which results in a cumulative ownership or interest of 5
167 percent or more ~~must shall~~ be approved by the division before
168 the ~~prior to such~~ change unless the owner is an existing holder
169 of the license who was previously approved by the division.

170 (e) Allow the division and the Department of Law
171 Enforcement unrestricted access to and right of inspection of
172 facilities of a slot machine licensee in which any activity
173 relative to the conduct of slot machine gaming is conducted.

174 (f) Ensure that the facilities-based computer system that

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175 the licensee will use for operational and accounting functions
 176 of the slot machine facility is specifically structured to
 177 facilitate regulatory oversight. The facilities-based computer
 178 system shall be designed to provide the division and the
 179 Department of Law Enforcement with the ability to monitor, at
 180 any time on a real-time basis, the wagering patterns, payouts,
 181 tax collection, and such other operations as necessary to
 182 determine whether the facility is in compliance with statutory
 183 provisions and rules adopted by the division for the regulation
 184 and control of slot machine gaming. The division and the
 185 Department of Law Enforcement shall have complete and continuous
 186 access to this system. Such access shall include the ability of
 187 either the division or the Department of Law Enforcement to
 188 suspend play immediately on particular slot machines if
 189 monitoring of the system indicates possible tampering or
 190 manipulation of those slot machines or the ability to suspend
 191 play immediately of the entire operation if the tampering or
 192 manipulation is of the computer system itself. The computer
 193 system shall be reviewed and approved by the division to ensure
 194 necessary access, security, and functionality. The division may
 195 adopt rules to provide for the approval process.

196 (g) Ensure that each slot machine is protected from
 197 manipulation or tampering ~~to affect the random probabilities of~~
 198 ~~winning plays~~. The division or the Department of Law Enforcement
 199 ~~has shall have~~ the authority to suspend play upon reasonable
 200 suspicion of any manipulation or tampering. When play has been
 201 suspended on any slot machine, the division or the Department of
 202 Law Enforcement may examine the any slot machine to determine
 203 whether the machine has been tampered with or manipulated and

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204 whether the machine should be returned to operation.

205 (h) Submit a security plan, including the facilities' floor
 206 plan, the locations of security cameras, and a listing of all
 207 security equipment that is capable of observing and
 208 electronically recording activities being conducted in the
 209 facilities of the slot machine licensee. The security plan must
 210 meet the minimum security requirements as determined by the
 211 division under s. 551.103(1)(i) and be implemented before the
 212 ~~prior to~~ operation of slot machine gaming. The slot machine
 213 licensee's facilities must adhere to the security plan at all
 214 times. Any changes to the security plan must be submitted by the
 215 licensee to the division before the plan is implemented ~~prior to~~
 216 ~~implementation~~. The division shall furnish copies of the
 217 security plan and changes in the plan to the Department of Law
 218 Enforcement.

219 (i) Create and file with the division a written policy for:

- 220 1. Creating opportunities to purchase from vendors in this
- 221 state, including minority vendors.
- 222 2. Creating opportunities for employment of residents of
- 223 this state, including minority residents.
- 224 3. Ensuring opportunities for construction services from
- 225 minority contractors.
- 226 4. Ensuring that opportunities for employment are offered
- 227 on an equal, nondiscriminatory basis.
- 228 5. Training for employees on responsible gaming and working
- 229 with a compulsive or addictive gambling prevention program to
- 230 further its purposes as provided for in s. 551.118.
- 231 6. The implementation of a drug-testing program that
- 232 includes, but is not limited to, requiring each employee to sign

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233 an agreement that he or she understands that the slot machine
234 facility is a drug-free workplace.

235

236 The slot machine licensee shall use the Internet-based job-
237 listing system of the Department of Economic Opportunity in
238 advertising employment opportunities. ~~Beginning in June 2007,~~
239 Each slot machine licensee shall provide an annual report to the
240 division containing information indicating compliance with this
241 paragraph in regard to minority persons.

242 (j) Ensure that the payout percentage of a slot machine
243 gaming facility is at least 85 percent.

244 Section 3. Subsection (5) of section 551.121, Florida
245 Statutes, is amended to read:

246 551.121 Prohibited activities and devices; exceptions.-

247 (5) A slot machine's random-number generator may not serve
248 more than one station or terminal where an individual player
249 places his or her wagers. However, a slot machine, or the
250 computer operating system linking the slot machine, may be
251 linked by any means to any other slot machine or computer
252 operating system within the facility of a slot machine licensee
253 for progressive jackpot payouts. A progressive system may not be
254 used in conjunction with slot machines between licensed
255 facilities in Florida or in other jurisdictions.

256 Section 4. This act shall take effect July 1, 2012.

To: Senator Dennis L. Jones, D.C., Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: January 17, 2012

FILE COPY

I respectfully request that **Senate Bill #986**, relating to Slot Machines and Slot Machine Components, be placed on the:
committee agenda at your earliest possible convenience.
next committee agenda.



Senator Thad Altman
Florida Senate, District 24

Cc: Patrick L. "Booter" Imhof, Staff Director; Lynn Koon, Committee Administrative Assistant

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/7/12

Meeting Date

Topic Slot Machine Components

Bill Number strike-all to SB 986
(if applicable)

Name Tim Nungesser

Amendment Barcode 331510
(if applicable)

Job Title Legislative Affairs Director

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Street

Phone (850) 487-4827

Tall. FL 32399-2210
City State Zip

E-mail tim.nungesser@dbpr.state.fl.us

Speaking: For Against Information

Representing DBPR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/7/12
Meeting Date

Topic Slot Machine Components

Bill Number strike-all to SB986
(if applicable)

Name Michael Martinez

Amendment Barcode 331510
(if applicable)

Job Title Deputy General Counsel

Address 1940 N. Monroe St.
Street

Phone (850) 488.0063

Tall. FL 32399-2210
City State Zip

E-mail michael.martinez@dbpr.state.fl.us

Speaking: For Against Information

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/7/12

Meeting Date

Topic SACHS AMENDMENT - FCCG

Bill Number SB 986 (if applicable)

Name DAVID J. ROBERTS

Amendment Barcode (if applicable)

Job Title LOBBYIST

Address 106 EAST COLLEGE AVE

Phone 850-521-8009

Street

TALLAHASSEE

E-mail ~~DAVID.ROBERTS@AMERMAN.COM~~

City

State

Zip

DAVID.ROBERTS@AMERMAN.COM

Speaking: For Against Information

Representing AMENDMENT - FLORIDA COUNCIL ON COMPULSIVE GAMBLING

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2/7/12
Meeting Date

Topic _____

Bill Number SB986
(if applicable)

Name John Lockwood

Amendment Barcode _____
(if applicable)

Job Title _____

Address _____
Street

Phone _____

City State Zip

E-mail _____

Speaking: For Against Information

Representing IGT, Interblock

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2-7-12

Meeting Date

Topic _____

Bill Number 986
(if applicable)

Name Marc Dunbar

Amendment Barcode _____
(if applicable)

Job Title _____

Address 215 S. Monroe St

Phone _____

Street

Tall.

City

FL

State

32301

Zip

E-mail _____

Speaking: For Against Information

Representing Bally Technologies, Shufflemaster, Gulfstream Park

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/7/12

Meeting Date

Topic Slot Machine Components

Bill Number SB 986
(if applicable)

Name Tim Nungesser

Amendment Barcode _____
(if applicable)

Job Title Director, Office of Legislative Affairs

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Tall. FL 32399-2210
City State Zip

E-mail tim.nungesser@dbpr.state.fl.us

Speaking: For Against Information

Representing DBPR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: SB 632

INTRODUCER: Senator Benacquisto

SUBJECT: Funerals, Burials, and Memorial Services

DATE: February 4, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Favorable
2.			CJ	
3.				
4.				
5.				
6.				

I. Summary:

The bill provides that it is a misdemeanor of the first degree¹ to knowingly picket or engage in a protest to disrupt or intend to disrupt or disturb a funeral, burial, or memorial service for any military service member, emergency response worker, elected official, or minor. The prohibited protest activities may not occur:

- Within 500 feet of the property line of any residence, cemetery, funeral home, house of worship, or other location, and
- During or within 1 hour before or 1 hour after the conducting of a funeral, burial, or memorial service at that place.

A first degree misdemeanor is punishable by a term of imprisonment not exceeding one year and a fine not to exceed \$1,000.

The bill defines “protest activities” to mean “any actions that are disruptive or undertaken to disrupt a funeral, burial, or memorial service.”

This bill substantially creates section 871.015, Florida Statutes.

¹ Section 775.082, F.S., provides that the penalty for a misdemeanor of the first degree is punishable by a term of imprisonment not exceeding one year. Section 775.083, F.S. provides that the penalty for a misdemeanor of the first degree is punishable by a fine not to exceed \$1,000.

II. Present Situation:

Demonstrations at Military Funerals

Rev. Fred Phelps, a minister from Topeka, Kansas, has been picketing military funerals and the funerals of AIDS victims across America.² He and family members of his congregation now often appear at military funerals with signs stating “God Hates You,” and “Thank God for Dead Soldiers.”³ The Phelps family’s premise for its protests is that the American war casualties are divine punishment for the country tolerating homosexuality.⁴

Florida Law Prohibiting Disturbances at Assemblies

Section 870.01, F.S., provides a first degree misdemeanor⁵ for a person to commit an affray. This section also provides a third degree felony⁶ for rioting, or inciting or encouraging a riot. Although the terms “affray” and “riot” are not defined, the courts have upheld the statute against vagueness challenges.⁷

Section 871.01(1), F.S., provides a misdemeanor of the second degree for willfully interrupting or disturbing any school or any assembly of people met for the worship of God or for any lawful purpose.⁸ This provision was challenged on appeal as being overly broad and therefore void. The Florida Supreme Court upheld the constitutionality of this provision in 1978, holding that the provision was not unconstitutional or overbroad.⁹ The Second District Court of Appeals has also upheld s. 871.01(1), F.S., as not unconstitutionally overbroad or vague.¹⁰

Section 871.01(2), F.S., provides a first degree misdemeanor¹¹ penalty for anyone who willfully interrupts or disturbs an assembly of people who have met for the purpose of acknowledging the death of an individual with a military funeral honors detail pursuant to 10 U.S.C. s. 1491.

Federal Law Prohibiting Disturbances at Military Funerals

Federal law prohibits persons to engage in a disruptive activity during the period beginning 60 minutes before and ending 60 minutes after a funeral for a member or former member of the Armed Forces that is not located at a cemetery under the control of the National Cemetery Administration or part of Arlington National Cemetery.¹²

² “Targeting Protests at Military Funerals” *Capitol Hill Blue* (March 15, 2006).

³ “Military Funeral Protests Outrage Families, Lawmakers” *ABC News* (March 15, 2006).

⁴ “Constitutionality of Protest Ban At Issue” *Tallahassee Democrat* (April 7, 2006).

⁵ *Supra* n. 1.

⁶ Section 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not exceeding five years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not exceeding \$5,000.

⁷ *See D.L.B. v. State*, 707 So.2d 844, 845 (Fla. 2d DCA 1998) (statute sufficiently defines “affray”, given that “readily available dictionaries define “affray” as a public fight or brawl”); *State v. Beasley*, 317 So.2d 750, 753 (Fla. 1975) (upholding s. 870.01(2), F.S. as constitutional upon the court’s authoritative, limiting construction).

⁸ Section 775.082, F.S., provides that the penalty for a misdemeanor of the second degree is punishable by a term of imprisonment not exceeding 60 days. Section 775.083, F.S. provides that the penalty for a misdemeanor of the second degree is punishable by a fine not to exceed \$500.

⁹ *S.H.B. v. State*, 355 So. 2d 1176 (Fla. 1978).

¹⁰ *State v. Sweet*, 616 So.2d 114 (Fla. 2nd DCA 1993).

¹¹ *Supra* n. 1.

¹² 18 U.S.C. s. 1388

The following activity is prohibited within the boundaries of the funeral's location or within 150 feet of the point of the intersection between the boundary of the location of such funeral, and a road, pathway, or other route of ingress to or egress from the location of such funeral:

Willfully making of any noise or diversion that is not part of such funeral and that disturbs or tends to disturb the peace or good order of such funeral with the intent of disturbing the peace or good order of that funeral.¹³

Within 300 feet of the boundary of the funeral's location, it is prohibited to willfully and without proper authorization impede "the access to or egress from such location with the intent to impede the access to or egress from such location."¹⁴

Persons who violate this prohibition may be subject to a fine or imprisonment of not more than one year, or both.¹⁵

Snyder v. Phelps

In *Snyder v. Phelps*,¹⁶ the U.S. Supreme Court addressed the First Amendment's relation to funeral protests. In March 2006, Westboro Baptist Church demonstrated near the funeral of Marine Lance Cpl. Matthew Snyder, who had been killed in Iraq. The demonstration included the display of signs reading "Thank God for Dead Soldiers," took place within 200-300 feet of the funeral procession, and concluded before the funeral began. Cpl. Snyder's father subsequently sued Phelps under state tort law, including a claim for intentional infliction of emotional distress. The jury found in favor of Snyder and awarded damages.

On appeal, the U.S. Supreme Court found that the First Amendment protected Phelps' speech because the speech took place in a public forum and the content was a matter of public concern. The Supreme Court also noted that, even though the speech in this case was protected, even protected speech "may be subject to reasonable time, place, or manner restrictions that are consistent with the standards announced in this Court's precedents."¹⁷

The *Snyder* case did not involve the constitutionality of a state statute regulating picketing. Rather, the Court addressed whether the First Amendment was a defense to a state tort claim for intentional emotional distress, which is a separate issue.

Military Funeral Honors for Veterans

Under federal law, the Secretary of Defense is directed to provide special military funeral honors for any deceased veteran¹⁸ when so requested by the veteran's family. The funeral honors detail must consist of at least two uniformed members of the armed forces, one of whom must be a member of the armed force of which the veteran was a member. At a minimum the detail shall

¹³ 18 U.S.C. s. 1388(a)(1)

¹⁴ 18 U.S.C. s. 1388(a)(2)

¹⁵ 18 U.S.C. s. 1388(b)

¹⁶ *Snyder v. Phelps*, 131 S.Ct. 1207(2011).

¹⁷ *Id.* at 1218.

¹⁸ A veteran is defined in Title 10 U.S.C. s. 1491(h) as a decedent who (1) served in the active military, naval, or air service, as defined in 38 U.S.C. s. 101(24), and who was discharged or released there from under conditions other than dishonorable; or (2) was a member or former member of the Selected Reserve described in 18 U.S.C. s. 2301(f).

perform the folding of the United States flag and its presentation to the family as well as the playing of Taps.¹⁹

III. Effect of Proposed Changes:

The bill creates s. 871.015, F.S., to prohibit, as a first degree misdemeanor,²⁰ a person to knowingly picket or engage in other protests at a funeral, burial, or memorial service for any military service member, emergency response worker, elected official, or minor. The prohibited protest activities may not occur:

- Within 500 feet of the property line of any residence, cemetery, funeral home, house of worship, or other location, and
- During or within 1 hour before or 1 hour after the conducting of a funeral, burial, or memorial service at that place.

The bill defines “protest activities” to mean “any actions that are disruptive or undertaken to disrupt a funeral, burial, or memorial service.”

The prohibition created in s. 871.015, F.S., differs in several respects from the prohibitions in s. 871.01(2), F.S., and in 18 U.S.C. s. 1388. To violate s. 871.01(2), F.S., a person must interrupt or disturb a military funeral honors detail pursuant to 10 U.S.C. s. 1491. This bill encompasses assemblies to honor military service members but does not require that the funeral must be a military funeral honors detail. The bill also relates to funerals, burial, memorial services for persons whose funerals do not fall within the scope of s. 871.01(2), F.S., to include an emergency response worker, elected official, and minor.

However, it appears that the facts or circumstances that would constitute a violation of s. 871.01(2), F.S., may also constitute a violation of the prohibition in this bill if the distance and time requirements in s. 871.015, F.S., are also met. Either violation would be a first degree misdemeanor.

Similar conduct may also violate both s. 871.015, F.S., and 18 U.S.C. s. 1388. For example, the distance restriction in 18 U.S.C. s. 1388 is 300 feet from the location of the assembly. Such a distance would fall well within the 500 feet restriction in the bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁹ 10 U.S.C. s. 1491(b), (c).

²⁰ *Supra* n. 10.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

It is a fundamental constitutional principle that debate, particularly on issues of public concern, should not be inhibited by the government.²¹ Therefore, the most important question regarding the First Amendment issues of the bill is *whether the government is prohibiting speech based on disfavored content*.²² Such “content-based” regulations are presumptively suspect and are subject to strict scrutiny by the court.²³

On the other hand, the government *may* restrict speech through time, place, and manner regulations that are *justified without reference to the content of the speech*.²⁴ The Eighth Circuit Court of Appeals has found both a city ordinance²⁵ and a state statute²⁶ prohibiting protest activities within a certain time and distance of a funeral to be content-neutral.

Content-neutral restrictions are subject to intermediate scrutiny by the court.²⁷ Under intermediate scrutiny, the court looks at the relationship, or “fit” between the *end* and the *means* of the statute. In other words, the restrictions of the statute must be *narrowly tailored* to achieve a *significant state interest*.²⁸ Additionally, the statute must leave open “ample alternative channels” for the restricted speech.²⁹

- A *significant state interest* is grounded in the state’s traditionally broad police powers.³⁰ Courts have found a state has a significant interest in protecting its citizens from disruption during events associated with a funeral or burial service,³¹ and in public safety concerns resulting from disruptions of the public order.³² Additionally, citizens have a recognized interest in avoiding unwanted speech, including in confrontational settings.³³
- A statute is *narrowly tailored* to a significant state interest if it does not burden substantially more speech than necessary to achieve the state’s goal.³⁴ To be

²¹ *Snyder*, 131 S.Ct. at 1215 (quoting *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964)).

²² *See Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989).

²³ *See Turner Broad. Sys., Inc. v. F.C.C.*, 512 U.S. 622, 658 (1994).

²⁴ *See Ward*, 491 U.S. at 791 (emphasis added; internal quotations omitted); *Snyder*, 131 S.Ct. at 1218.

²⁵ *Phelps-Roper v. City of Manchester, Mo.*, 658 F.3d 813, 816 (8th Cir. 2011).

²⁶ *Phelps-Roper v. Nixon*, 545 F.3d 685, 691 (8th Cir. 2008).

²⁷ *See Turner*, 512 U.S. at 642.

²⁸ *Ward*, 491 U.S. at 791.

²⁹ *Id.*

³⁰ *See Hill v. Colorado*, 530 U.S. 703, 715 (2000).

³¹ *Phelps-Roper v. Taft*, 523 F.Supp.2d 612, 618 (N.D. Ohio 2007) *aff’d* in part sub nom. *Phelps-Roper v. Strickland*, 539 F.3d 356 (6th Cir. 2008).

³² *Christian Knights of Ku Klux Klan Invisible Empire, Inc. v. Dist. of Columbia*, 972 F.2d 365, 372 (D.C. Cir. 1992) (citing *Mosley*, 408 U.S. at 98).

³³ *Hill* at 716-17.

³⁴ *See Turner*, 512 U.S. at 662.

narrowly tailored in this context, the statute does *not* have to be the least restrictive means available.³⁵

- In the context of a statute regulating picketing in residential areas, the U.S. Supreme Court found there were *ample alternative channels* when: “Protestors have not been barred from the residential neighborhoods. They may enter such neighborhoods, alone or in groups, even marching.... They may go door-to-door to proselytize their views. They may distribute literature in this manner ... or through the mails. They may contact residents by telephone, short of harassment.”³⁶

The bill limits the definition of “protest activities” as actions “undertaken with the intent to interrupt or disturb a funeral, burial, or memorial service.” The Sixth Circuit U.S. Court of Appeals found a statute was narrowly tailored that described protest activities as “any action that is disruptive or undertaken to disrupt or disturb a funeral or burial service.”³⁷ The court noted that the language limited “protest activities” to those *directed* at a particular funeral.³⁸ Furthermore, the Eighth Circuit U.S. Court of Appeals found that a statute that did *not* contain such language was likely *not* narrowly tailored for injunction purposes.³⁹

Regarding the distance restrictions in the bill, in 2007, the U.S. District Court for the Northern District of Ohio held an Ohio statute’s 300 feet “fixed” restriction surrounding funeral locations constitutional, but held the “floating buffer zone” surrounding funeral *processions* unconstitutional because it was not narrowly tailored.⁴⁰ That holding conforms to a prior Supreme Court case addressing buffer zones.⁴¹ Additionally, courts have found the *size* of the restricted area itself to be context-specific.⁴²

Regarding the bill’s prohibitions against protest activities, the First Amendment affords the highest protection to speech based on matters of public concern or “political speech.”⁴³ However, citizens also have a recognized interest not to be forced to hear unwanted speech.⁴⁴ Protecting citizens from hearing unwanted speech is referred to as the “captive audience” doctrine.⁴⁵ To illustrate the point, there is a difference between someone holding a sign displaying an offensive message, where the burden falls on offended viewers to “avoid further bombardment of their sensibilities simply by averting

³⁵ *Id.* See also *Hill*, 530 U.S. at 726.

³⁶ *Frisby v. Schultz*, 487 U.S. 474, 484 (1988).

³⁷ *Phelps-Roper v. Strickland*, 539 F.3d 356, 368 (6th Cir. 2008).

³⁸ *Id.* (citing *Frisby v. Schultz*, 487 U.S. 474 (1988)).

³⁹ *Phelps-Roper v. Nixon*, 545 F.3d 685, 693 (finding statute likely not narrowly tailored “[b]ecause the Missouri statute does not contain any such [narrowing] provisions”).

⁴⁰ *Phelps-Roper v. Taft*, 523 F.Supp.2d at 620 (N.D. Ohio 2007) (“statute not narrowly tailored, in that it burdens substantially more speech than necessary to serve the State of Ohio’s interest protecting its citizens from disruption during the events associated with a funeral or burial service”).

⁴¹ See *Schenck v. Pro-Choice Network of W. New York*, 519 U.S. 357, 377 (1997) (finding that injunction imposing floating buffer zones of 15 feet from people and vehicles entering and leaving clinics were not narrowly tailored).

⁴² See *Madsen*, 512 U.S. at 772; *Strickland*, 539 F.3d at 368.

⁴³ See *Snyder*, 131 S.Ct. at 1215.

⁴⁴ See *Hill*, 530 U.S. at 716-17.

⁴⁵ *Snyder*, 131 S.Ct. at 1220.

their eyes,”⁴⁶ and forcing citizens to “undertake Herculean efforts to escape the cacophony of political protests.”⁴⁷ The Supreme Court has held that in some cases, funeral attendees are not a “captive audience” to protest speech.⁴⁸ In other cases, courts have held that forcing a funeral attendee to choose between attending a funeral and hearing the unwanted protest communication effectively makes the attendees a “captive audience.”⁴⁹ The Supreme Court noted in *Snyder v. Phelps* that the captive audience doctrine has been applied “only sparingly.”⁵⁰

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. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

⁴⁶ *Hill* at 716 (internal quotations omitted).

⁴⁷ *Id.* (quoting *Madsen*, 512 U.S. at 772-73).

⁴⁸ *Snyder*, 131 S.Ct. at 1220 (finding mourner was not a captive audience to protest speech when protestors stayed 1,000 feet away from the funeral location, mourner could only see the tops of the signs when driving to the funeral, and there was no indication that the picketing in any way interfered with the funeral service itself.”).

⁴⁹ See *Phelps-Roper v. Strickland*, at 362; *McQueary v. Stumbo*, 453 F.Supp.2d 975, 992 (E.D. Ky. 2006). *But compare Phelps-Roper v. Nixon*, 545 F.3d 685 (8th Cir. 2008).

⁵⁰ *Snyder*, 131 S.Ct. at 1220.

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

By Senator Benacquisto

27-00250-12

2012632__

A bill to be entitled

An act relating to funerals, burials, and memorial services; creating s. 871.015, F.S.; providing a definition; prohibiting picketing or engaging in other protest activities within a specified distance of the property line of the location of a funeral, burial, or memorial service for certain persons; providing criminal penalties; providing an effective date.

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

Section 1. Section 871.015, Florida Statutes, is created to read:

871.015 Unlawful protests.-

(1) As used in this section, the term "other protest activities" means any actions that are disruptive or undertaken to disrupt or disturb a funeral, burial, or memorial service.

(2) A person may not knowingly picket or engage in other protest activities, and a person may not knowingly cause picketing or other protest activities to occur, within 500 feet of the property line of any residence, cemetery, funeral home, house of worship, or other location during or within 1 hour before or 1 hour after the conducting of a funeral, burial, or memorial service at that place for any military service member, emergency response worker, elected official, or minor.

(3) A person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 2. This act shall take effect October 1, 2012.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations, *Chair*
Budget - Subcommittee on General Government
Appropriations, *Vice Chair*
Budget
Communications, Energy, and Public Utilities
Education Pre-K - 12
Governmental Oversight and Accountability
Reapportionment
Transportation

SENATOR LIZBETH BENACQUISTO

Deputy Majority Leader
27th District

November 17, 2011

The Honorable Dennis Jones
408 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399

RE: SB 632 – Relating Funerals, Burials, and Memorial Services

Dear Mr. Chairman:

Please allow this letter to serve as my respectful request to agenda SB 632, Relating to Funerals, Burials and Memorial Services, for a public hearing at your earliest convenience.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Lizbeth Benacquisto".

Lizbeth Benacquisto
Senate District 27

REPLY TO:

- 12300 West Forest Hill Boulevard, Wellington, Florida 33414 (561) 753-2440
- 17595 South Tamiami Trail, Suite 200-9, Fort Myers, Florida 33908 (239) 433-6599
- 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5356

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Funeral Project

Bill Number 632
(if applicable)

Name Suban Nixon

Amendment Barcode _____
(if applicable)

Job Title Consultant

Address 119 E Park Ave

Phone 528 4441

Street
Tall
City FL 01
State *Zip*

E-mail _____

Speaking: For Against Information

Representing Independent Funeral Directors

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: CS/CS/SB 888

INTRODUCER: Regulated Industries Committee; Commerce and Tourism Committee; and Senator Flores

SUBJECT: Relating to Consumer Protection

DATE: February 7, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Juliachs	Hrdlicka	CM	Fav/CS
2.	Waters	Imhof	RI	Fav/CS
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill amends several statutes concerning consumer protection provisions that fall under the purview of the Department of Agriculture and Consumer Services. Specifically, the bill merges the responsibilities and duties of the Division of Standards into the Division of Consumer Services. The bill also amends statutory provisions relating to professional surveyors and mappers, business opportunities, motor repair shops, pawnshops, health studios, sellers of travel, intrastate movers, telemarketing, brake fluid and anti-freeze products, fair rides, and licensing.

The bill substantially amends the following sections of the Florida Statutes: 20.14, 472.005, 472.006, 472.011, 472.0131, 472.015, 472.018, 472.0202, 472.0203, 472.025, 472.0351, 493.6105, 493.6113, 493.6118, 493.6120, 501.015, 501.017, 501.059, 501.605, 501.607, 501.911, 501.913, 507.04, 525.07, 526.143, 526.50, 526.51, 526.52, 526.53, 526.55, 539.001, 559.805, 559.904, 559.928, 559.9285, 559.935, 570.29, 570.544, 616.242, F.S.

The bill creates the following sections of the Florida Statutes: 472.0337 and 472.0357, F.S.

The bill repeals the following sections of the Florida Statutes: 366.85, 559.922, 570.46 and 570.47, F.S.

II. Present Situation:

The Florida Department of Agriculture and Consumer Services (department) is charged with the responsibility of supporting Florida's agricultural economy, as well as protecting consumers from unsafe products and from deceptive business practices. To assist with carrying out its mission of protecting Florida's general public, the department is organized into 12 divisions, including Consumer Services, Licensing, and Standards.¹

Presently, the Division of Consumer Services is responsible for overseeing and regulating the following activities and entities: business opportunities, motor vehicle repair shops, charitable organizations, Florida Do Not Call, dance studios, pawnshops, health studios, sellers of travel, intrastate movers, game promotions, telemarketing, and professional surveyors and mappers². The Division of Standards protects consumers from unfair and unsafe business practices and products, including gasoline, brake fluid, antifreeze, liquefied petroleum gas, amusement rides, and weighing and measuring devices. Finally, the Division of Licensing is responsible for regulating private security and investigative industries, along with issuing concealed weapon and firearm licenses.

Notably, in 2009, the Division of Consumer Services underwent a significant change when the Legislature transferred³ the Board of Professional Surveyors and Mappers (board) from the Department of Business and Professional Regulation to the Department of Agriculture and Consumer Services.⁴ The effect was to transfer the operations of the board from ch. 455, F.S., to ch. 472, F.S.

III. Effect of Proposed Changes:

This bill makes numerous changes to statutes affecting the Department of Agriculture and Consumer Services.

Section 1 amends s. 20.14, F.S., to remove statutory reference to the Division of Standards.

Section 2 repeals s. 366.85, F.S., dealing with consumer conciliatory conferences and lists of sources for energy conservation products or services and of financial institutions offering energy conservation loans.

Sections 3 to 14 of the bill make changes to the regulation of Professional Surveyors & Mappers.⁵

¹ Sections 20.14 and 570.29, F.S.

² See <http://www.800helpfla.com/> (Last visited February 6, 2012).

³ The board was transferred by a type two transfer. The definition of a "type two transfer" is provided in s. 20.06(2), F.S.

⁴ Chapter 2009-66, L.O.F.

⁵ The provisions under this section transfer existing statutory language that was inadvertently omitted during the transfer of the Board of Professional Surveyors and Mappers from the Department of Business and Professional Regulation to the Department of Agriculture and Consumer Services.

Section 3 amends s. 472.005, F.S., to redefine “license” and introduce the terms “consumer member” and “licensee.” The term “license” means a registration, certificate, or license issued by the department pursuant to the chapter.

“Consumer member” is defined as a person appointed to serve on the board⁶ who is not, and never has been, a professional surveyor or mapper in any jurisdiction or a member of any closely related profession regulated by the board.

“Licensee” means any person or business entity that has been issued, pursuant to ch. 472, F.S., a registration, certificate, or license by the department.⁷

Section 4 amends s. 472.006, F.S., by instructing the department to work with the Department of Revenue regarding the suspension or denial of the license of any licensee found to be in violation of a support order, subpoena, order to show cause, or written agreement; providing a basis for reinstating a denied or suspended license; and relieving the department of certain liability associated with the denial or suspension of a license.⁸

It should be noted that the provisions above are mandated under federal law under the current federal matching funds scheme concerning state child support enforcement programs.⁹ In 1996, Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act, which required states to target parents who owed overdue child support by enacting license restriction laws. As such, the provisions reflected in section 7 of this bill both comply with federal law and further the declared public policy of this state, which is that “children shall be maintained from the resources of their parents, thereby relieving, at least in part, the burden presently borne by the general citizenry through public assistance programs.”¹⁰

Section 5 amends s. 472.011, F.S., to authorize the department to waive license renewal fees by rule when the General Inspection Trust Fund¹¹ contains funds that exceed the amount required to cover the necessary functions of the board. This section also authorizes the board to collect a special assessment for the purpose of eliminating a cash deficit, or if there is not a cash deficit, in the amount sufficient to maintain the financial integrity of the profession.¹²

Section 6 amends s. 472.0131, F.S., to specify that applicants who have taken and failed an examination developed by the department or a contracted vendor may review their last exam.¹³

Section 7 amends s. 472.015, F.S., to permit the department to require applicants to provide social security numbers when applying for an initial or renewal license. This requirement

⁶ The term “Board” refers to the Board of Professional Surveyors and Mappers.

⁷ The inclusion of the terms “licensee” and “consumer member” derives from identical language contained in s. 455.01, F.S.

⁸ This provision derives from the identical language contained in s. 455.203(9), F.S.

⁹ 42 U.S.C. 666(a)(16).

¹⁰ Section 409.2551, F.S.

¹¹ Section 570.20, F.S. All donations and all inspection fees and other funds authorized and received from in the enforcement of the inspection laws administered by the department are paid to the General Inspection Trust Fund of Florida.

¹² This provision derives from identical language contained in s. 455.219, F.S.

¹³ This provision derives from identical language contained in s. 455.217, F.S.

originates from federal law which provides that the use of a social security number is limited to administering child support enforcement activities.¹⁴

This section also specifies that an application is considered to be received upon receipt by the department of the application in its proper format and with any additional documentation or fee prescribed either by law or rule. Furthermore, the department may not issue a license by endorsement to any applicant who is under investigation in this state, any other state, or any other jurisdiction for any act that would constitute a violation under this chapter until the investigation is complete and disciplinary proceedings have been terminated.¹⁵

Section 8 amends s. 472.018, F.S., by authorizing the board to use the standard recognized by the Federal Poverty Income Guidelines as produced by the United States Department of Health and Human Services when determining indigency.

Additionally, the section requires that each continuing education provider must provide to the department, in an electronic format, information regarding the continuing education status of licensees. After a licensee completes a course, the information must be submitted electronically by the continuing education provider to the department within 30 calendar days after completion. However, on the 30th day before the renewal deadline, the time period for a continuing education provider to submit such information to the department is reduced to 10 business days after completion of the course.¹⁶

Finally, this section also directs the department to establish a system for monitoring license compliance with continuing education requirements, as well as authorizes the department to refuse to renew a license until the licensee has satisfied all applicable continuing education requirements. Further, the department is not precluded from imposing additional penalties pursuant to ch. 472, F.S., or department rules.

Section 9 amends s. 472.0202, F.S., to correct a statutory citation and clarify when a licensee is subject to discipline for practicing without an active license.

Section 10 amends s. 472.0203, F.S., to allow the department to communicate with a licensee via electronic communication concerning license renewal.

Section 11 amends s. 472.025, F.S., to make technical changes concerning the regulation of seals so that it is now surrendered to the executive director of the board.

Section 12 creates s. 472.0337, F.S., which grants the department powers with respect to investigations, administration of oaths, taking depositions, and other powers.¹⁷

Section 13 amends s. 472.0351, F.S., by clarifying the grounds for commencing disciplinary actions for licensure violations and specifying the manner that a licensee may be disciplined, as

¹⁴ 42 U.S.C. 666(a)(13)(a).

¹⁵ This provision derives from identical language contained in s. 455.213, F.S. Current law provides for denial to any applicant who also is under investigation in another state for acts that would violate ch. 455, F.S.

¹⁶ This provision derives from identical language contained in s. 455.2178, F.S.

¹⁷ This provision derives from identical language contained in s. 455.233, F.S.

well as repealing provisions that contain duplicative violations. This section further clarifies the ability of the board to discipline licenses and impose license restrictions as disciplinary penalties.¹⁸

Section 14 creates s. 472.0357, F.S., to provide that a person giving false information when applying for a license commits a third degree felony.¹⁹

Section 15 amends s. 493.6105, F.S., to allow the department to waive the firearms training requirement for a first-time applicant of a Class “G”²⁰ license under the following conditions: the applicant provides proof that he or she is currently certified as a law enforcement officer or correctional officer pursuant to the requirements of the Criminal Justice Standards and Training Commission or has successfully completed the training required for certification within the last 12 months; the applicant provides proof that he or she is currently certified as a federal law enforcement officer and has received law enforcement firearms training administered by a federal law enforcement agency; or the applicant submits a valid firearm certificate among those specified in s. 493.6105(6)(a), F.S.²¹

Section 16 amends s. 493.6113, F.S., to allow the department to waive the firearms training requirement for an applicant who is renewing their Class “G” license under the following conditions: the applicant provides proof that he or she is currently certified as a law enforcement officer or correctional officer pursuant to the requirements of the Criminal Justice Standards and Training Commission and has completed law enforcement firearms requalification training annually during the preceding 2 years of the licensure period; the applicant provides proof that he or she is currently certified as a federal law enforcement officer and has received law enforcement firearms training administered by a federal law enforcement agency annually during the preceding 2 years of the licensure period; or the applicant submits a valid firearm certificate among those specified in s. 493.6105(6)(a), F.S., and provides poof of having completed requalification training during the preceding 2 years of the licensure period.

Section 17 amends s. 493.6118, F.S., to expand the group of licensees subject to disciplinary action to include Class “DS”²² and “RS”²³ schools. As such, upon entry of a final order imposing an administrative fine against owners, as well as corporate or agency officers or partners, of a class “DS” and “RS” agency, school, or training facility, the license or pending requests for approval of a license for the school, its owners, and officers are automatically suspended if 30 days have elapsed since the entry of the final order and the fine has not been paid. All parties are jointly and severally liable²⁴ for fines levied against the agency, school, or training facility.

¹⁸ This provision derives from identical language contained in s. 455.227, F.S.

¹⁹ This provision derives from identical language contained in s. 455.0357, F.S. A third degree felony is punishable by up to 5 years imprisonment and a fine of \$5,000. *See* ss. 775.082(3)(d) and 775.083(1)(c), F.S.

²⁰ Class “G” license refers to the license required for an armed security guard.

²¹ Certificates include the following: The Florida Criminal Justice Standards and Training Commission Instructor Certificate and written confirmation by the commission that the applicant possesses an active firearms certification; The National Rifle Association Private Security Firearm Instructor Certificate; or a firearms instructor certificate issued by a federal law enforcement agency.

²² Class “DS” license refers to a security officer school or training facility.

²³ Class “RS” license refers to a recovery agent school or training facility.

²⁴ The effect of joint and several liability is to make each party liable for the entire amount of the fine regardless of that individual party’s relative degree of fault or responsibility for the violation.

Section 18 amends s. 493.6120, F.S., to state that any owner, officer, partner, or manager of a school or training facility that knew or should have known of an activity that resulted in the revocation of the school or training facility license shall have their personal license suspended for 3 years and may not have any financial interest or be employed by the school or training facility during suspension.

Section 19 amends s. 501.015, F.S., by removing the term “occupational license” and replacing it with “business tax receipt” as it relates to health studios.²⁵

Section 20 amends s. 501.017, F.S., to make technical changes and to provide for “at least” 10-point boldfaced font in health studio contracts, which are required to include the language stipulated in s. 501.017(1)(a), F.S. As currently written, the statute requires exactly 10-point boldfaced type.

Section 21 amends s. 501.059, F.S., by removing the definition for “Public Service Commission;” requiring the department to keep a telephone subscriber who notifies the department of his or her desire not to receive unsolicited telephone sales calls to be placed on the “do not call” list for 5 years; removing fees related to placement on the do not call list; authorizing the department to include the phone number listings of Florida subscribers from a national “do not call list” should the Federal Trade Commission establish such a national database; and authorizing the department to impose an administrative fine not to exceed \$1,000 for every violation.

Section 22 amends s. 501.605, F.S., by removing the requirement to submit a social security number for an application to become a commercial telephone seller.

Section 23 amends s. 501.607, F.S., by removing the requirement to submit a social security number for an application to become a salesperson.

Section 24 amends s. 501.911, F.S., to remove statutory reference to the Division of Standards.

Section 25 amends s. 501.913, F.S., to require that a registrant of a brand of antifreeze, who is no longer producing for distribution such brand, to submit a notarized affidavit on company letterhead stating the following: that the brand is no longer in production; that the brand will not be distributed in the state; and that all existing products of the brand will be removed by the registrant from the state within 30 days after expiration of the registration or the registrant will reregister the brand for 2 subsequent registration periods. It also specifies the sample size required for registration.

Section 26 amends s. 507.04, F.S., to reduce the period of notification of cancellation of insurance coverage for household moving services required to be provided to the department from at least 30 days to 10 days prior to cancellation of coverage.

²⁵ The Legislature enacted ch. 2006-152, L.O.F., which reclassified “local occupational license” to “local business tax.” This change proposes to match the statute, as amended by this bill, to its modern term as codified in s. 205.022(2), F.S.

Section 27 amends s. 525.07, F.S., to prohibit a person from removing, using, selling, offering for sale, distributing, offering for distribution, or disposing of petroleum fuel that has been placed under a stop-sale order without receiving permission from the department. After repairs and adjustments have been made, the adjusting mechanism must immediately be resealed by the registered meter mechanic with a seal clasp bearing at least the name or initials of the registered mechanic.

Section 28 amends s. 526.143, F.S., to authorize the department to temporarily waive requirements for maintaining generators at retail motor fuel outlets that are used in preparation for, or response to, an emergency or major disaster in another state.

Section 29 amends s. 526.50, F.S., to define the terms “brand” and “formula” as they relate to brake fluid. As such, “brand” means the product name appearing on the label of a container of brake fluid while “formula” means the name of the chemical mixture or composition of the brake fluid product.

Section 30 amends s. 526.51, F.S., to require that to reregister a previously registered brand and formula combination of brake fluid, an applicant must submit a completed application to the department before the first day of the permit year. Any late submissions will incur a penalty of \$25 that will be in addition to the standard fee.

This section also requires a registrant of a brand of brake fluid, who is no longer producing for distribution such brand, to submit a notarized affidavit on company letterhead stating the following: that the brand is no longer in production; that the brand will not be distributed in the state; and that all existing products of the brand will be removed by the registrant from the state within 30 days after expiration of the registration or the registrant will reregister the brand for 2 subsequent registration periods.

Furthermore, all first-time applicants for a brand and formula combination must be accompanied by a certified report from an independent testing laboratory demonstrating that the quality of the brake fluid is not less than the specifications established by the department.

Section 31 amends s. 526.52, F.S., to clarify quality standards for brake fluid products by referring to the United States Department of Transportation Motor Vehicle Safety Standard No. 116, or other specified standard identified in department rule.

Section 32 amends s. 526.53, F.S., to require that stop-sale orders for brake fluid be served by the department on the owner of the brand name, the distributor, or other entity responsible for selling or distributing the brake fluid product.

The section also requires that unregistered brake fluid held by the department or its representative that has not been registered within 30 days after the issuance of a stop-sale order may be given to any tax-supported institution or agency of the state, if the product satisfies legal specifications. If the product does not satisfy legal specifications, then the product may be disposed of as authorized by rule of the department.

Section 33 amends s. 526.55, F.S., by enumerating the penalties for violating provisions relating to brake fluid and replacing criminal sanctions with administrative and monetary sanctions, including an administrative fine of up to \$5,000.

Section 34 amends s. 539.001, F.S., by requiring that a licensee who seeks to move a pawnshop to another location must give written notice to the agency at least 30 days before the move. However, the requirement for the notice to be sent via certified or registered mail with return receipt requested is removed from the statute.

Section 35 amends s. 559.805, F.S., by removing the requirement that every seller of a business opportunity provide the department with the social security number of every independent agent who will engage in the offer or sale of business opportunities on behalf of the seller in this state. The seller of a business opportunity, however, must still provide the name, home and business address, telephone number, present employer, and birth date for each independent agent.

Section 36 amends s. 559.904, F.S., by removing the term “occupational license” and replacing it with “business tax receipt” as it relates to motor vehicle repair shops.²⁶

Section 37 repeals s. 559.922, F.S., with the effect of eliminating a financial assistance program to undertake technical training or courses of study in motor vehicle repair.

Section 38 amends s. 559.928, F.S., by removing the term “occupational license” and replacing it with “business tax receipt” as it relates to sellers of travel.²⁷ Additionally, an independent agent representing a seller of travel is no longer required to submit their social security number when filing their annual affidavit. However, they are still required to submit their name, legal business or trade name, mailing address, business address, telephone number, and address of each seller of travel represented by the independent agent.

Section 39 amends s. 559.9285, F.S., by correcting a cross-reference.

Section 40 amends s. 559.935, F.S., by removing the term “occupational license” and replacing it with “business tax receipt” as it relates to sellers of travel.²⁸

Section 41 amends s. 570.29, F.S., to remove statutory reference to the Division of Standards.

Section 42 repeals ss. 570.46 and 570.47, F.S., to remove the powers and duties the Division of Standards and to remove references to the appointment and duties of the division director.

Section 43 amends s. 570.544, F.S., by providing that the director of the Division of Consumer Services shall supervise, direct, and coordinate the activities of the former Division of Standards and shall, under the direction of the department, enforce the provisions of chs. 472, 496, 501, 507, 525, 526, 527, 531, 539, 559, 616, and 849, F.S.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

The effect is to shift the duties and responsibilities of the Division of Standards to the Division of Consumer Services.

Section 44 amends s. 616.242, F.S., by removing an obsolete reference to the “Bureau of Fair Rides Inspection” and replacing it with “fair rides inspection program.” As such, the department shall by rule establish fees to cover the costs and expenditures associated with the fair rides inspection program, as opposed to the Bureau of Fair Rides Inspection.

Section 45 provides that this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

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

B. Private Sector Impact:

According to the Department of Agriculture and Consumer Services, the waiver of the firearms training requirement for a first time or renewing applicant of a Class “G” license who is either a retired law enforcement officer or a federal law enforcement officer that has undergone proper firearms training will allow such groups to qualify and remain eligible for a Class “G” license at a minimum expense and inconvenience. As such, the effect of these changes will provide greater opportunities for employment in the private investigation and security industries.²⁹ Similarly, the removal of the \$10 listing charge fee and \$5 renewal assessment associated with the “do not call list” will create a positive private sector impact.

The bill also imposes a \$25 late fee for any late submissions of applications to reregister a previously registered brand and formula of brake fluid, as well as imposes an administrative fine of up to \$5,000 for any violations of law regarding the regulation of brake fluid. Additionally, this bill also gives the department the option to impose an

²⁹ Memorandum to Senate Committee on Commerce and Tourism from Department of Agriculture and Consumer Services (on file with the Senate Committee on Commerce and Tourism).

administrative fine, not to exceed \$1,000, for every violation of the telephone solicitation and “do not call” statutes.

Lastly, the repeal of s. 559.922, F.S., resulting in the elimination of the department’s financial assistance program for technical training or courses of study in motor vehicle repair will also create a private sector impact.

C. Government Sector Impact:

According to the Department of Agriculture and Consumer Services, the merger of the divisions of Consumer Services and Standards would reduce expenses by approximately \$800,000.³⁰

Conversely, with respect to telephone solicitation, the removal of the \$10 listing charge fee and \$5 renewal assessment associated with the “do not call list” will reduce revenue to the department.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Regulated Industries on February 7, 2012:

Clarifies that the department may send a surveyors and mappers license renewal by e-mail if the licensee has elected to receive the notifications in that manner.

CS by Commerce and Tourism on January 19, 2012:

- Retracted on renaming of Division of Consumer Services to Division of Consumer Protection.
- Repealed s. 559.922, F.S., with the effect of eliminating the department’s financial assistance program for technical training or courses of study in motor vehicle repair.
- Repealed s. 366.85, F.S., dealing with consumer conciliatory conferences.
- Inserted the following provisions relating to the regulation of telephone solicitation:
 - Removed “Public Service Commission” from definition portion of the statute.

³⁰ *Id.*

- Required the department to keep a telephone subscriber who notified the department of his or her desire not to receive unsolicited telephone sales calls to be placed on the “do not call” list for 5 years.
- Removed fees relating to placement on the “do not call list.” Specifically, there is no longer an initial \$10 listing charge or \$5 renewal assessment.
- Authorized the department to include the phone number listings of Florida subscribers from any national “do not call list” if the Federal Trade Commission, pursuant to 15 U.S.C. s. 6102(a), established such a national database.
- Authorized the department, as an alternative to the civil penalties already provided, to impose an administrative fine not to exceed \$1,000 for every violation. The administrative proceeding must be conducted in accordance with ch. 120, F.S.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2012	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Diaz de la Portilla)
recommended the following:

Senate Amendment

Delete line 413
and insert:
to the department and the licensee has elected to receive
notifications by e-mail.

By the Committee on Commerce and Tourism; and Senator Flores

577-02068-12

2012888c1

1 A bill to be entitled
 2 An act relating to consumer services; amending s.
 3 20.14, F.S.; deleting provisions establishing the
 4 Division of Standards within the Department of
 5 Agriculture and Consumer Services; repealing s.
 6 366.85, F.S., relating to responsibilities of the
 7 department for compliance with certain federal
 8 requirements related to consumer conciliatory
 9 conferences and energy conservation products,
 10 services, and loans; amending s. 472.005, F.S.;
 11 redefining the term "license" and defining the terms
 12 "consumer member" and "licensee" for purposes of
 13 provisions governing surveyors and mappers; amending
 14 s. 472.006, F.S.; directing the Department of
 15 Agriculture and Consumer Services to work
 16 cooperatively with the Department of Revenue to
 17 implement an automated method of disclosing
 18 information related to licensees; authorizing the
 19 Department of Agriculture and Consumer Services to
 20 suspend or deny the license of any licensee found not
 21 to be in compliance with a support order, subpoena,
 22 order to show cause, or written agreement; providing
 23 for reinstatement of a denied or suspended license;
 24 relieving the department of certain liability
 25 associated with the denial or suspension of a license;
 26 amending s. 472.011, F.S.; authorizing the department
 27 to waive license renewal fees for land surveyors and
 28 mappers under certain circumstances; authorizing the
 29 collection of an existing special assessment from

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577-02068-12

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30 inactive and delinquent licensees; amending s.
 31 472.0131, F.S., relating to examinations; making
 32 technical changes; amending s. 472.015, F.S.;
 33 authorizing the department to require land surveyors
 34 or mappers to submit their social security numbers
 35 when applying for initial licensure or license
 36 renewal; providing conditions under which an
 37 application is deemed received; providing conditions
 38 under which the department may issue a license by
 39 endorsement; requiring an applicant to provide his or
 40 her social security number as required pursuant to
 41 federal law; specifying how a social security number
 42 may be used; amending s. 472.018, F.S., relating to
 43 continuing education; making technical changes;
 44 requiring that continuing education providers
 45 electronically provide certain information to the
 46 department; providing timeframes for reporting;
 47 requiring that the department establish a system to
 48 monitor licensee compliance with continuing education
 49 requirements; defining the term "monitor"; authorizing
 50 the department to refuse to renew a license until the
 51 applicant satisfies continuing education requirements;
 52 authorizing the department or board to impose
 53 additional penalties against applicants who fail to
 54 satisfy additional requirements; amending s. 472.0202,
 55 F.S.; conforming a cross-reference; amending s.
 56 472.0203, F.S.; providing for license renewal
 57 notification by the department to be sent
 58 electronically to the licensee's last known e-mail

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59 address; amending s. 472.025, F.S.; providing that a
 60 professional surveyor or mapper whose license is
 61 revoked or suspended must return his or her seal to
 62 the executive director of the board, rather than to
 63 the secretary; creating s. 472.0337, F.S.; authorizing
 64 the department to administer oaths, take depositions,
 65 make inspections, issue and serve subpoenas and other
 66 process, and compel the attendance of witnesses and
 67 production of certain documents; providing for
 68 challenges to and enforcement of subpoenas and orders;
 69 amending s. 472.0351, F.S.; revising grounds for
 70 discipline; eliminating certain actions by a licensee
 71 which are grounds for disciplinary action; specifying
 72 what constitutes an action against a license in
 73 another state, territory, or country; specifying that
 74 the board may enter an order against a surveyor or
 75 mapper who committed certain violations before
 76 obtaining a license; authorizing the board to require
 77 corrective action; prohibiting the department from
 78 issuing to or renewing the license of a person or
 79 business entity that has been assessed a fine,
 80 interest, costs, or attorney fees associated with an
 81 investigation or prosecution until the person pays
 82 them in full or complies with or satisfies all terms
 83 and conditions of the final order; creating s.
 84 472.0357, F.S.; providing penalties for knowingly
 85 giving false information in the course of applying for
 86 or obtaining a license; amending s. 493.6105, F.S.;
 87 authorizing the Department of Agriculture and Consumer

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88 Services to waive firearms training requirements for
 89 the initial licensure of private investigative,
 90 private security, or repossession services under
 91 certain circumstances; amending s. 493.6113, F.S.;
 92 authorizing the department to waive firearms training
 93 requirements for license renewal of private
 94 investigative, private security, and repossession
 95 services under certain circumstances; amending s.
 96 493.6118, F.S.; providing for disciplinary action to
 97 be taken against certain additional license classes
 98 and schools or training facilities for private
 99 investigators and private security and repossession
 100 services; amending s. 493.6120, F.S.; providing for
 101 penalty provisions to apply to certain additional
 102 license classes and schools or training facilities for
 103 private investigators and private security and
 104 repossession services; amending s. 501.015, F.S.,
 105 relating to the regulation of health studios;
 106 substituting the term "local business tax receipt" for
 107 the term "local occupational license"; amending s.
 108 501.017, F.S.; making technical changes; clarifying
 109 that certain notice be provided in a health studio
 110 contract in at least 10-point boldface type; amending
 111 s. 501.059, F.S.; deleting requirement that telephone
 112 subscribers pay an initial listing charge for
 113 including their telephone numbers on the state's no
 114 sales solicitation calls listing; specifying the
 115 period that a subscriber's listing remains active;
 116 requiring the department to include certain listings

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117 from a national database on the state's listing;
 118 authorizing the department to impose administrative
 119 fines for violations; specifying that administrative
 120 proceedings are subject to the Administrative
 121 Procedure Act; requiring telecommunications companies
 122 to inform their customers of certain telephone
 123 solicitation requirements; deleting the requirement
 124 that the Florida Public Service Commission adopt
 125 certain rules; amending s. 501.605, F.S.; providing
 126 that an applicant for a commercial telephone seller
 127 license may provide other valid forms of
 128 identification in lieu of a valid driver license
 129 number; removing the requirement that the applicant
 130 provide his or her social security number on the
 131 application; amending s. 501.607, F.S.; providing that
 132 an applicant for a telemarketing salesperson's license
 133 may provide other valid forms of identification in
 134 lieu of a driver license number; amending s. 501.911,
 135 F.S.; revising provisions for administration of the
 136 Antifreeze Act of 1978, to conform; amending s.
 137 501.913, F.S.; requiring the registrant of a brand of
 138 antifreeze to assume full responsibility for the
 139 registration; requiring that a registrant of a brand
 140 of antifreeze not in production for distribution in
 141 this state must submit a notarized affidavit attesting
 142 to specified information; requiring that a certain
 143 sample size of each brand of antifreeze accompany the
 144 application for registration; amending s. 507.04,
 145 F.S.; requiring that the Department of Agriculture and

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577-02068-12

2012888c1

146 Consumer Services be notified at least 10 days before
 147 any changes are made in the insurance coverage of a
 148 household moving service; amending s. 525.07, F.S.;
 149 revising required contents of seal clasps applied by
 150 meter mechanics after repair and adjustment of
 151 petroleum fuel measuring devices; amending s. 526.143,
 152 F.S.; authorizing the department to temporarily waive
 153 certain requirements for generators at retail motor
 154 fuel outlets which are used in preparation or response
 155 to an emergency or major disaster in another state;
 156 amending s. 526.50, F.S., relating to the sale of
 157 brake fluid; defining the terms "brand" and "formula";
 158 amending s. 526.51, F.S.; conforming terminology;
 159 providing criteria for reregistering a previously
 160 registered brand and formula combination of brake
 161 fluid; providing for a fine for late submission of the
 162 application for reregistration and required materials;
 163 requiring a registrant to submit a notarized affidavit
 164 attesting that specified conditions have been
 165 satisfied if a registered brand and formula
 166 combination is not in production for distribution in
 167 this state; amending s. 526.52, F.S.; providing
 168 alternative criteria under which a brand of brake
 169 fluid may satisfy branding requirements; amending s.
 170 526.53, F.S.; conforming terminology; requiring that
 171 stop-sale orders be served by the department on the
 172 owner of the brand name, the distributor, or other
 173 entity responsible for selling or distributing the
 174 product; providing that the department's

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175 representative, with the consent of the department,
 176 may dispose of certain unregistered brake fluid;
 177 amending s. 526.55, F.S.; replacing criminal sanctions
 178 with administrative and monetary sanctions for
 179 violations of laws regulating the sale of brake fluid;
 180 amending s. 539.001, F.S.; eliminating the requirement
 181 that a pawnshop provide the Department of Agriculture
 182 and Consumer Services notice of a change in its
 183 location by certified or registered mail; amending s.
 184 559.805, F.S.; eliminating a requirement that sellers
 185 of business opportunities provide the department with
 186 the social security numbers of their independent
 187 agents; amending s. 559.904, F.S., relating to the
 188 regulation of motor vehicle repair shops; substituting
 189 the term "business tax receipt" for the term
 190 "occupational license"; repealing s. 559.922, F.S.,
 191 relating to the use of motor vehicle repair shop
 192 registration fees to provide financial assistance to
 193 motor vehicle repair shop employees who undertake
 194 certain technical training or courses; amending s.
 195 559.928, F.S., relating to the regulation of sellers
 196 of travel; substituting the term "business tax
 197 receipt" for the term "occupational license";
 198 eliminating a requirement that an independent travel
 199 agent provide his or her social security number to the
 200 department; amending s. 559.9285, F.S.; conforming a
 201 cross-reference; amending s. 559.935, F.S., relating
 202 to an exemption from regulation provided for certain
 203 sellers of travel; substituting the term "business tax

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204 receipt" for the term "occupational license"; amending
 205 s. 570.29, F.S., relating to departmental divisions;
 206 conforming terminology; repealing ss. 570.46 and
 207 570.47, F.S., relating to the powers and duties of the
 208 Division of Standards and the qualifications and
 209 duties of the director of the division; amending s.
 210 570.544, F.S.; revising the powers and duties of the
 211 director of the Division of Consumer Services;
 212 amending s. 616.242, F.S.; removing an obsolete
 213 reference to the Bureau of Fair Rides Inspection;
 214 providing an effective date.

215
 216 Be It Enacted by the Legislature of the State of Florida:

217
 218 Section 1. Paragraph (1) of subsection (2) of section
 219 20.14, Florida Statutes, is amended to read:
 220 20.14 Department of Agriculture and Consumer Services.—
 221 There is created a Department of Agriculture and Consumer
 222 Services.

223 (2) The following divisions of the Department of
 224 Agriculture and Consumer Services are established:

225 ~~(1) Standards.~~

226 Section 2. Section 366.85, Florida Statutes, is repealed.

227 Section 3. Subsection (7) of section 472.005, Florida
 228 Statutes, is amended, and subsections (15) and (16) are added to
 229 that section, to read:

230 472.005 Definitions.—As used in ss. 472.001-472.037:

231 (7) The term "license" means a registration, certificate,
 232 or license issued by the department pursuant to this chapter ~~the~~

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233 ~~registration of surveyors and mappers or the certification of~~
 234 ~~businesses to practice surveying and mapping in this state.~~

235 (15) "Consumer member" means a person appointed to serve on
 236 the board who is not, and never has been, a professional
 237 surveyor or mapper in any jurisdiction or a member of any
 238 closely related profession regulated by the board.

239 (16) "Licensee" means any person or business entity that
 240 has been issued, pursuant to this chapter, a registration,
 241 certificate, or license by the department.

242 Section 4. Subsection (12) is added to section 472.006,
 243 Florida Statutes, to read:

244 472.006 Department; powers and duties.—The department
 245 shall:

246 (12) Work cooperatively with the Department of Revenue to
 247 implement an automated method for periodically disclosing
 248 information relating to current licensees to the Department of
 249 Revenue in order to further the public policy of reducing the
 250 state's financial burden as a result of family desertion and
 251 nonsupport of dependent children as provided in s. 409.2551. The
 252 department shall, if directed by the court or the Department of
 253 Revenue, pursuant to s. 409.2598, suspend or deny the license of
 254 any licensee who is found to not be in compliance with a support
 255 order, subpoena, order to show cause, or written agreement
 256 entered into by the licensee with the Department of Revenue. The
 257 department shall issue or reinstate the license without
 258 additional charge to the licensee if notified by the court or
 259 the Department of Revenue that the licensee has complied with
 260 the terms of the support order. The department is not liable for
 261 any license denial or suspension resulting from the discharge of

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262 its duties under this subsection.

263 Section 5. Subsections (1) and (12) of section 472.011,
 264 Florida Statutes, are amended to read:

265 472.011 Fees.—

266 (1) The board, by rule, may establish fees to be paid for
 267 applications, examination, reexamination, licensing and renewal,
 268 inactive status application and reactivation of inactive
 269 licenses, recordmaking and recordkeeping, and applications for
 270 providers of continuing education. The board may also establish
 271 by rule a delinquency fee. The board shall establish fees that
 272 are adequate to ensure the continued operation of the board.
 273 Fees shall be based on department estimates of the revenue
 274 required to implement ss. 472.001-472.037 and the provisions of
 275 law with respect to the regulation of surveyors and mappers. If
 276 the department determines, based on estimates of available
 277 revenue collected pursuant to this section, that the General
 278 Inspection Trust Fund contains funds that exceed the amount
 279 required to cover the necessary functions of the board, the
 280 department shall, by rule, waive the license renewal fees for
 281 licensees under this chapter for a period not to exceed 2 years.

282 (12) The board may, by rule, assess and collect a special
 283 assessment ~~one-time fee~~ from each active, inactive, and
 284 delinquent ~~each voluntary inactive~~ licensee in an amount
 285 necessary to eliminate a cash deficit or, if there is not a cash
 286 deficit, in an amount sufficient to maintain the financial
 287 integrity of this profession as required in this subsection.

288 Section 6. Subsection (3) of section 472.0131, Florida
 289 Statutes, is amended to read:

290 472.0131 Examinations; development; administration.—

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291 (3) Except for national examinations approved and
 292 administered pursuant to paragraph (1)(d), the department shall
 293 provide procedures for applicants who have taken and failed an
 294 examination developed by the department or a contracted vendor
 295 to review their examination questions, answers, papers, grades,
 296 and grading key for the questions the candidate answered
 297 incorrectly on his or her last examination or, if not feasible,
 298 the parts of the examination failed. Applicants shall bear the
 299 actual cost for the department to provide examination review
 300 pursuant to this subsection. An applicant may waive in writing
 301 the confidentiality of his or her examination grades.

302 Section 7. Subsection (1) and paragraph (b) of subsection
 303 (6) of section 472.015, Florida Statutes, are amended, and
 304 subsection (15) is added to that section, to read:

305 472.015 Licensure.—

306 (1) Notwithstanding any other law, the department is the
 307 sole authority for determining the contents of any documents to
 308 be submitted for initial licensure and licensure renewal. The
 309 ~~Such~~ documents may contain information including, as
 310 appropriate: demographics, social security number, education,
 311 work history, personal background, criminal history, finances,
 312 business information, complaints, inspections, investigations,
 313 discipline, bonding, signature notarization, photographs,
 314 performance periods, reciprocity, local government approvals,
 315 supporting documentation, periodic reporting requirements,
 316 continuing education requirements, and ongoing education
 317 monitoring. The applicant shall supplement his or her
 318 ~~application may be supplemented~~ as needed to reflect any
 319 material change in any circumstance or condition stated in the

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320 application which takes place between the initial filing of the
 321 application and the final grant or denial of the license and
 322 which might affect the decision of the department. An
 323 application is received for the purposes of s. 120.60 upon
 324 receipt by the department of the application, submitted in the
 325 format prescribed by the department, the application fee set by
 326 the board, and any other documentation or fee required by law or
 327 rule to be submitted with the application in order for the
 328 application to be complete.

329 (6)

330 (b) The department ~~may shall~~ not issue a license by
 331 endorsement to any applicant who is under investigation in this
 332 state or any other state or any other jurisdiction ~~another state~~
 333 for any act that would constitute a violation of this ss-
 334 ~~472.001-472.037~~ or chapter 455 until ~~such time as~~ the
 335 investigation is complete and disciplinary proceedings have been
 336 terminated.

337 (15) Pursuant to the federal Personal Responsibility and
 338 Work Opportunity Reconciliation Act of 1996, each person
 339 applying for initial licensure or license renewal shall provide
 340 his or her social security number. Use of social security
 341 numbers obtained through this requirement is limited to the
 342 purpose of administering the Title IV-D program for child
 343 support enforcement, use by the department, and use as otherwise
 344 provided by law.

345 Section 8. Subsection (1) of section 472.018, Florida
 346 Statutes, is amended, and subsections (13), (14), and (15) are
 347 added to that section, to read:

348 472.018 Continuing education.—The department may not renew

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349 a license until the licensee submits proof satisfactory to the
350 board that during the 2 years before ~~prior to~~ her or his
351 application for renewal the licensee has completed at least 24
352 hours of continuing education.

353 (1) The board shall adopt rules to establish the criteria
354 and course content for continuing education courses. The rules
355 may provide that up to a maximum of 25 percent of the required
356 continuing education hours may ~~can~~ be fulfilled by the
357 performance of pro bono services to the indigent or to
358 underserved populations or in areas of critical need within the
359 state where the licensee practices. The board must require that
360 any pro bono services be approved in advance in order to receive
361 credit for continuing education under this section. The board
362 shall use the standard for determining indigency shall be that
363 recognized by the Federal Poverty Income Guidelines produced by
364 the United States Department of Health and Human Services in
365 determining indigency. The board may adopt rules that may
366 provide for approval by the board that a part of the continuing
367 education hours may ~~can~~ be fulfilled by performing research in
368 critical need areas or for training leading to advanced
369 professional certification. The board, ~~or the department when~~
370 ~~there is no board,~~ may adopt ~~make~~ rules to define underserved
371 and critical need areas. The department shall adopt rules for
372 the administration of continuing education requirements adopted
373 by the board ~~or the department when there is no board.~~

374 (13) Each continuing education provider shall provide to
375 the department, in an electronic format determined by the
376 department, information regarding the continuing education
377 status of licensees which the department determines is necessary

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378 to carry out its duties under this chapter. After a licensee
379 completes a course, the information must be submitted
380 electronically by the continuing education provider to the
381 department within 30 calendar days after completion. However,
382 beginning on the 30th day before the renewal deadline or before
383 the renewal date, whichever occurs sooner, the continuing
384 education provider shall electronically report such information
385 to the department within 10 business days after completion.

386 (14) The department shall establish a system to monitor
387 licensee compliance with continuing education requirements and
388 to determine the continuing education status of each licensee.
389 As used in this subsection, the term "monitor" means the act of
390 determining, for each licensee, whether the licensee is in full
391 compliance with applicable continuing education requirements as
392 of the date of the licensee's application for license renewal.

393 (15) The department may refuse to renew a license until the
394 licensee has satisfied all applicable continuing education
395 requirements. This subsection does not preclude the department
396 or board from imposing additional penalties pursuant to this
397 chapter or rules adopted pursuant this chapter.

398 Section 9. Subsection (1) of section 472.0202, Florida
399 Statutes, is amended to read:

400 472.0202 Inactive and delinquent status.—

401 (1) A licensee may practice a profession only if the
402 licensee has an active status license. A licensee who practices
403 a profession without an active status license is in violation of
404 this section and s. 472.0351 ~~472-033~~, and the board may impose
405 discipline on the licensee.

406 Section 10. Subsection (3) is added to section 472.0203,

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407 Florida Statutes, to read:

408 472.0203 Renewal and cancellation notices.-

409 (3) Notwithstanding any other law, a licensure renewal
 410 notification required to be sent to the last known address of
 411 record may be sent by the department to the licensee by
 412 electronic means if the licensee has provided an e-mail address
 413 to the department.

414 Section 11. Subsection (2) of section 472.025, Florida
 415 Statutes, is amended to read:

416 472.025 Seals.-

417 (2) It is unlawful for a any person to stamp, seal, or
 418 digitally sign a any document with a seal or digital signature
 419 after his or her certificate of registration has expired or been
 420 revoked or suspended, unless such certificate of registration
 421 has been reinstated or reissued. When a the certificate of
 422 registration ~~of a registrant~~ has been revoked or suspended by
 423 the board, the registrant shall, within ~~a period of~~ 30 days
 424 after the revocation or suspension has become effective,
 425 surrender his or her seal to the executive director ~~secretary~~ of
 426 the board and confirm to the executive director ~~secretary~~ the
 427 cancellation of the registrant's digital signature in accordance
 428 with ss. 668.001-668.006. ~~If in the event~~ the registrant's
 429 certificate has been suspended for a period of time, his or her
 430 seal shall be returned to him or her upon expiration of the
 431 suspension period.

432 Section 12. Section 472.0337, Florida Statutes, is created
 433 to read:

434 472.0337 Power to administer oaths, take depositions, and
 435 issue subpoenas.-For the purpose of an investigation or

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436 proceeding conducted by the department, the department shall
 437 administer oaths, take depositions, make inspections, issue
 438 subpoenas which must be supported by affidavit, serve subpoenas
 439 and other process, and compel the attendance of witnesses and
 440 the production of books, papers, documents, and other evidence.
 441 Challenges to, and enforcement of, the subpoenas and orders
 442 shall be conducted as provided in s. 120.569.

443 Section 13. Section 472.0351, Florida Statutes, is amended
 444 to read:

445 472.0351 Grounds for discipline; penalties; enforcement.-

446 (1) The following acts ~~shall~~ constitute grounds for which
 447 the disciplinary actions specified in subsection (2) may be
 448 taken:

449 (a) Violation of any provision of s. 472.031;

450 (b) Attempting to procure a license to practice surveying
 451 and mapping by bribery or fraudulent misrepresentations;

452 (c) Having a license to practice surveying and mapping
 453 revoked, suspended, or otherwise acted against, including the
 454 denial of licensure, by the licensing authority of another
 455 state, territory, or country, for a violation that constitutes a
 456 violation under the laws of this state. The acceptance of a
 457 relinquishment of licensure, stipulation, consent order, or
 458 other settlement offered in response to or in anticipation of
 459 the filing of charges against the license by a licensing
 460 authority is an action against the license;

461 (d) Being convicted or found guilty of, or entering a plea
 462 of guilty, no contest, or nolo contendere to, regardless of
 463 adjudication, a crime in any jurisdiction which directly relates
 464 to the practice of surveying and mapping or the ability to

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465 practice surveying and mapping;

466 (e) Making or filing a report or record that the licensee
467 knows to be false, willfully failing to file a report or record
468 required by state or federal law, willfully impeding or
469 obstructing such filing, or inducing another person to impede or
470 obstruct such filing. Such reports or records ~~shall~~ include only
471 those that are signed in the capacity of a registered surveyor
472 and mapper;

473 (f) Advertising goods or services in a manner that is
474 fraudulent, false, deceptive, or misleading in form or content;

475 (g) Upon proof that the licensee is guilty of fraud or
476 deceit, or of negligence, incompetency, or misconduct, in the
477 practice of surveying and mapping;

478 (h) Failing to perform a any statutory or legal obligation
479 placed upon a licensed surveyor and mapper; violating a any
480 provision of this chapter, a rule of the board or department, or
481 a lawful order of the board or department ~~previously entered in~~
482 ~~a disciplinary hearing~~; or failing to comply with a lawfully
483 issued subpoena of the department;

484 (i) Practicing on a revoked, suspended, inactive, or
485 delinquent license;

486 ~~(j) Making misleading, deceptive, or fraudulent~~
487 ~~representations in or related to the practice of the licensee's~~
488 ~~profession;~~

489 ~~(k) Intentionally violating any rule adopted by the board~~
490 ~~or the department, as appropriate;~~

491 ~~(l) Having a license or the authority to practice the~~
492 ~~regulated profession revoked, suspended, or otherwise acted~~
493 ~~against, including the denial of licensure, by the licensing~~

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494 ~~authority of any jurisdiction, including its agencies or~~
495 ~~subdivisions, for a violation that would constitute a violation~~
496 ~~under Florida law;~~

497 (j) ~~(m)~~ Having been found liable in a civil proceeding for
498 knowingly filing a false report or complaint with the department
499 against another licensee;

500 (k) ~~(n)~~ Failing to report to the department any person who
501 the licensee knows is in violation of this chapter or the rules
502 of the department or the board;

503 (l) ~~(o)~~ Aiding, assisting, procuring, employing, or advising
504 any unlicensed person or entity to practice surveying and
505 mapping contrary to this chapter or the rules of the department
506 or the board;

507 (m) ~~(p)~~ Making deceptive, untrue, or fraudulent
508 representations in or related to the practice of professional
509 surveying or mapping ~~a profession~~ or employing a trick or scheme
510 in or related to the practice of professional surveying or
511 mapping a profession;

512 (n) ~~(q)~~ Exercising influence on the client for the purpose
513 of financial gain of the licensee or a third party;

514 (o) ~~(r)~~ Practicing or offering to practice beyond the scope
515 permitted by law or accepting and performing professional
516 responsibilities the licensee knows, or has reason to know, the
517 licensee is not competent to perform;

518 (p) ~~(s)~~ Delegating or contracting for the performance of
519 professional responsibilities by a person when the licensee
520 delegating or contracting for performance of such
521 responsibilities knows, or has reason to know, such person is
522 not qualified by training, experience, and authorization when

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523 required to perform them; or

524 ~~(t) Violating this chapter, the applicable professional~~
 525 ~~practice act, a rule of the department or the board, or a lawful~~
 526 ~~order of the department or the board, or failing to comply with~~
 527 ~~a lawfully issued subpoena of the department; or~~

528 (q)(u) Improperly interfering with an investigation or
 529 inspection authorized by statute, or with any disciplinary
 530 proceeding.

531 (2) ~~If when~~ the board finds a any surveyor or mapper guilty
 532 of any of the grounds set forth in subsection (1) or a violation
 533 of this chapter which occurred before obtaining a license, the
 534 board ~~it~~ may enter an order imposing one or more of the
 535 following penalties:

536 (a) Denial of an application for licensure, or approval of
 537 an application for licensure with restrictions.

538 (b) Revocation or suspension of a license.

539 (c) Imposition of an administrative fine not to exceed
 540 \$1,000 for each count or separate offense.

541 (d) Issuance of a reprimand.

542 (e) Placement of the surveyor or mapper on probation for a
 543 period of time and subject to such conditions as the board may
 544 specify. Those conditions may include, but are not limited to,
 545 requiring the licensee to undergo treatment, attend continuing
 546 education courses, submit to be reexamined, work under the
 547 supervision of another licensee, or satisfy any terms which are
 548 reasonably tailored to the violations found.

549 (f) Restriction of the authorized scope of practice by the
 550 surveyor or mapper.

551 (g) Corrective action.

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552 (3) The department shall reissue the license of a
 553 disciplined surveyor or mapper upon certification by the board
 554 that he or she has complied with all of the terms and conditions
 555 set forth in the final order.

556 (4) (a) In addition to any other discipline imposed pursuant
 557 to this section, the board may assess costs and attorney
 558 ~~attorneys~~ fees related to the investigation and prosecution of
 559 the case.

560 (b) In any case where the board or the department imposes a
 561 fine or assessment and the fine or assessment is not paid within
 562 a reasonable time, ~~which may such reasonable time to be~~
 563 prescribed in the rules of the board or in the order assessing
 564 such fines or costs, the department or the Department of Legal
 565 Affairs may contract for the collection of, or bring a civil
 566 action to recover, the fine or assessment.

567 (c) The department may not issue to or renew the license of
 568 any person or business entity against which the board has
 569 assessed a fine, interest, costs, or attorney fees associated
 570 with an investigation and prosecution until the person or
 571 business entity has paid the full amount due or complies with or
 572 satisfies all terms and conditions of the final order.

573 ~~(5) In addition to, or in lieu of, any other remedy or~~
 574 ~~criminal prosecution, the department may file a proceeding in~~
 575 ~~the name of the state seeking issuance of an injunction or a~~
 576 ~~writ of mandamus against any person who violates any of the~~
 577 ~~provisions of this chapter, or any provision of law with respect~~
 578 ~~to professions regulated by the department, or any board~~
 579 ~~therein, or the rules adopted pursuant thereto.~~

580 (5)(6) If the board determines that revocation of a license

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581 is the appropriate penalty, the revocation shall be permanent.
 582 However, the board may establish, by rule, requirements for
 583 reapplication by applicants whose licenses have been permanently
 584 revoked. Such requirements may include, but ~~are shall not be~~
 585 limited to, satisfying current requirements for an initial
 586 license.

587 Section 14. Section 472.0357, Florida Statutes, is created
 588 to read:

589 472.0357 Penalty for giving false information.—In addition
 590 to, or in lieu of, any other disciplinary action imposed
 591 pursuant to s. 472.0351, a person who knowingly gives false
 592 information in the course of applying for or obtaining a license
 593 from the department or the board, or who attempts to obtain or
 594 obtains a license from the department or the board by knowingly
 595 providing misleading statements or misrepresentations commits a
 596 felony of the third degree, punishable as provided in s.
 597 775.082, s. 775.083, or s. 775.084.

598 Section 15. Subsection (5) of section 493.6105, Florida
 599 Statutes, is amended to read:

600 493.6105 Initial application for license.—

601 (5) In addition to the requirements outlined in subsection
 602 (3), an applicant for a Class "G" license must satisfy minimum
 603 training criteria for firearms established by rule of the
 604 department, which training criteria includes, but is not limited
 605 to, 28 hours of range and classroom training taught and
 606 administered by a Class "K" licensee; however, no more than 8
 607 hours of such training shall consist of range training. The
 608 department may waive the foregoing firearms training requirement
 609 if:

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610 (a) The applicant provides proof that he or she is
 611 currently certified as a law enforcement officer or correctional
 612 officer pursuant to the requirements of the Criminal Justice
 613 Standards and Training Commission or has successfully completed
 614 the training required for certification within the last 12
 615 months.

616 (b) The applicant provides proof that he or she is
 617 currently certified as a federal law enforcement officer and has
 618 received law enforcement firearms training administered by a
 619 federal law enforcement agency.

620 (c) The applicant submits a valid firearm certificate among
 621 those specified in paragraph (6) (a). If the applicant submits
 622 proof that he or she is an active law enforcement officer
 623 currently certified under the Criminal Justice Standards and
 624 Training Commission or has completed the training required for
 625 that certification within the last 12 months, or if the
 626 applicant submits one of the certificates specified in paragraph
 627 (6) (a), the department may waive the foregoing firearms training
 628 requirement.

629 Section 16. Paragraph (b) of subsection (3) of section
 630 493.6113, Florida Statutes, is amended to read:

631 493.6113 Renewal application for licensure.—

632 (3) Each licensee is responsible for renewing his or her
 633 license on or before its expiration by filing with the
 634 department an application for renewal accompanied by payment of
 635 the prescribed license fee.

636 (b) Each Class "G" licensee shall additionally submit proof
 637 that he or she has received during each year of the license
 638 period a minimum of 4 hours of firearms recertification training

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639 taught by a Class "K" licensee and has complied with such other
 640 health and training requirements which the department may adopt
 641 by rule. If proof of a minimum of 4 hours of annual firearms
 642 recertification training cannot be provided, the renewal
 643 applicant shall complete the minimum number of hours of range
 644 and classroom training required at the time of initial
 645 licensure. The department may waive the foregoing firearms
 646 training requirement if:

647 1. The applicant provides proof that he or she is currently
 648 certified as a law enforcement officer or correctional officer
 649 under the Criminal Justice Standards and Training Commission and
 650 has completed law enforcement firearms requalification training
 651 annually during the previous 2 years of the licensure period.

652 2. The applicant provides proof that he or she is currently
 653 certified as a federal law enforcement officer and has received
 654 law enforcement firearms training administered by a federal law
 655 enforcement agency annually during the previous 2 years of the
 656 licensure period.

657 3. The applicant submits a valid firearm certificate among
 658 those specified in s. 493.6105(6) (a) and provides proof of
 659 having completed requalification training during the previous 2
 660 years of the licensure period.

661 Section 17. Subsection (6) of section 493.6118, Florida
 662 Statutes, is amended to read:

663 493.6118 Grounds for disciplinary action.—

664 (6) The agency or Class "DS" or "RS" license and the
 665 approval or license of each officer, partner, or owner of the
 666 agency, school, or training facility are automatically suspended
 667 upon entry of a final order imposing an administrative fine

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668 against the agency, school, or training facility, until the fine
 669 is paid, if 30 calendar days have elapsed since the entry of the
 670 final order. All owners and corporate or agency officers or
 671 partners are jointly and severally liable for ~~agency~~ fines
 672 levied against the agency, school, or training facility. ~~Neither~~
 673 ~~The agency~~ or Class "DS" or "RS" license or the approval or
 674 license of any officer, partner, or owner of the agency, school,
 675 or training facility may not be renewed, and ~~nor may~~ an
 676 application may not be approved, if the owner, licensee, or
 677 applicant is liable for an outstanding administrative fine
 678 imposed under this chapter. An individual's approval or license
 679 becomes automatically suspended if a fine imposed against the
 680 individual or his or her agency is not paid within 30 days after
 681 the date of the final order, and remains suspended until the
 682 fine is paid. Notwithstanding the provisions of this subsection,
 683 an individual's approval or license may not be suspended and ~~nor~~
 684 ~~may~~ an application may not be denied if ~~when~~ the licensee or the
 685 applicant has an appeal from a final order pending in any
 686 appellate court.

687 Section 18. Subsection (4) of section 493.6120, Florida
 688 Statutes, is amended to read:

689 493.6120 Violations; penalty.—

690 (4) A ~~Any~~ person who was an owner, officer, partner, or
 691 manager of a licensed agency or a Class "DS" or "RS" school or
 692 training facility at the time of any activity that is the basis
 693 for revocation of the agency or branch office license or the
 694 school or training facility license and who knew or should have
 695 known of the activity, shall have his or her personal licenses
 696 or approval suspended for 3 years and may not have any financial

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697 interest in or be employed in any capacity by a licensed agency
698 or a school or training facility during the period of
699 suspension.

700 Section 19. Subsection (7) of section 501.015, Florida
701 Statutes, is amended to read:

702 501.015 Health studios; registration requirements and
703 fees.—Each health studio shall:

704 (7) A ~~Any~~ person applying for or renewing a local business
705 tax receipt occupational license to engage in business as a
706 health studio must exhibit an active registration certificate
707 from the Department of Agriculture and Consumer Services before
708 the local business tax receipt occupational license may be
709 issued or reissued.

710 Section 20. Subsection (1) of section 501.017, Florida
711 Statutes, is amended to read:

712 501.017 Health studios; contracts.—

713 (1) Each ~~Every~~ contract for the sale of future health
714 studio services which is paid for in advance or which the buyer
715 agrees to pay for in future installment payments shall be in
716 writing and shall contain, contractual provisions to the
717 contrary notwithstanding, in immediate proximity to the space
718 reserved in the contract for the signature of the buyer, and in
719 at least 10-point boldfaced type, language substantially
720 equivalent to the following:

721 (a) A provision for the penalty-free cancellation of the
722 contract within 3 days, exclusive of holidays and weekends, of
723 its making, upon the mailing or delivery of written notice to
724 the health studio, and refund upon such notice of all moneys
725 paid under the contract, except that the health studio may

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726 retain an amount computed by dividing the number of complete
727 days in the contract term or, if appropriate, the number of
728 occasions health studio services are to be rendered into the
729 total contract price and multiplying the result by the number of
730 complete days that have passed since the making of the contract
731 or, if appropriate, by the number of occasions that health
732 studio services have been rendered. A refund shall be issued
733 within 30 days after receipt of the notice of cancellation made
734 within the 3-day provision.

735 (b)1. A provision for the cancellation and refund of the
736 contract if the contracting business location of the health
737 studio goes out of business, or moves its facilities more than 5
738 driving miles from the business location designated in the such
739 contract and fails to provide, within 30 days, a facility of
740 equal quality located within 5 driving miles of the business
741 location designated in the such contract at no additional cost
742 to the buyer.

743 2. A provision that notice of intent to cancel by the buyer
744 shall be given in writing to the health studio. The Such a
745 notice of cancellation from the consumer terminates ~~shall also~~
746 ~~terminate~~ automatically the consumer's obligation to any entity
747 to whom the health studio has subrogated or assigned the
748 consumer's contract. If the health studio wishes to enforce the
749 ~~such~~ contract after receipt of the notice such showing, it may
750 request the department to determine the sufficiency of the
751 notice showing.

752 3. A provision that if the department determines that a
753 refund is due the buyer, the refund shall be an amount computed
754 by dividing the contract price by the number of weeks in the

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755 contract term and multiplying the result by the number of weeks
 756 remaining in the contract term. The business location of a
 757 health studio ~~may shall~~ not be deemed out of business when
 758 temporarily closed for repair and renovation of the premises:

759 a. Upon sale, for not more than 14 consecutive days; or
 760 b. During ownership, for not more than 7 consecutive days
 761 and not more than two periods of 7 consecutive days in any
 762 calendar year.

763

764 A refund shall be issued within 30 days after receipt of the
 765 notice of cancellation made pursuant to this paragraph.

766 (c) A provision in the disclosure statement advising the
 767 buyer to contact the department for information within 60 days
 768 should the health studio go out of business.

769 (d) A provision for the cancellation of the contract if the
 770 buyer dies or becomes physically unable to avail himself or
 771 herself of a substantial portion of those services which he or
 772 she used from the commencement of the contract until the time of
 773 disability, with refund of funds paid or accepted in payment of
 774 the contract in an amount computed by dividing the contract
 775 price by the number of weeks in the contract term and
 776 multiplying the result by the number of weeks remaining in the
 777 contract term. The contract may require a buyer or the buyer's
 778 estate seeking relief under this paragraph to provide proof of
 779 disability or death. A physical disability sufficient to warrant
 780 cancellation of the contract by the buyer is shall be
 781 established if the buyer furnishes to the health studio a
 782 certification of such disability by a physician licensed under
 783 chapter 458, chapter 459, chapter 460, or chapter 461 to the

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784 extent the diagnosis or treatment of the disability is within
 785 the physician's scope of practice. A refund shall be issued
 786 within 30 days after receipt of the notice of cancellation made
 787 pursuant to this paragraph.

788 (e) A provision that the initial contract will not be for a
 789 period in excess of 36 months, and thereafter shall only be
 790 renewable annually. A Such renewal contract ~~contracts~~ may not be
 791 executed and the fee therefor paid until 60 days or less before
 792 the previous ~~preceding~~ contract expires.

793 (f) A provision that if the health studio requires a buyer
 794 to furnish identification upon entry to the facility and as a
 795 condition of using the services of the health studio, the health
 796 studio shall provide the buyer with the means of such
 797 identification.

798 Section 21. Paragraphs (e) through (i) of subsection (1) of
 799 section 501.059, Florida Statutes, are redesignated as
 800 paragraphs (d) through (h), respectively, and present paragraph
 801 (d) of subsection (1) and subsections (3), (8), and (10) of that
 802 section are amended to read:

803 501.059 Telephone solicitation.—

804 (1) As used in this section:

805 ~~(d) "Commission" means the Florida Public Service~~
 806 ~~Commission.~~

807 (3) (a) If any residential, mobile, or telephonic paging
 808 device telephone subscriber notifies the department of his or
 809 her desire ~~desiring~~ to be placed on a "no sales solicitation
 810 calls" listing indicating that the subscriber does not wish to
 811 receive unsolicited telephonic sales calls, may notify the
 812 department shall place the subscriber ~~and be placed~~ on that

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813 listing ~~for 5 years upon receipt by the department of a \$10~~
 814 ~~initial listing charge. This listing shall be renewed by the~~
 815 ~~department annually for each consumer upon receipt of a renewal~~
 816 ~~notice and a \$5 assessment.~~

817 (b) The department shall update its "no sales solicitation
 818 calls" listing upon receipt of initial consumer subscriptions or
 819 renewals and provide this listing for a fee to telephone
 820 solicitors upon request.

821 (c) All fees imposed pursuant to this section shall be
 822 deposited in the General Inspection Trust Fund for the
 823 administration of this section.

824 (d) If the Federal Trade Commission, pursuant to 15 U.S.C.
 825 s. 6102(a), establishes a national database that lists the
 826 telephone numbers of subscribers who object to receiving
 827 telephone solicitations, the department shall include those
 828 listings from the national database which relate to Florida in
 829 the listing established under this section.

830 (8) (a) The department shall investigate any complaints
 831 received concerning violations of this section. If, after
 832 investigating any complaint, the department finds that there has
 833 been a violation of this section, the department or the
 834 Department of Legal Affairs may bring an action to impose a
 835 civil penalty and to seek other relief, including injunctive
 836 relief, as the court deems appropriate against the telephone
 837 solicitor. The civil penalty ~~may shall~~ not exceed \$10,000 per
 838 violation and shall be deposited in the General Inspection Trust
 839 Fund if the action or proceeding was brought by the department,
 840 or the Legal Affairs Revolving Trust Fund if the action or
 841 proceeding was brought by the Department of Legal Affairs. This

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842 civil penalty may be recovered in any action brought under this
 843 part by the department, or the department may terminate any
 844 investigation or action upon agreement by the person to pay a
 845 stipulated civil penalty. The department or the court may waive
 846 any civil penalty if the person has previously made full
 847 restitution or reimbursement or has paid actual damages to the
 848 consumers who have been injured by the violation.

849 (b) The department may, as an alternative to the civil
 850 penalties provided in paragraph (a), impose an administrative
 851 fine not to exceed \$1,000 for each act or omission that
 852 constitutes a violation of this section. An administrative
 853 proceeding that could result in the entry of an order imposing
 854 an administrative penalty must be conducted in accordance with
 855 chapter 120.

856 (10) ~~The commission shall by rule ensure that~~
 857 Telecommunications companies shall inform their customers of the
 858 provisions of this section. The notification may be made by:

859 (a) Annual inserts in the billing statements mailed to
 860 customers; and

861 (b) Conspicuous publication of the notice in the consumer
 862 information pages of the local telephone directories.

863 Section 22. Paragraphs (a) and (1) of subsection (2) of
 864 section 501.605, Florida Statutes, are amended to read:

865 501.605 Licensure of commercial telephone sellers.—

866 (2) An applicant for a license as a commercial telephone
 867 seller must submit to the department, in such form as it
 868 prescribes, a written application for the license. The
 869 application must set forth the following information:

870 (a) The true name, date of birth, driver ~~driver's~~ license

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871 number or other valid form of identification, ~~social security~~
 872 ~~number~~, and home address of the applicant, including each name
 873 under which he or she intends to do business.

874 (1) The true name, current home address, date of birth,
 875 ~~social security number~~, and all other names by which known, or
 876 previously known, of each:

877 1. Principal officer, director, trustee, shareholder,
 878 owner, or partner of the applicant, and of each other person
 879 responsible for the management of the business of the applicant.

880 2. Office manager or other person principally responsible
 881 for a location from which the applicant will do business.

882 3. Salesperson or other person to be employed by the
 883 applicant.

884

885 The application shall be accompanied by a copy of any: Script,
 886 outline, or presentation the applicant will require or suggest a
 887 salesperson to use when soliciting, or, if no such document is
 888 used, a statement to that effect; sales information or
 889 literature to be provided by the applicant to a salesperson; and
 890 sales information or literature to be provided by the applicant
 891 to a purchaser in connection with any solicitation.

892 Section 23. Paragraph (a) of subsection (1) of section
 893 501.607, Florida Statutes, is amended to read:

894 501.607 Licensure of salespersons.—

895 (1) An applicant for a license as a salesperson must submit
 896 to the department, in such form as it prescribes, a written
 897 application for a license. The application must set forth the
 898 following information:

899 (a) The true name, date of birth, driver ~~driver's~~ license

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900 number or other valid form of identification, ~~social security~~
 901 ~~number~~, and home address of the applicant.

902 Section 24. Section 501.911, Florida Statutes, is amended
 903 to read:

904 501.911 Administration of act.—Sections 501.91–501.923
 905 shall be administered by ~~the Division of Standards of the~~
 906 Department of Agriculture and Consumer Services.

907 Section 25. Subsections (1) and (2) of section 501.913,
 908 Florida Statutes, are amended to read:

909 501.913 Registration.—

910 (1) Each brand of antifreeze to be distributed in this
 911 state shall be registered with the department before ~~prior to~~
 912 distribution. The person whose name appears on the label, the
 913 manufacturer, or the packager shall make application to the
 914 department on forms provided by the department no later than
 915 July 1 of each year. The registrant assumes, by application to
 916 register the brand, full responsibility for the registration,
 917 quality, and quantity of the product sold, offered, or exposed
 918 for sale in this state. If a registered brand is not in
 919 production for distribution in this state and to ensure any
 920 remaining product that is still available for sale in the state
 921 is properly registered, the registrant must submit a notarized
 922 affidavit on company letterhead to the department certifying
 923 that:

924 (a) The stated brand is no longer in production;

925 (b) The stated brand will not be distributed in this state;

926 and

927 (c) All existing product of the stated brand will be
 928 removed by the registrant from the state within 30 days after

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929 expiration of the registration or the registrant will reregister
 930 the brand for two subsequent registration periods.

931
 932 If production resumes, the brand must be reregistered before it
 933 is distributed in this state.

934 (2) The completed application shall be accompanied by:

935 (a) Specimens or facsimiles of the label for each brand of
 936 antifreeze;

937 (b) An application fee of \$200 for each brand; and

938 (c) A properly labeled sample of between 1 and 2 gallons
 939 for each brand of antifreeze.

940 Section 26. Subsection (3) of section 507.04, Florida
 941 Statutes, is amended to read:

942 507.04 Required insurance coverages; liability limitations;
 943 valuation coverage.—

944 (3) INSURANCE COVERAGES.—The insurance coverages required
 945 under paragraph (1)(a) and subsection (2) must be issued by an
 946 insurance company or carrier licensed to transact business in
 947 this state under the Florida Insurance Code as designated in s.
 948 624.01. The department shall require a mover to present a
 949 certificate of insurance of the required coverages before
 950 issuance or renewal of a registration certificate under s.
 951 507.03. The department shall be named as a certificateholder in
 952 the certificate and must be notified at least 10 ~~30~~ days before
 953 cancellation of any changes in insurance coverage.

954 Section 27. Subsection (7) of section 525.07, Florida
 955 Statutes, is amended to read:

956 525.07 Powers and duties of department; inspections;
 957 unlawful acts.—

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958 (7) It is unlawful for any person to break, cut, or remove
 959 any seal applied by the department to a petroleum fuel measuring
 960 device or container. ~~If when~~ it becomes necessary to repair and
 961 adjust a petroleum fuel measuring device during the absence of
 962 an inspector of the department, the seal on the meter adjustment
 963 may be broken by a person who is registered with the department
 964 as a meter mechanic. After repairs and adjustments have been
 965 made, the adjusting mechanism must immediately be resealed by
 966 the registered meter mechanic with a seal clasp bearing at least
 967 ~~the name of the company or~~ the name or initials of the
 968 registered mechanic. The registered mechanic shall immediately
 969 notify the department of this action.

970 Section 28. Subsection (5) of section 526.143, Florida
 971 Statutes, is amended to read:

972 526.143 Alternate generated power capacity for motor fuel
 973 dispensing facilities.—

974 (5) (a) Each corporation or other entity that owns 10 or
 975 more motor fuel retail outlets located within a single county
 976 shall maintain at least one portable generator that is capable
 977 of providing an alternate generated power source as required
 978 under subsection (2) for every 10 outlets. If an entity owns
 979 more than 10 outlets or a multiple of 10 outlets plus an
 980 additional 6 outlets, the entity must provide one additional
 981 generator to accommodate such additional outlets. Each portable
 982 generator must be stored within this state, or may be stored in
 983 another state if located within 250 miles of this state, and
 984 must be available for use in an affected location within 24
 985 hours after a disaster.

986 (b) Each corporation or other entity that owns 10 or more

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987 motor fuel retail outlets located within a single domestic
 988 security region, as determined pursuant to s. 943.0312(1), and
 989 that does not own additional outlets located outside the
 990 domestic security region shall maintain a written document of
 991 agreement with one or more similarly equipped entities for the
 992 use of portable generators that may be used to meet the
 993 requirements of paragraph (a) and that are located within this
 994 state but outside the affected domestic security region. The
 995 agreement may be reciprocal, may allow for payment for services
 996 rendered by the providing entity, and must guarantee the
 997 availability of the portable generators to an affected location
 998 within 24 hours after a disaster.

999 (c) Upon written request, the department may temporarily
 1000 waive the requirements in paragraphs (a) and (b) if the
 1001 generators are used in preparation for or response to an
 1002 emergency or major disaster in another state. The waiver shall
 1003 be in writing and include a beginning and ending date. The
 1004 waiver may provide additional conditions as deemed necessary by
 1005 the department. The waiver may be modified or terminated by the
 1006 department if the Governor declares an emergency.

1007 (d)(e) For purposes of this section, ownership of a motor
 1008 fuel retail outlet ~~is shall be~~ the owner of record of the fuel
 1009 storage systems operating at the location, as identified in the
 1010 Department of Environmental Protection underground storage
 1011 facilities registry pursuant to s. 376.303(1).

1012 Section 29. Subsections (8) and (9) are added to section
 1013 526.50, Florida Statutes, to read:

1014 526.50 Definition of terms.—As used in this part:

1015 (8) "Brand" means the product name appearing on the label

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1016 of a container of brake fluid.

1017 (9) "Formula" means the name of the chemical mixture or
 1018 composition of the brake fluid product.

1019 Section 30. Subsections (1) and (3) of section 526.51,
 1020 Florida Statutes, are amended to read:

1021 526.51 Registration; renewal and fees; departmental
 1022 expenses; cancellation or refusal to issue or renew.—

1023 (1) (a) Application for registration of each brand of brake
 1024 fluid shall be made on forms ~~to be~~ supplied by the department.
 1025 The applicant shall give his or her name and address and the
 1026 brand name of the brake fluid, state that he or she owns the
 1027 brand name and has complete control over the product sold
 1028 thereunder in this state Florida, and provide the name and
 1029 address of the resident agent in this state Florida. If the
 1030 applicant does not own the brand name but wishes to register the
 1031 product with the department, a notarized affidavit that gives
 1032 the applicant full authorization to register the brand name and
 1033 that is signed by the owner of the brand name must accompany the
 1034 application for registration. The affidavit must include all
 1035 affected brand names, the owner's company or corporate name and
 1036 address, the applicant's company or corporate name and address,
 1037 and a statement from the owner authorizing the applicant to
 1038 register the product with the department. The owner of the brand
 1039 name shall maintain complete control over each product sold
 1040 under that brand name in this state. All first-time new-product
 1041 applications for a brand and formula combination must be
 1042 accompanied by a certified report from an independent testing
 1043 laboratory, setting forth the analysis of the brake fluid which
 1044 ~~shows shall show~~ its quality to be not less than the

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1045 specifications established by the department for brake fluids. A
 1046 sample of not less than 24 fluid ounces of brake fluid shall be
 1047 submitted, in a container or containers, with labels
 1048 representing exactly how the containers of brake fluid will be
 1049 labeled when sold, and the sample and container shall be
 1050 analyzed and inspected by the ~~department~~ Division of Standards
 1051 in order that compliance with the department's specifications
 1052 and labeling requirements may be verified. Upon approval of the
 1053 application, the department shall register the brand name of the
 1054 brake fluid and issue to the applicant a permit authorizing the
 1055 registrant to sell the brake fluid in this state during the
 1056 permit year specified in the permit.

1057 (b) Each applicant shall pay a fee of \$100 with each
 1058 application. A permit may be renewed by application to the
 1059 department, accompanied by a renewal fee of \$50 on or before the
 1060 last day of the permit year immediately preceding the permit
 1061 year for which application is made for renewal of registration.
 1062 To reregister a previously registered brand and formula
 1063 combination, an applicant must submit a completed application
 1064 and all materials as required in this section to the department
 1065 before the first day of the permit year. A brand and formula
 1066 combination for which a completed application and all materials
 1067 required in this section are not received before the first day
 1068 of the permit year may not be registered with the department
 1069 until a completed application and all materials required in this
 1070 section have been received and approved. If the brand and
 1071 formula combination was previously registered with the
 1072 department and a fee, application, or materials required in this
 1073 section are received after the first day of the permit year, the

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1074 ~~any fee not paid when due, there shall accrue~~ a penalty of \$25
 1075 accrues, which shall be added to the ~~renewal~~ fee. Renewals shall
 1076 ~~will~~ be accepted only on brake fluids that have no change in
 1077 formula, composition, or brand name. Any change in formula,
 1078 composition, or brand name of any brake fluid constitutes a new
 1079 product that must be registered in accordance with this part.

1080 (c) In order to ensure that any remaining product still
 1081 available for sale in this state is properly registered, if a
 1082 registered brand and formula combination is no longer in
 1083 production for distribution in this state, the registrant must
 1084 submit a notarized affidavit on company letterhead to the
 1085 department certifying that:

1086 1. The stated brand and formula combination is no longer in
 1087 production;

1088 2. The stated brand and formula combination will not be
 1089 distributed in this state; and

1090 3. All existing product of the stated brand and formula
 1091 combination will be removed by the registrant from the state
 1092 within 30 days after the expiration of the registration or that
 1093 the registrant will reregister the brand and formula combination
 1094 for two subsequent registration periods.

1095
 1096 If production resumes, the brand and formula combination must be
 1097 reregistered before it is again distributed in this state.

1098 (3) The department may cancel ~~or~~ refuse to issue ~~or refuse~~
 1099 ~~to renew~~ any registration and permit after due notice and
 1100 opportunity to be heard if it finds that the brake fluid is
 1101 adulterated or misbranded or that the registrant has failed to
 1102 comply with the provisions of this part or the rules adopted

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1103 ~~pursuant to this section and regulations promulgated thereunder.~~

1104 Section 31. Paragraph (a) of subsection (3) of section
1105 526.52, Florida Statutes, is amended to read:

1106 526.52 Specifications; adulteration and misbranding.-

1107 (3) Brake fluid is deemed to be misbranded:

1108 (a) If its container does not bear on its side or top a
1109 label on which is printed the name and place of business of the
1110 registrant of the product, the words "brake fluid," and a
1111 statement that the product therein equals or exceeds the minimum
1112 specification of the Society of Automotive Engineers for brake
1113 fluid, heavy-duty-type, the United States Department of
1114 Transportation Motor Vehicle Safety Standard No. 116, or other
1115 specified standard identified in department rule. ~~By regulation~~
1116 The department may require by rule that the duty-type
1117 classification appear on the label.

1118 Section 32. Subsections (1) and (2) of section 526.53,
1119 Florida Statutes, are amended to read:

1120 526.53 Enforcement; inspection and analysis, stop-sale and
1121 disposition, regulations.-

1122 (1) The department shall enforce the provisions of this
1123 part through the ~~department Division of Standards~~, and may
1124 sample, inspect, analyze, and test any brake fluid manufactured,
1125 packed, or sold within this state. The department shall have
1126 free access during business hours to all premises, buildings,
1127 vehicles, cars, or vessels used in the manufacture, packing,
1128 storage, sale, or transportation of brake fluid, and may open
1129 any box, carton, parcel, or container of brake fluid and take
1130 samples for inspection and analysis or for evidence.

1131 (2) (a) ~~If when~~ any brake fluid is sold in violation of any

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1132 of the provisions of this part, all such brake fluid of the same
1133 brand name ~~on the same premises on which the violation occurred~~
1134 shall be placed under a stop-sale order by the department by
1135 servicing the owner of the brand name, the distributor, or other
1136 entity responsible for selling or distributing the product in
1137 this state with the stop-sale order. The department shall
1138 withdraw its stop-sale order upon the removal of the violation
1139 or upon voluntary destruction of the product, or other disposal
1140 approved by the department, under the supervision of the
1141 department.

1142 (b) In addition to being subject to the stop-sale
1143 procedures ~~above~~, unregistered brake fluid shall be held by the
1144 department or its representative, at a place to be designated in
1145 the stop-sale order, until properly registered and released in
1146 writing by the department or its representative. If application
1147 has not been made for registration of such product within 30
1148 days after issue of the stop-sale order, the department or, with
1149 the consent of the department, the representative may give the
1150 product that meets legal specifications ~~such product shall be~~
1151 ~~disposed of by the department~~ to any tax-supported institution
1152 or agency of the state. If application has not been made for
1153 registration of the product within 30 days after issuance of the
1154 stop-order sale and the product fails to meet legal
1155 specifications, the product may be disposed of as if the brake
1156 fluid meets legal specifications or by other disposal authorized
1157 by rule of the department ~~if it fails to meet legal~~
1158 ~~specifications.~~

1159 Section 33. Section 526.55, Florida Statutes, is amended to
1160 read:

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1161 526.55 Violation and penalties.-

1162 (1) It is unlawful:

1163 (a)(1) To sell any brake fluid that is adulterated or
1164 misbranded, not registered or on which a permit has not been
1165 issued.

1166 (b)(2) For anyone to remove any stop-sale order placed on a
1167 product by the department, or any product upon which a stop-sale
1168 order has been placed.

1169 (2) If the department finds that a person has violated or
1170 is operating in violation of ss. 526.50-526.56 or the rules or
1171 orders adopted thereunder, the department may, by order:

1172 (a) Issue a notice of noncompliance pursuant to s. 120.695;

1173 (b) Impose an administrative fine not to exceed \$5,000 for
1174 each violation;

1175 (c) Direct that the person cease and desist specified
1176 activities;

1177 (d) Revoke or suspend a registration, or refuse to register
1178 a product; or

1179 (e) Place the registrant on probation for a period of time,
1180 subject to conditions as the department may specify.

1181 (3) The administrative proceedings seeking entry of an
1182 order imposing any of the penalties specified in subsection (2)
1183 are governed by chapter 120.

1184 (4) If a registrant is found to be in violation of ss.
1185 526.50-526.56 and fails to pay a fine within 30 days after
1186 imposition of the fine, the department may suspend all
1187 registrations issued to the registrant by the department until
1188 the fine is paid.

1189 (5) All fines collected by the department under this

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1190 section shall be deposited into the General Inspection Trust
1191 Fund.

1192 ~~(3) Any person who violates any of the provisions of this~~
1193 ~~part or any rule or regulation promulgated thereunder shall, for~~
1194 ~~the first offense, be guilty of a misdemeanor of the second~~
1195 ~~degree, punishable as provided in s. 775.082 or s. 775.083, and,~~
1196 ~~for a second or subsequent offense, shall be guilty of a~~
1197 ~~misdemeanor of the first degree, punishable as provided in s.~~
1198 ~~775.082 or s. 775.083.~~

1199 Section 34. Paragraph (b) of subsection (3) of section
1200 539.001, Florida Statutes, is amended to read:

1201 539.001 The Florida Pawnbroking Act.-

1202 (3) LICENSE REQUIRED.-

1203 (b) A licensee who seeks to move a pawnshop to another
1204 location must give written notice 30 days' prior written notice
1205 to the agency at least 30 days before the move by certified or
1206 ~~registered mail, return receipt requested~~, and the agency must
1207 ~~then~~ amend the license to indicate the new location. The
1208 licensee must also give such written notice to the appropriate
1209 law enforcement official.

1210 Section 35. Subsection (1) of section 559.805, Florida
1211 Statutes, is amended to read:

1212 559.805 Filings with the department; disclosure of
1213 advertisement identification number.-

1214 (1) Every seller of a business opportunity shall annually
1215 file with the department a copy of the disclosure statement
1216 required by s. 559.803 ~~before prior to~~ placing an advertisement
1217 or making any other representation designed to offer to, sell
1218 to, or solicit an offer to buy a business opportunity from a

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1219 prospective purchaser in this state and shall update this filing
 1220 by reporting any material change in the required information
 1221 within 30 days after the material change occurs. An
 1222 advertisement is not placed in the state merely because the
 1223 publisher circulates, or there is circulated on his or her
 1224 behalf in the state, any bona fide newspaper or other
 1225 publication of general, regular, and paid circulation which has
 1226 had more than two-thirds of its circulation during the past 12
 1227 months outside the state or because a radio or television
 1228 program originating outside the state is received in the state.
 1229 If the seller is required by s. 559.807 to provide a bond or
 1230 establish a trust account or guaranteed letter of credit, he or
 1231 she shall contemporaneously file with the department a copy of
 1232 the bond, a copy of the formal notification by the depository
 1233 that the trust account is established, or a copy of the
 1234 guaranteed letter of credit. Every seller of a business
 1235 opportunity shall file with the department a list of independent
 1236 agents who will engage in the offer or sale of business
 1237 opportunities on behalf of the seller in this state. This list
 1238 must be kept current and shall include the following
 1239 information: name, home and business address, telephone number,
 1240 present employer, ~~social security number~~, and birth date. A ~~No~~
 1241 person ~~may not~~ shall be allowed to offer or sell business
 1242 opportunities unless the required information has been provided
 1243 to the department.

1244 Section 36. Subsection (7) of section 559.904, Florida
 1245 Statutes, is amended to read:
 1246 559.904 Motor vehicle repair shop registration;
 1247 application; exemption.-

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1248 (7) Any person applying for or renewing a local business
 1249 tax receipt ~~occupational license on or after October 1, 1993,~~ to
 1250 engage in business as a motor vehicle repair shop must exhibit
 1251 an active registration certificate from the department before
 1252 the local business tax receipt ~~occupational license~~ may be
 1253 issued or renewed.

1254 Section 37. Section 559.922, Florida Statutes, is repealed.
 1255 Section 38. Subsections (1), (3), and (4) of section
 1256 559.928, Florida Statutes, are amended to read:
 1257 559.928 Registration.-

1258 (1) Each seller of travel shall annually register with the
 1259 department, providing: its legal business or trade name, mailing
 1260 address, and business locations; the full names, addresses, and
 1261 telephone numbers of its owners or corporate officers and
 1262 directors and the Florida agent of the corporation; a statement
 1263 whether it is a domestic or foreign corporation, its state and
 1264 date of incorporation, its charter number, and, if a foreign
 1265 corporation, the date it registered with this state ~~the State of~~
 1266 Florida, and business tax receipt ~~occupational license~~ where
 1267 applicable; the date on which a seller of travel registered its
 1268 fictitious name if the seller of travel is operating under a
 1269 fictitious or trade name; the name of all other corporations,
 1270 business entities, and trade names through which each owner of
 1271 the seller of travel operated, was known, or did business as a
 1272 seller of travel within the preceding 5 years; a list of all
 1273 authorized independent agents, including the agent's trade name,
 1274 full name, mailing address, business address, and telephone
 1275 numbers; the business location and address of each branch office
 1276 and full name and address of the manager or supervisor; the

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1277 certification required under s. 559.9285; and proof of purchase
 1278 of adequate bond as required in this part. A certificate
 1279 evidencing proof of registration shall be issued by the
 1280 department and must be prominently displayed in the seller of
 1281 travel's primary place of business.

1282 (3) Each independent agent shall annually file an affidavit
 1283 with the department prior to engaging in business in this state.
 1284 This affidavit must include the independent agent's full name,
 1285 legal business or trade name, mailing address, business address,
 1286 telephone number, ~~social security number,~~ and the name ~~or names~~
 1287 and address addresses of each seller of travel represented by
 1288 the independent agent. A letter evidencing proof of filing must
 1289 be issued by the department and must be prominently displayed in
 1290 the independent agent's primary place of business. Each
 1291 independent agent must also submit an annual registration fee of
 1292 \$50. All moneys collected pursuant to the imposition of the fee
 1293 shall be deposited by the Chief Financial Officer into the
 1294 General Inspection Trust Fund of the Department of Agriculture
 1295 and Consumer Services for the sole purpose of administrating
 1296 this part. As used in this subsection, the term "independent
 1297 agent" means a person who represents a seller of travel by
 1298 soliciting persons on its behalf; who has a written contract
 1299 with a seller of travel which is operating in compliance with
 1300 this part and any rules adopted thereunder; who does not receive
 1301 a fee, commission, or other valuable consideration directly from
 1302 the purchaser for the seller of travel; who does not at any time
 1303 have any unissued ticket stock or travel documents in his or her
 1304 possession; and who does not have the ability to issue tickets,
 1305 vacation certificates, or any other travel document. The term

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1306 "independent agent" does not include an affiliate of the seller
 1307 of travel, as that term is used in s. 559.935(3), or the
 1308 employees of the seller of travel or of such affiliates.

1309 (4) Any person applying for or renewing a local business
 1310 tax receipt ~~occupational license~~ to engage in business as a
 1311 seller of travel must exhibit a current registration certificate
 1312 from the department before the local business tax receipt
 1313 ~~occupational license~~ may be issued or reissued.

1314 Section 39. Paragraph (c) of subsection (3) of section
 1315 559.9285, Florida Statutes, is amended to read:

1316 559.9285 Certification of business activities.—

1317 (3) The department shall specify by rule the form of each
 1318 certification under this section which shall include the
 1319 following information:

1320 (c) The legal name, any trade names or fictitious names,
 1321 mailing address, physical address, telephone number or numbers,
 1322 facsimile number or numbers, and all Internet and electronic
 1323 contact information of every other commercial entity with which
 1324 the certifying party engages in business or commerce that is
 1325 related in any way to the certifying party's business or
 1326 commerce with any terrorist state. The information disclosed
 1327 pursuant to this paragraph does not constitute customer lists,
 1328 customer names, or trade secrets protected under s. 570.544(8)
 1329 ~~570.544(7)~~.

1330 Section 40. Subsection (6) of section 559.935, Florida
 1331 Statutes, is amended to read:

1332 559.935 Exemptions.—

1333 (6) The department shall request from the Airlines
 1334 Reporting Corporation any information necessary to implement the

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1335 provisions of subsection (2). Persons claiming an exemption
 1336 under subsection (2) or subsection (3) must show a letter of
 1337 exemption from the department before a local business tax
 1338 receipt occupational license to engage in business as a seller
 1339 of travel may be issued or reissued. If the department fails to
 1340 issue a letter of exemption on a timely basis, the seller of
 1341 travel shall submit to the department, through certified mail,
 1342 an affidavit containing her or his name and address and an
 1343 explanation of the exemption sought. Such affidavit may be used
 1344 in lieu of a letter of exemption for the purpose of obtaining a
 1345 business tax receipt an occupational license. In any civil or
 1346 criminal proceeding, the burden of proving an exemption under
 1347 this section is is shall be on the person claiming such exemption.
 1348 A letter of exemption issued by the department may shall not be
 1349 used in, and has shall have no bearing on, such proceedings.

1350 Section 41. Subsection (12) of section 570.29, Florida
 1351 Statutes, is amended to read:

1352 570.29 Departmental divisions.—The department shall include
 1353 the following divisions:

1354 ~~(12) Standards.~~

1355 Section 42. Sections 570.46 and 570.47, Florida Statutes,
 1356 are repealed.

1357 Section 43. Section 570.544, Florida Statutes, is amended
 1358 to read:

1359 570.544 Division of Consumer Services; director; powers;
 1360 processing of complaints; records.—

1361 (1) The director of the Division of Consumer Services shall
 1362 be appointed by and serve at the pleasure of the commissioner.

1363 (2) The director shall supervise, direct, and coordinate

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1364 the activities of the division and shall, under the direction of
 1365 the department, enforce the provisions of chapters 472, 496,
 1366 501, 507, 525, 526, 527, 531, 539, 559, 616, and 849.

1367 ~~(3)(2)~~ The Division of Consumer Services may:

1368 (a) Conduct studies and make analyses of matters affecting
 1369 the interests of consumers.

1370 (b) Study the operation of laws for consumer protection.

1371 (c) Advise and make recommendations to the various state
 1372 agencies concerned with matters affecting consumers.

1373 (d) Assist, advise, and cooperate with local, state, or
 1374 federal agencies and officials in order to promote the interests
 1375 of consumers.

1376 (e) Make use of the testing and laboratory facilities of
 1377 the department for the detection of consumer fraud.

1378 (f) Report to the appropriate law enforcement officers any
 1379 information concerning violation of consumer protection laws.

1380 (g) Assist, develop, and conduct programs of consumer
 1381 education and consumer information through publications and
 1382 other informational and educational material prepared for
 1383 dissemination to the public, in order to increase the competence
 1384 of consumers.

1385 (h) Organize and hold conferences on problems affecting
 1386 consumers.

1387 (i) Recommend programs to encourage business and industry
 1388 to maintain high standards of honesty, fair business practices,
 1389 and public responsibility in the production, promotion, and sale
 1390 of consumer goods and services.

1391 ~~(4)(3)~~ In addition to the powers, duties, and
 1392 responsibilities authorized by this or any other chapter, the

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1393 Division of Consumer Services shall serve as a clearinghouse for
 1394 matters relating to consumer protection, consumer information,
 1395 and consumer services generally. It shall receive complaints and
 1396 grievances from consumers and promptly transmit them to ~~the that~~
 1397 agency most directly concerned in order that the complaint or
 1398 grievance may be expeditiously handled in the best interests of
 1399 the complaining consumer. If no agency exists, the Division of
 1400 Consumer Services shall seek a settlement of the complaint using
 1401 formal or informal methods of mediation and conciliation and may
 1402 seek any other resolution of the matter in accordance with its
 1403 jurisdiction.

1404 (5)(4) If any complaint received by the Division of
 1405 Consumer Services concerns matters that ~~which~~ involve concurrent
 1406 jurisdiction in more than one agency, duplicate copies of the
 1407 complaint shall be referred to those offices deemed to have
 1408 concurrent jurisdiction.

1409 (6)(5)(a) Any agency, office, bureau, division, or board of
 1410 state government receiving a complaint that ~~which~~ deals with
 1411 consumer fraud or consumer protection and that ~~which~~ is not
 1412 within the jurisdiction of the receiving agency, office, bureau,
 1413 division, or board originally receiving it, shall immediately
 1414 refer the complaint to the Division of Consumer Services.

1415 (b) Upon receipt of such a complaint, the Division of
 1416 Consumer Services shall make a determination of the proper
 1417 jurisdiction to which the complaint relates and shall
 1418 immediately refer the complaint to the agency, office, bureau,
 1419 division, or board that ~~which~~ does have the proper regulatory or
 1420 enforcement authority to deal with it.

1421 (7)(6) The office or agency to which a complaint has been

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1422 referred shall within 30 days acknowledge receipt of the
 1423 complaint. If an office or agency receiving a complaint
 1424 determines that the matter presents a prima facie case for
 1425 criminal prosecution or if the complaint cannot be settled at
 1426 the administrative level, the complaint together with all
 1427 supporting evidence shall be transmitted to the Department of
 1428 Legal Affairs or other appropriate enforcement agency with a
 1429 recommendation for civil or criminal action warranted by the
 1430 evidence.

1431 (8)(7) The records of the Division of Consumer Services are
 1432 public records. However, customer lists, customer names, and
 1433 trade secrets are confidential and exempt from the provisions of
 1434 s. 119.07(1). Disclosure necessary to enforcement procedures
 1435 does shall not violate be construed as violative of this
 1436 prohibition.

1437 (9)(8) ~~It shall be the duty of~~ The Division of Consumer
 1438 Services shall ~~to~~ maintain records and compile summaries and
 1439 analyses of consumer complaints and their eventual disposition,
 1440 which data may serve as a basis for recommendations to the
 1441 Legislature and to state regulatory agencies.

1442 Section 44. Paragraph (a) of subsection (8) of section
 1443 616.242, Florida Statutes, is amended to read:

1444 616.242 Safety standards for amusement rides.—

1445 (8) FEES.—

1446 (a) The department shall by rule establish fees to cover
 1447 the costs and expenditures associated with the fair rides
 1448 inspection program ~~Bureau of Fair Rides Inspection~~, including
 1449 all direct and indirect costs. If there is not sufficient
 1450 general revenue appropriated by the Legislature, the industry

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1451 shall pay for the remaining cost of the program. The fees must
1452 be deposited in the General Inspection Trust Fund.

1453 Section 45. This act shall take effect July 1, 2012.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Judiciary, *Chair*
Budget
Budget - Subcommittee on Education Pre-K - 12
Appropriations
Commerce and Tourism
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability
Reapportionment
Rules

SENATOR ANITERE FLORES

Majority Whip
38th District

January 19, 2012

The Honorable Dennis Jones
Chair of Committee on Regulated Industries
408 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Jones:

I respectfully request that you place SB 888, regarding consumer protection, on the next Committee on Regulated Industries. This proposed legislation changes the name of the Division of Consumer Services within the Department of Agriculture and Consumer Services to the "Division of Consumer Protection."

I look forward to presenting this bill before your committee.

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

Sincerely,

A handwritten signature in cursive script that reads "Anitere Flores".

Anitere Flores

CC: Mr. Patrick L. Imhof, Committee on Regulated Industries, 330 Knott Building

REPLY TO:

- 10691 North Kendall Drive, Suite 309, Miami, Florida 33176 (305) 270-6550
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5130

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/7/12

Meeting Date

Topic DACS Agency Bill

Bill Number 888
(if applicable)

Name GRACE Lovett

Amendment Barcode _____
(if applicable)

Job Title Dir. of Legislative Affairs

Address PL 10 The Capitol

Phone 488 3022

Street

Tallahassee FL 32399

E-mail grace.lovett@FreshfromFlorida.com

City

State

Zip

Speaking: For Against Information

Representing Department of Agriculture & Consumer Services

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: CS/SB 956

INTRODUCER: Regulated Industries Committee and Senator Hays

SUBJECT: Disposition of Human Remains

DATE: February 7, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Fav/CS
2.	_____	_____	HR	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The bill relates to the disposition of human remains. The disposition of human remains in Florida is regulated pursuant to part II, of ch. 406, F.S. The bill:

- Defines several terms to have the same meaning as provided in ch. 497, F.S., which relates to the regulation of funeral, cemetery, and consumer services by the Department of Financial Services (DFS);
- Directs any person or entity that has possession, charge, or control of unclaimed human remains that will be buried or cremated at the public expense, to notify the Anatomical Board at the University of Florida Health Service Center (board);
- Authorizes the board to embalm the human remains that it receives;
- Specifies the situations in which notification of the board is not required, including when the unclaimed remains are decomposed or mutilated by wounds, an autopsy is performed on the remains, the remains contain a contagious disease, a legally authorized person objects to the use of the remains for medical education or research, or the deceased person was eligible for burial in a national cemetery;

- Permits funeral directors licensed under ch. 497, F.S., to act as a legally authorized person for the unclaimed remains when no family exists or is available, and it releases a funeral director from liability for damages when exercising that authority;
- Provides that, when the identity of the unclaimed remains cannot be ascertained, the remains may not be cremated, donated as an anatomical gift, buried at sea, or removed from the state;
- Authorizes counties to dispose of unclaimed remains by burial or cremation pursuant to an ordinance or resolution if the remains are not claimed by the board;
- Clarifies that competing claims for unclaimed remains are prioritized according to the priority of legally authorized persons provided in s. 497.005, F.S.;
- Permits the board to loan remains to accredited colleges of mortuary science for education or research purposes;
- Authorizes the board to pay the reasonable expenses, as determined by the board, for the transporting of unclaimed remains by licensed funeral establishments;
- Expands the prohibition against selling buying or conveying human remains outside the state to also prohibit bartering human remains or any parts thereof;
- Limits the conveyance of human remains in or out of the state for medical research purposes to nontransplant anatomical donation organizations that are accredited by the American Association of Tissue Banks (AATB) or are accredited medical or dental schools;
- Provides that nontransplant anatomical donation organizations do not need to be accredited by the AATB before July 1, 2013;
- Requires nontransplant anatomical donation organizations to notify the board at least three days before conveying any human remains, and prohibits the transporting of the remains without the board's approval;
- Specifies the information and documentation that must be provided to the board by nontransplant anatomical donation organizations;
- Requires that the board must approve or deny the request to convey the remains within three days of its receipt of the request. If the request is not approved or denied within three days of receipt, it is deemed approved;
- For the three-day notice requirement and the three-day approval process, the bill provides that, if the third day falls on a weekend or legal holiday, the next business day will be deemed the third business day.

The bill provides an effective date of July 1, 2012.

This bill substantially amends the following sections of the Florida Statutes: 406.49, 406.50, 406.51, 406.52, 406.53, 406.55, 406.56, 406.57, 406.58, 406.59, 406.60, 406.61, 765.513. The bill repeals section 406.54, Florida Statutes.

II. Present Situation:

Disposition of Dead Human Bodies

Part II, of ch. 406, F.S., provides for the disposition of unclaimed dead human bodies and dead human bodies that must be buried or cremated at public expense. Such bodies must be

transferred to the Anatomical Board (board),¹ and then distributed by the board to Florida medical and dental schools, teaching hospitals, medical institutions and health related teaching programs that require the use of anatomical material for study.² The board has discretionary authority to provide cadavers to recognized associations of licensed embalmers or funeral directors, or the examining boards of medical and dental schools.³ The board is authorized to collect fees to defray expenses, to receive additional public or private moneys for expenses, and to reimburse any person who delivers anatomical remains to them.⁴ In addition, the board must be audited each year by the Department of Financial Services (DFS).⁵

The board is located at the University of Florida's College of Medicine, Health Science Center.⁶ The board is comprised of representatives from the medical schools in this state.⁷ The board's purpose is to provide cadavers and human body parts to teaching and research programs in Florida. The board must hold a body for at least 48 hours in receiving vaults before it can be used for medical science.⁸

Section 406.56, F.S., authorizes the board to accept a body that has been donated to it through a will for the advancement of medical science. The person must have died within the state. Such anatomical gifts are provided for in part V, of ch. 765, F.S., which outlines the process for the donation of anatomical gifts. A person who wishes to donate their body for transplant or anatomical study must memorialize their intent by signing an organ donor card, registering with the online donor database, on his or her driver's license or identification card, or in an living will or other advance directive.⁹

The selling or buying of human remains is prohibited in the state of Florida, punishable by a misdemeanor of the first degree, punishable as provided in ss. 775.082 and 775.083, F.S.¹⁰ The transmission or conveyance of dead human remains outside the state is also a misdemeanor of the first degree.¹¹ There is an exception for recognized Florida medical or dental schools to permit the transfer or conveyance of human remains outside the state for research or other scientific purposes.

Human remains may be conveyed into and out of the state, for medical education or research purposes, by a person, institution, or organization that has received prior approval from the board.¹² There is also an exception for an entity that is accredited by the American Association

¹ Section 406.50, F.S.

² Section 406.57, F.S.

³ *Id.*

⁴ Section 406.58, F.S.

⁵ *Id.*

⁶ Section 406.50, F.S. The anatomical board was created by the Legislature at the University of Florida in 1996, by ch. 96-251, L.O.F. See also the internet site for the Anatomical Board of the State of Florida located at: www.med.ufl.edu/anatbd/ (Last visited January 31, 2012).

⁷ *Id.*

⁸ Section 406.52, F.S.

⁹ Section 765.514, F.S.

¹⁰ Section 406.61(1), F.S. Section 775.082, F.S., provides that the penalty for misdemeanor of the second degree is punishable by a term of imprisonment not exceeding 1 year. Section 775.083, F.S. provides that the penalty for misdemeanor of the second degree is punishable by a fine not to exceed \$1,000.

¹¹ *Id.*

¹² *Id.*

of Museums (AAM) to convey plastinated anatomical remains into and out of the state for exhibition purposes.¹³ This exception expired on January 1, 2012.¹⁴

Nontransplant Anatomical Donation Organizations

An organization that stores human remains for the purposes of research, rather than transplant is known as a non-transplant anatomical donation organization. The American Association of Tissue Banks (AATB) is a professional, non-profit, scientific and educational organization that promulgates industry standards and accredits tissue banks in both the United States and Canada.¹⁵

The AATB provides standards for organizations (tissue banks) that provide human anatomical material used for human transplant and tissue banks that provide human anatomical material for non-transplant purposes. The AATB nontransplant standards were adopted in January 2012. According to a representative for the AATB, tissue banks that are accredited under the AATB's transplant standards are qualified to accept human remains for non-transplant purposes but will receive a separate accreditation under the AATB's new non-transplant standards. According to the AATB, there are currently four accredited tissue banks in Florida. There are no non-transplant tissue banks that have received nontransplant accreditation.

A representative for the AATB stated that the association's time-frame for the accreditation lasts no more than nine months and that the typical accreditation process can be completed within six months. The time required to complete the accreditation process is dependent on the number of accreditation applications that the association receives and the specific facts regarding the applicant. Accreditation requires a \$5,000 application fee. Applicants perform a self audit based on the association's accreditation standards before the commencement of the process. They are then audited by an independent auditor. Once accredited, the association can inspect the tissue bank at any time. Accredited tissue banks must also pay an annual maintenance fee that varies from \$1,500 to \$75,000 depending on the tissue banks annual revenue.

According to a representative for a non-transplant anatomical donation organization, the organization's practice is to not assess a fee for a nontransplant anatomical donation. It also pays for the cremation of the deceased person whose remains are donated to the organization. In contrast, donations to the board are subject to fees that are paid by the deceased's next-of-kin or estate. The relatives or estate must pay for all funeral home expenses, including the preliminary embalming and transportation to the University of Florida or the University of Miami, School of Medicine. The actual costs for these services are determined by individual funeral homes, crematories or mortuaries.¹⁶ The representative for the non-transplant anatomical donation organization advised that the typical cost of a donation to the board is approximately \$2,000.

¹³ Section 406.61(2), F.S.

¹⁴ Section 406.61(3), F.S.

¹⁵ Founded in 1976, the AATB has produced best practice standards for the operation of tissue banks since 1984. The association also provides an educational network for member organizations to encourage the dissemination of new practice. www.aatb.org/About (Last visited February 3, 2012).

¹⁶ See Anatomical Board of the State of Florida, *Commonly Asked Questions* at: <http://www.med.ufl.edu/anatbd/quest.html> (Last visited February 3, 2012).

III. Effect of Proposed Changes:

Definitions

The bill creates s. 406.49, F.S., to define the terms, “cremated remains,” “final disposition,” “human remains,” and “legally authorized person” to have the same meaning as provided in ch. 497, F.S., which relates to the regulation of funeral, cemetery, and consumer services by the Department of Financial Services (DFS). The bill transfers the definition of the “anatomical board” from s. 406.50, F.S., to this section. It also transfers the definition of “indigent person” from s. 406.53, F.S., to this section. It defines the term “unclaimed remains” to mean human remains that are not claimed by a legally authorized person, other than a medical examiner or the board of county commissioners, for final disposition at the person’s expense.

Throughout part II of ch. 406, F.S., the bill changes the term “disposition” to “final disposition.”

Unclaimed Remains Disposition

The bill amends s. 406.50, F.S., to direct any person or entity that has possession, charge, or control of unclaimed human remains that will be buried or cremated at the public expense, to notify the board. The bill replaces the more specific terms “all public officers, agents, or employees of every county, city, village, town or municipality and every person in charge of any prison, morgue, hospital, funeral parlor, or mortuary and all other persons” with the general reference to “a person or entity” in relation to the duty imposed by this section. The bill provides that notification of the board is not required when:

- The unclaimed remains are decomposed or mutilated by wounds;
- An autopsy is performed on the remains;
- The remains contain a contagious disease, as provided in current law;
- A legally authorized person objects to the use of the remains for medical education or research; or
- The deceased person was a veteran, or the spouse or dependent child of a veteran of the uniformed services of the United States or National Guard, and eligible for burial in a national cemetery.

The bill has removed the notification exception for death by crushing.

In current law, s. 406.50(2), F.S., requires the person or entity in charge of the remains to make reasonable efforts to identify the person, contact his or her relatives, and determine if the deceased person is eligible for burial in a national cemetery. The bill defines the term “reasonable effort” to include contacting the National Cemetery Scheduling Office in addition to contacting the county veterans service office, or the regional office of the United States Department of Veterans Affairs.

The bill clarifies s. 406.50(2)(b), F.S., which requires that the person in control or charge of the remains determine a veteran’s eligibility for delivery of the remains or cremated remains to national cemetery, by referencing 38 C.F.R. s. 38.620, which relates to the eligibility for burial in national cemeteries. Current law only references 38 C.F.R.

Section 406.50(3), F.S., provides that a funeral director licensed under ch. 497, F.S., may assume the responsibility of a legally authorized person for unclaimed remains when no family exists or is available. After 24 hours from the time of death, the funeral director may authorize arterial embalming for the purpose of storage and delivery of the unclaimed remains to the board. The bill releases a funeral director from liability for damages when acting in accordance with this subsection.

Section 406.50(4), F.S. provides that, if the identity of the unclaimed remains cannot be ascertained, the person or entity in control of them may not:

- Cremate the remains;
- Donate the remains as an anatomical gift;
- Have the remains buried at sea; or
- Remove the remains from the state.

Section 406.50(5), F.S., provides that, if the board does not accept unclaimed remains, the county commission, or its designated department, for the county in which the remains are discovered or where the death occurred, is authorized to dispose of the entire remains.

The bill also authorizes county boards of commissioners to, by ordinance or resolution, develop policies and procedures for the final disposition of unclaimed remains.

The bill repeals the current s. 406.50(4), F.S., which provides that competing claims for unclaimed remains by legally authorized persons for the direct disposition of remains shall be prioritized in accordance with s. 497.005, F.S. However, s. 406.61(2), F.S., provides for the disposition of such competing claims pursuant to s. 765.512, F.S.¹⁷

Final Disposition of Unclaimed Deceased Veterans

The bill substantially rewords s. 406.51, F.S., to replace the term “disposal” with the term “final disposition.” It also cross references 38 C.F.R. s. 38.620 instead of 38 C.F.R.

Retention of Human Remains and Process for Unclaimed Remains or Remains of an Indigent Person

The bill substantially rewords s. 406.52, F.S., which relates to the retention of human remains, and the process for reclaiming remains from the board. The bill provides the following changes to current law:

- Subsection (1) authorizes the board to embalm human remains that are received and to reject indigent remains; and
- Subsection (2) provides that, at any point prior to the transfer to medical education or research, a legally authorized person may reclaim the remains from the board, after payment of the board’s expenses incurred for transporting, embalming and storing the remains.

¹⁷ Section 765.512, F.S., provides the priority of persons who are legally authorize to may make an anatomical gift with the deceased spouse being first in priority and with a court appointed representative ad litem as the ninth potential person who may authorize the donation.

The bill deletes the provisions in s. 406.52, F.S., which:

- Deem county commissioners to be legally authorized persons for the purpose of retention of human remains of indigent persons; and
- Requires the county to take reasonable efforts to accommodate the requests of relatives.

Notice to the Anatomical Board

The bill substantially rewords s. 406.53, F.S., which specifies the circumstances in which a county is not required to notify the anatomical board. The bill amends the requirement that counties must notify the board upon the death of an indigent to remove the following exceptions:

- The death was caused by crushing injuries;
- The deceased had a contagious disease; and
- The remains were claimed for final disposition at the expense of a friend or representative of a charitable organization or religious entity that the indigent person was a member.

The bill provides a notification exemption for remains that are mutilated by wounds and for notifications of the board already made and certified by funeral directors. The bill also deletes the provision that directs the Department of Health (DOH) to assess burial fees when the DOH collects the remains of a client.¹⁸

Contracts for Delivery of Human Remains after Death Prohibited

The bill amends s. 406.55, F.S., to replace the term “body” to “person’s remains.”

Acceptance of Human Remains under Will

The bill amends s. 406.56, F.S., to replace the term “bodies” with the term “human remains” and person’s remains.” It also replaces the term “medical science” with the term “medical education and research.”

Distribution of Human Remains

The bill amends s. 406.57, F.S., to permit the board to loan remains to accredited colleges of mortuary science for education or research purposes. The bill deletes the board’s authority to loan remains to recognized associations of licensed embalmers or funeral directors. It also deletes the board’s discretion to make such loans and requires that such loans must be made.

Fees; Authority to Accept Additional Funds; Annual Audit

The bill amends s. 406.58, F.S., to delete the reference to associations in regards to sources from which fees may be collected by the board. It retains the authority of the board to collect fees from institutions. The bill also specifies that the board may pay the reasonable expenses, as determined by the board, for the transporting of unclaimed by licensed funeral establishments.

Institutions Receiving Human Remains

The bill amends s. 406.59, F.S., to delete the reference to associations as one of the types of entities which may receive human remains from the board.

Disposition of Human Remains after Use

¹⁸ The Department of Health retains the capacity to assess fees for services pursuant s. 402.33, F.S.

The bill amends s. 406.60, F.S., to provide that the board or a cinerator facility licensed under ch. 497, F.S., may dispose of human remains when such remains are deemed no longer of value to medical or dental education or research.

Selling, Buying, Bartering, or Conveying Human Remains Outside or within the State Prohibited; Exceptions; Penalty

The bill amends s. 406.61(1), F.S., to expand the prohibition against selling, buying, or conveying human remains outside the state to also prohibit bartering¹⁹ human remains or any parts thereof. It also expands the provision that the board is not prohibited from transporting human remains outside the state to include the transporting of remains within the state. It is not clear whether this prohibition against bartering would prohibit nontransplant anatomical donation organizations from paying the costs of funeral and cremation services for the remains that are donated to these organizations.

Section 406.61(2), F.S., limits the conveyance of human remains in or out of the state for medical research purposes to nontransplant anatomical donation organizations that are accredited by the American Association of Tissue Banks or accredited medical or dental schools. These organizations need not be accredited until July 1, 2013. The bill also expands the type of medical education or research for which the remains are intended to include dental education or research.

Section 406.61(2), F.S., requires nontransplant anatomical donation organizations to notify the board at least three days before conveying any human remains, and receive the approval of the board before remains are conveyed. The bill provides that, if the third day falls on a weekend or legal holiday, the next business day will be deemed the third business day.

The bill specifies that the following information must be included in the request to the anatomical board:

- Identifying information about the organization or facility receiving the remains or specimens;
- Description of the intended use of the remains or specimens;
- Identifying information of the organization or facility supplying specimens and handling the transfer of the remains or specimens;
- Documentation that the anatomical donation received the consent of a legally authorized person to make such a donation, as specified in s. 765.512, F.S.;²⁰
- Outline of the security measures at the organization or facility before, during, and after the course, conference, or seminar for maintaining control and safeguarding the specimens; and
- Procedures for disposal of the remains or specimens after the conclusion of the course, conference, or seminar, including identifying information for the entity performing the cremation.

¹⁹ Barter is defined as to trade or exchange one commodity for another. <http://www.merriam-webster.com> (Last visited February 4, 2012).

²⁰ *Supra* n. 17.

Regarding the documentation of consent, if the remains are to be segmented or disarticulated, the legally authorized person's consent must be specific consent and must describe any part of the remains that is to be segmented or disarticulated. The bill provides an exception for specimens shipped into the state if an affidavit is submitted by an accredited nontransplant anatomical donation organization stating that the donation organization had donation and consent forms on file for the remains that specifically authorize segmentation or disarticulation of the remains. The affidavit must also state that no specimen that is being shipped into the state was received from a third party.

The board must approve or deny the request to convey the remains within 3 days of its receipt of the request. If the request is not approved or denied within 3 days of receipt, it is deemed approved. As with the three-day notice requirement, the bill provides that, if the third day falls on a weekend or legal holiday, the next business day will be deemed the third business day. The organization must receive the board's approval before it can convey the remains. If the board denies a request, it must provide a written statement of the reasons for the denial.

The bill also deletes s. 406.61(3), F.S., which exempted from specified documentation requirements plastinated remains that were displayed before July 1, 2009 by entities accredited by the American Association of Museums. As provided in this subsection, this provision expired on January 1, 2012.

Bodies may be Claimed after Delivery to the Anatomical Board

The bill repeals s. 406.54, F.S., which permits human remains to be claimed from the board by members of fraternal or religious entities of which the deceased was a member.

Donees; Purposes for which Anatomical Gifts may be made

The bill amends s. 765.513, F.S., which specifies the persons and entities that can make anatomical gifts, to include the board for the purpose of medical or dental education or research.

Effective Date

The bill provides an effective date of July 1, 2012.

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 amends s. 406.61(1), F.S., to expand the prohibition against selling, buying, or conveying human remains outside the state to also prohibit bartering human remains or any parts thereof. It is not clear whether this prohibition against bartering would prohibit nontransplant anatomical donation organizations from paying the costs of the funeral and cremation services for the remains that are donated to these organizations.

A law may violate the Due Process Clause of the U.S. Constitution if it fails to give persons fair notice as to what is prohibited. The statute must clearly delineate prohibited conduct so that persons of ordinary intelligence are not forced to guess about the statute's meaning or application. If the statute fails to provide such notice, it violates the void for vagueness doctrine.²¹

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

None.

B. Private Sector Impact:

Nontransplant anatomical donation organizations that are not currently accredited by the American Association of Tissue Banks would be required to obtain that accreditation to continue to provide their service within the state. The cost of the accreditation is a \$5,000 application fee and an annual maintenance fee that varies from \$1,500 to \$75,000 depending on the organization's annual revenue. There may be other indeterminate costs for these organizations associated with compliance with the notification and reporting requirements in the bill.

The relatives or other legally authorized person of a deceased person may be required to assume the costs of funeral and cremation services if they donate the remains to a nontransplant anatomical donation organization if the bill's prohibition against the bartering of human remains is applied to prohibit these organizations from paying these expenses. The typical cost for these services to the relatives or other authorized persons for an anatomical donation to the board is \$2,000. Currently, these organizations assume this cost for the remains that are donated to them.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

²¹ *Connally v. General Constr. Co.*, 269 U.S. 385 (1926).

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

- B. **Amendments:**

CS by Regulated Industries on February 7, 2012:

The committee substitute (CS) amends s. 406.52(1), F.S., to authorize the Anatomical Board (board) to embalm the human remains that it receives.

The CS amends s. 406.61(2), F.S., to provide that nontransplant anatomical donation organizations need not be accredited by the American Association of Tissue Banks until July 1, 2013. It requires that the anatomical board must be notified at least 3 days before conveying any human remains instead of at least 72 hours. It provides that, if the third day falls on a weekend or legal holiday, the next business day will be deemed the third business day.

The CS does not create s. 406.61(2)(a), F.S., to authorize the board to establish criteria for granting requests to convey remains. Instead, the CS creates ss. 406.61(2)(a)-(f), F.S., to specify the information that must be provided to the board before a nontransplant anatomical donation organization may convey remains or specimens within the state. Although the required documentation from the legally authorized person was in the bill, s. 406.61(2)(d), F.S., of the CS provides an exception for the required documentation. The exception applies to specimens shipped into the state if an affidavit is submitted by an accredited nontransplant anatomical donation organization stating that the donation organization had donation and consent forms on file for the remains that specifically authorize segmentation or disarticulation of the remains. The affidavit must also state that no specimen that is being shipped into the state was received from a third party.

The CS provides that the board must approve or deny the request to convey the remains within 3 days of its receipt of the request. If the request is not approved or denied within 3 days of receipt, it is deemed approved. The CS provides that, if the third day falls on a weekend or legal holiday, the next business day will be deemed the third business day. If the board denies a request, it must provide a written statement of the reasons for the denial.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2012	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 406.49, Florida Statutes, is created to
read:

406.49 Definitions.—As used in this part, the term:

(1) "Anatomical board" means the anatomical board of the
state headquartered at the University of Florida Health Science
Center.

(2) "Cremated remains" has the same meaning as in s.
497.005.



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13 (3) "Final disposition" has the same meaning as in s.
14 497.005.

15 (4) "Human remains" or "remains" has the same meaning as in
16 s. 497.005.

17 (5) "Indigent person" means a person whose family income
18 does not exceed 100 percent of the current federal poverty
19 guidelines prescribed for the family's household size by the
20 United States Department of Health and Human Services.

21 (6) "Legally authorized person" has the same meaning as in
22 s. 497.005.

23 (7) "Unclaimed remains" means human remains that are not
24 claimed by a legally authorized person, other than a medical
25 examiner or the board of county commissioners, for final
26 disposition at the person's expense.

27 Section 2. Section 406.50, Florida Statutes, is amended to
28 read:

29 406.50 ~~Unclaimed dead bodies or human remains; disposition,~~
30 ~~procedure.-~~

31 (1) A person or entity that comes ~~All public officers,~~
32 ~~agents, or employees of every county, city, village, town, or~~
33 ~~municipality and every person in charge of any prison, morgue,~~
34 ~~hospital, funeral parlor, or mortuary and all other persons~~
35 ~~coming into possession, charge, or control of~~ unclaimed ~~any dead~~
36 ~~human body or remains that which are unclaimed or which are~~
37 ~~required to be buried or cremated at public expense~~ shall ~~are~~
38 ~~hereby required to notify,~~ immediately notify, the anatomical
39 board, unless:

40 (a) The unclaimed remains are decomposed or mutilated by
41 wounds;



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- 42 (b) An autopsy is performed on the remains;
- 43 (c) The remains contain ~~whenever any such body, bodies, or~~
44 ~~remains come into its possession, charge, or control.~~
45 ~~Notification of the anatomical board is not required if the~~
46 ~~death was caused by crushing injury, the deceased had a~~
47 ~~contagious disease;~~
- 48 (d) A legally authorized person, ~~an autopsy was required to~~
49 ~~determine cause of death, the body was in a state of severe~~
50 ~~decomposition, or a family member objects to use of the~~ remains
51 body for medical education or and research; or
- 52 (e) The deceased person was a veteran of the United States
53 Armed Forces, United States Reserve Forces, or National Guard
54 and is eligible for burial in a national cemetery or was the
55 spouse or dependent child of a veteran eligible for burial in a
56 national cemetery.
- 57 (2)(1) Before the final disposition of unclaimed remains,
58 the person or entity in charge or control of the ~~dead body or~~
59 ~~human~~ remains shall make a reasonable effort to determine:
- 60 (a) Determine the identity of the deceased person and ~~shall~~
61 ~~further make a reasonable effort to~~ contact any relatives of the
62 ~~such~~ deceased person.
- 63 (b) Determine whether ~~or not~~ the deceased person is
64 eligible under 38 C.F.R. s. 38.620 for ~~entitled to~~ burial in a
65 national cemetery as a veteran of the armed forces and, if
66 eligible so, to cause the deceased person's remains or cremated
67 remains to be delivered to a national cemetery ~~shall make~~
68 ~~arrangements for such burial services in accordance with the~~
69 ~~provisions of 38 C.F.R.~~



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71 For purposes of this subsection, "a reasonable effort" includes
72 contacting the National Cemetery Scheduling Office, the county
73 veterans service office, or the regional office of the United
74 States Department of Veterans Affairs.

75 (3)(2) Unclaimed remains ~~Such dead human bodies as~~
76 ~~described in this chapter~~ shall be delivered to the anatomical
77 board as soon as possible after death. When no family exists or
78 is available, a funeral director licensed under chapter 497 may
79 assume the responsibility of a legally authorized person and
80 may, after 24 hours have elapsed from the time of death,
81 authorize arterial embalming for the purposes of storage and
82 delivery of unclaimed remains to the anatomical board. A funeral
83 director licensed under chapter 497 is not liable for damages
84 under this subsection.

85 (4) The remains of a deceased person whose identity is not
86 known may not be cremated, donated as an anatomical gift, buried
87 at sea, or removed from the state.

88 (5) If the anatomical board does not accept the unclaimed
89 remains, the county commission, or its designated county
90 department, of the county in which the remains are found or the
91 death occurred may authorize and arrange for the burial or
92 cremation of the entire remains. A board of county commissioners
93 may, in accordance with applicable laws and rules, prescribe
94 policies and procedures for final disposition of unclaimed
95 remains by resolution or ordinance.

96 (6)(3) This part does not ~~Nothing herein shall~~ affect the
97 right of a medical examiner to hold human ~~such dead body or~~
98 remains for the purpose of investigating the cause of death or
99 ~~nor shall this chapter affect~~ the right of any court of



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100 competent jurisdiction to enter an order affecting the
101 disposition of such ~~body or~~ remains.

102 ~~(4) In the event more than one legally authorized person~~
103 ~~claims a body for interment, the requests shall be prioritized~~
104 ~~in accordance with s. 732.103.~~

105
106 ~~For purposes of this chapter, the term "anatomical board" means~~
107 ~~the anatomical board of this state located at the University of~~
108 ~~Florida Health Science Center, and the term "unclaimed" means a~~
109 ~~dead body or human remains that is not claimed by a legally~~
110 ~~authorized person, as defined in s. 497.005, for interment at~~
111 ~~that person's expense.~~

112 Section 3. Section 406.51, Florida Statutes, is amended to
113 read:

114 406.51 Final disposition of unclaimed deceased veterans;
115 contract requirements.—Any contract by a local governmental
116 entity for the final disposition ~~disposal~~ of unclaimed human
117 remains must provide for compliance with s. 406.50(2)(1) and
118 require that the procedures in 38 C.F.R. s. 38.620, relating to
119 disposition of unclaimed deceased veterans, are ~~be~~ followed.

120 Section 4. Section 406.52, Florida Statutes, is amended to
121 read:

122 (Substantial rewording of section. See
123 s. 406.52, F.S., for present text.)

124 406.52 Retention of human remains before use; claim after
125 delivery to anatomical board; procedures for unclaimed remains
126 of indigent persons.—

127 (1) The anatomical board shall keep in storage all human
128 remains that it receives for at least 48 hours before allowing



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129 their use for medical education or research. Human remains may
130 be embalmed when received. The anatomical board may, for any
131 reason, refuse to accept unclaimed remains or the remains of an
132 indigent person.

133 (2) At any time before their use for medical education or
134 research, human remains delivered to the anatomical board may be
135 claimed by a legally authorized person. The anatomical board
136 shall release the remains to the legally authorized person after
137 payment of the anatomical board's expenses incurred for
138 transporting, embalming, and storing the remains.

139 (3) (a) A board of county commissioners may, in accordance
140 with applicable laws and rules, prescribe policies and
141 procedures for the burial or cremation of the entire unclaimed
142 remains of an indigent person whose remains are found, or whose
143 death occurred in the county, by resolution or ordinance.

144 (b) A person licensed under chapter 497 is not liable for
145 any damages resulting from cremating or burying such human
146 remains at the written direction of the board of county
147 commissioners or its designee.

148 Section 5. Section 406.53, Florida Statutes, is amended to
149 read:

150 (Substantial rewording of section. See
151 s. 406.53, F.S., for present text.)

152 406.53 Unclaimed remains of indigent person; exemption from
153 notice to the anatomical board.—A county commission or
154 designated county department that receives a report of the
155 unclaimed remains of an indigent person, notwithstanding s.
156 406.50(1), is not required to notify the anatomical board of the
157 remains if:



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158 (1) The indigent person's remains are decomposed or
159 mutilated by wounds or if an autopsy is performed on the
160 remains;

161 (2) A legally authorized person or a relative by blood or
162 marriage claims the remains for final disposition at his or her
163 expense or, if such relative or legally authorized person is
164 also an indigent person, in a manner consistent with the
165 policies and procedures of the board of county commissioners of
166 the county in which the remains are found or the death occurred;

167 (3) The deceased person was a veteran of the United States
168 Armed Forces, United States Reserve Forces, or National Guard
169 and is eligible for burial in a national cemetery or was the
170 spouse or dependent child of a veteran eligible for burial in a
171 national cemetery; or

172 (4) A funeral director licensed under chapter 497 certifies
173 that the anatomical board has been notified and either accepted
174 or declined the remains.

175 Section 6. Section 406.55, Florida Statutes, is amended to
176 read:

177 406.55 Contracts for delivery of human remains ~~body~~ after
178 death prohibited.—The anatomical board may not enter is
179 ~~specifically prohibited from entering~~ into any contract, oral or
180 written, that provides for ~~whereby~~ any sum of money to ~~shall~~ be
181 paid to any living person in exchange for ~~which~~ the delivery of
182 that person's remains ~~body of said person shall be delivered~~ to
183 the anatomical board when the ~~such living~~ person dies.

184 Section 7. Section 406.56, Florida Statutes, is amended to
185 read:

186 406.56 Acceptance of human remains ~~bodies~~ under will.—If



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187 any person ~~being~~ of sound mind executes ~~shall execute~~ a will
188 leaving his or her remains ~~body~~ to the anatomical board for ~~the~~
189 ~~advancement of~~ medical education or research ~~science and the~~
190 ~~such~~ person dies within the geographical limits of the state,
191 the anatomical board may ~~is hereby empowered to~~ accept and
192 receive the person's remains ~~such body~~.

193 Section 8. Section 406.57, Florida Statutes, is amended to
194 read:

195 406.57 Distribution of human remains ~~dead bodies~~.—The
196 anatomical board or its duly authorized agent shall take and
197 receive human remains ~~the bodies~~ delivered to it as provided in
198 ~~under the provisions of~~ this chapter and shall:

199 (1) Distribute the remains ~~them~~ equitably ~~to and~~ among the
200 medical and dental schools, teaching hospitals, medical
201 institutions, and health-related teaching programs that require
202 cadaveric material for study; or

203 (2) Loan the remains ~~same may be loaned for examination or~~
204 ~~study purposes~~ to accredited colleges of mortuary science
205 ~~recognized associations of licensed embalmers or funeral~~
206 ~~directors,~~ or medical or dental examining boards for educational
207 or research purposes ~~at the discretion of the anatomical board~~.

208 Section 9. Section 406.58, Florida Statutes, is amended to
209 read:

210 406.58 Fees; authority to accept additional funds; annual
211 audit.—

212 (1) The anatomical board may:

213 (a) Adopt ~~is empowered to prescribe~~ a schedule of fees to
214 be collected from the institutions ~~institution or association~~ to
215 which the human remains ~~bodies, as described in this chapter,~~



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216 are distributed or loaned to defray the costs of obtaining and
217 preparing the remains ~~such bodies~~.

218 (b) (2) ~~The anatomical board is hereby empowered to~~ Receive
219 money from public or private sources, in addition to the fees
220 collected from the institutions ~~institution or association~~ to
221 which human remains ~~the bodies~~ are distributed, to be used to
222 defray the costs of embalming, handling, shipping, storing,
223 cremating, and otherwise ~~storage, cremation, and other costs~~
224 ~~relating to the obtaining and~~ using the remains. ~~use of such~~
225 ~~bodies as described in this chapter; the anatomical board is~~
226 ~~empowered to~~

227 (c) Pay the reasonable expenses, as determined by the
228 anatomical board, incurred by a funeral establishment licensed
229 under chapter 497 transporting unclaimed human remains ~~any~~
230 ~~person delivering the bodies as described in this chapter to the~~
231 anatomical board. ~~and is further empowered to~~

232 (d) Enter into contracts and perform such other acts ~~as are~~
233 necessary for ~~to~~ the proper performance of its duties. ~~†~~

234 (2) The Department of Financial Services shall keep and
235 annually audit a complete record of all fees and other financial
236 transactions of the ~~said~~ anatomical board and shall annually
237 submit ~~be kept and audited annually by the Department of~~
238 ~~Financial Services,~~ and a report of the such audit ~~shall be made~~
239 annually to the University of Florida.

240 Section 10. Section 406.59, Florida Statutes, is amended to
241 read:

242 406.59 Institutions receiving human remains ~~bodies~~. ~~A No~~
243 university, school, college, teaching hospital, or institution
244 may not, ~~or association shall be allowed or permitted to receive~~



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245 any human remains from the anatomical board ~~such body or bodies~~
246 ~~as described in this chapter~~ until its facilities are ~~have been~~
247 inspected and approved by the anatomical board. Human remains
248 ~~All such bodies~~ received by such university, school, college,
249 teaching hospital, or institution may not, ~~or association shall~~
250 be used for any ~~no other~~ purpose other than ~~the promotion of~~
251 medical education or research ~~science~~.

252 Section 11. Section 406.60, Florida Statutes, is amended to
253 read:

254 406.60 Disposition of human remains ~~bodies~~ after use. ~~At~~
255 ~~any time~~ When human remains ~~any body or bodies or part or parts~~
256 ~~of any body or bodies,~~ as described in this chapter, shall have
257 been used for, and are not ~~deemed~~ of any ~~no~~ further value to,
258 medical or dental education or research ~~science,~~ then the
259 anatomical board or a cinerator facility licensed under chapter
260 497 ~~person or persons having charge of said body or parts of~~
261 ~~said body~~ may dispose of the remains or any part thereof by
262 cremation.

263 Section 12. Section 406.61, Florida Statutes, is amended to
264 read:

265 406.61 Selling, buying, bartering, or conveying human
266 remains ~~bodies~~ outside or within state prohibited; exceptions; 7
267 penalty.-

268 (1) Any person who sells, ~~or~~ buys, or barters human remains
269 or any part thereof, ~~body or parts of bodies as described in~~
270 ~~this chapter~~ or any person except a recognized Florida medical
271 or dental school who transmits or conveys or causes to be
272 transmitted or conveyed such remains ~~body~~ or part thereof ~~parts~~
273 ~~of bodies~~ to any place outside or within this state, commits a



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274 misdemeanor of the first degree, punishable as provided in s.
275 ~~ss.~~ 775.082 or s. and 775.083. However, this chapter does not
276 prohibit the anatomical board from transporting human remains
277 ~~specimens~~ outside or within the state for educational or
278 scientific purposes or prohibit the transport of human remains,
279 any part of such remains ~~bodies, parts of bodies,~~ or tissue
280 specimens for purposes in furtherance of lawful examination,
281 investigation, or autopsy conducted pursuant to s. 406.11.

282 (2) Any nontransplant anatomical donation organization
283 accredited by the American Association of Tissue Banks or an
284 accredited medical or dental college or university may convey
285 human remains ~~person, institution, or organization that conveys~~
286 ~~bodies~~ or any part thereof within, parts of bodies into, or out
287 of the state for medical or dental education or research
288 purposes. A nontransplant anatomical donation organization need
289 not be accredited as required by this section until July 1,
290 2013. The organization or accredited medical or dental college
291 or university must ~~shall~~ notify the anatomical board at least 3
292 business days before the entity intends to convey ~~of~~ such
293 remains ~~intent~~ and must receive approval from the anatomical
294 board before conveyance. If the 3rd business day falls on a
295 weekend or legal holiday, the next business day is deemed to be
296 the 3rd business day. The anatomical board shall require the
297 following information to be submitted by the entity before
298 approval:

299 (a) The name, physical location, and date of the course,
300 conference, or seminar and the organization or facility
301 receiving the remains or specimens, including the physical
302 address and telephone number.



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303 (b) A description and intended use of the remains or
304 specimens.

305 (c) The name, physical address, and telephone number of the
306 organization or facility supplying specimens and handling the
307 transfer of the remains or specimens.

308 (d) Documentation from a legally authorized person who may
309 make an anatomical gift pursuant to s. 765.512 authorizing its
310 use in medical or dental education or research. If the remains
311 or any part thereof is to be segmented or disarticulated, such
312 documentation must include the legally authorized person's
313 specific consent and must describe any part of the remains that
314 is to be segmented or disarticulated. An exception to the
315 documentation requirements of this paragraph may be made for
316 specimens being shipped into the state, in which case an
317 affidavit may be submitted by an accredited nontransplant
318 anatomical organization as provided in this section stating that
319 the organization has donation and consent forms on file for the
320 remains from which each specimen has been provided specifically
321 authorizing segmentation or disarticulation of the remains. The
322 affidavit must also state that no specimen being shipped into
323 the state has been received from a second party.

324 (e) An outline of the security measures in place for
325 maintaining control of and safeguarding the remains or specimens
326 at the organization or facility before, during, and after the
327 course, conference, or seminar.

328 (f) The procedures for disposal of the remains or specimens
329 after the course, conference, or seminar is concluded or after
330 the organization or facility receiving the remains or specimens
331 has completed their use, including the name, address, and



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332 telephone number of the entity responsible for performing
333 cremation.

334
335 The anatomical board shall grant or deny requests for approval
336 within 3 business days after receipt of the required
337 information. Failure to provide such information is grounds for
338 denial of the request. If the request is not approved or denied
339 within 3 business days after receipt, it is deemed approved. If
340 the 3rd business day falls on a weekend or legal holiday, the
341 next business day is deemed to be the 3rd business day. If the
342 anatomical board denies a request, it must provide a written
343 statement of the reasons for denial.

344 (3)-(2) Any entity accredited by the American Association of
345 Museums may convey plastinated human remains ~~bodies~~ or any part
346 thereof within, ~~parts of bodies~~ into, or out of the state for
347 exhibition and public educational purposes without the consent
348 of the anatomical board if the accredited entity:

349 (a) Notifies the anatomical board of the conveyance and the
350 duration and location of the exhibition at least 30 days before
351 the intended conveyance.

352 (b) Submits to the anatomical board a description of the
353 remains ~~bodies~~ or any part thereof ~~parts of bodies~~ and the name
354 and address of the company providing the remains ~~bodies~~ or any
355 part thereof ~~parts of bodies~~.

356 (c) Submits to the anatomical board documentation that the
357 remains or each part thereof ~~body~~ was donated by the decedent or
358 his or her next of kin for purposes of plastination and public
359 exhibition, or, in lieu of such documentation, an affidavit
360 stating that the remains or each part thereof ~~body~~ was donated



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361 directly by the decedent or his or her next of kin for such
362 purposes to the company providing the remains body and that such
363 company has a donation form on file for the remains body.

364 ~~(3) Notwithstanding paragraph (2)(c) and in lieu of the~~
365 ~~documentation or affidavit required under paragraph (2)(c), for~~
366 ~~a plastinated body that, before July 1, 2009, was exhibited in~~
367 ~~this state by any entity accredited by the American Association~~
368 ~~of Museums, such an accredited entity may submit an affidavit to~~
369 ~~the board stating that the body was legally acquired and that~~
370 ~~the company providing the body has acquisition documentation on~~
371 ~~file for the body. This subsection expires January 1, 2012.~~

372 Section 13. Section 406.54, Florida Statutes, is repealed.

373 Section 14. Subsection (1) of section 765.513, Florida
374 Statutes, is amended to read:

375 765.513 Donees; purposes for which anatomical gifts may be
376 made.—

377 (1) The following persons or entities may become donees of
378 anatomical gifts of bodies or parts of them for the purposes
379 stated:

380 (a) Any procurement organization or accredited medical or
381 dental school, college, or university for education, research,
382 therapy, or transplantation.

383 (b) Any individual specified by name for therapy or
384 transplantation needed by him or her.

385 (c) The anatomical board as defined in s. 406.49(1) for
386 donation of the whole body for medical or dental education or
387 research.

388 Section 15. This act shall take effect July 1, 2012.

389



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

391 And the title is amended as follows:

392 Delete everything before the enacting clause
393 and insert:

394 A bill to be entitled
395 An act relating to disposition of human remains;
396 creating s. 406.49, F.S.; providing definitions;
397 amending s. 406.50, F.S.; revising procedures for the
398 reporting and disposition of unclaimed remains;
399 prohibiting certain uses or dispositions of the
400 remains of deceased persons whose identities are not
401 known; amending s. 406.51, F.S.; requiring that local
402 governmental contracts for the final disposition of
403 unclaimed remains comply with certain federal
404 regulations; conforming provisions to changes in
405 terminology; conforming a cross-reference; amending s.
406 406.52, F.S.; revising procedures for the anatomical
407 board's retention of human remains before their use;
408 providing for claims by, and the release of human
409 remains to, legally authorized persons after payment
410 of certain expenses; authorizing county ordinances or
411 resolutions for the final disposition of the unclaimed
412 remains of indigent persons; limiting the liability of
413 certain licensed persons for cremating or burying
414 human remains under certain circumstances; amending s.
415 406.53, F.S.; revising exceptions from requirements
416 for notice to the anatomical board of the death of
417 indigent persons; deleting a requirement that the
418 Department of Health assess fees for the burial of



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419 certain bodies; amending ss. 406.55, 406.56, 406.57,
420 406.58, and 406.59, F.S.; conforming provisions to
421 changes made by the act; amending s. 406.60, F.S.;
422 authorizing certain facilities to dispose of human
423 remains by cremation; amending s. 406.61, F.S.;
424 revising provisions prohibiting the selling, buying,
425 or bartering of human remains or the transmitting or
426 conveying of such remains outside the state to include
427 application to transmissions and conveyances within
428 the state; providing penalties; allowing certain
429 accredited schools and organizations to convey human
430 remains in or out of state for medical or research
431 purposes; establishing criteria for the anatomical
432 board to approve the conveyance of human remains;
433 requiring documentation authorizing the use of an
434 anatomical gift for medical or dental education or
435 research purposes; deleting provisions relating to
436 procedures for the conveyance of plastinated human
437 remains into or out of the state pursuant to their
438 scheduled expiration; conforming terminology;
439 repealing s. 406.54, F.S., relating to claims of
440 bodies after delivery to the anatomical board;
441 amending s. 765.513, F.S.; revising the list of donees
442 who may accept anatomical gifts and the purposes for
443 which such a gift may be used; providing an effective
444 date.

By Senator Hays

20-00931-12

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1 A bill to be entitled
 2 An act relating to the disposition of human remains;
 3 creating s. 406.49, F.S.; providing definitions;
 4 amending s. 406.50, F.S.; revising procedures for the
 5 reporting and disposition of unclaimed remains;
 6 prohibiting certain uses or dispositions of the
 7 remains of deceased persons whose identities are not
 8 known; amending s. 406.51, F.S.; requiring that local
 9 governmental contracts for the final disposition of
 10 unclaimed remains comply with certain federal
 11 regulations; conforming provisions to changes in
 12 terminology; conforming a cross-reference; amending s.
 13 406.52, F.S.; revising procedures for the anatomical
 14 board's retention of human remains before their use;
 15 providing for claims by, and the release of human
 16 remains to, legally authorized persons after payment
 17 of certain expenses; authorizing county ordinances or
 18 resolutions for the final disposition of the unclaimed
 19 remains of indigent persons; limiting the liability of
 20 certain licensed persons for cremating or burying
 21 human remains under certain circumstances; amending s.
 22 406.53, F.S.; revising exceptions from requirements
 23 for notice to the anatomical board of the death of
 24 indigent persons; deleting a requirement that the
 25 Department of Health assess fees for the burial of
 26 certain bodies; amending ss. 406.55, 406.56, 406.57,
 27 406.58, and 406.59, F.S.; conforming provisions to
 28 changes made by the act; amending s. 406.60, F.S.;
 29 authorizing certain facilities to dispose of human

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

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30 remains by cremation; amending s. 406.61, F.S.;
 31 revising provisions prohibiting the selling, buying,
 32 or bartering of human remains or the transmitting or
 33 conveying of such remains outside the state to include
 34 application to transmissions and conveyances within
 35 the state; providing penalties; allowing certain
 36 accredited schools and organizations to convey human
 37 remains in or out of state for medical or research
 38 purposes; requiring the anatomical board to establish
 39 criteria to approve the conveyance of human remains;
 40 requiring documentation authorizing the use of an
 41 anatomical gift for medical or dental education or
 42 research purposes; deleting provisions relating to
 43 procedures for the conveyance of plastinated human
 44 remains into or out of the state pursuant to their
 45 scheduled expiration; conforming terminology;
 46 repealing s. 406.54, F.S., relating to claims of
 47 bodies after delivery to the anatomical board;
 48 amending s. 765.513, F.S.; revising the list of donees
 49 who may accept anatomical gifts and the purposes for
 50 which such a gift may be used; providing an effective
 51 date.

52
 53 Be It Enacted by the Legislature of the State of Florida:

54
 55 Section 1. Section 406.49, Florida Statutes, is created to
 56 read:

57 406.49 Definitions.—As used in this part, the term:
 58 (1) "Anatomical board" means the anatomical board of the

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

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59 state headquartered at the University of Florida Health Science
60 Center.

61 (2) "Cremated remains" has the same meaning as in s.
62 497.005.

63 (3) "Final disposition" has the same meaning as in s.
64 497.005.

65 (4) "Human remains" or "remains" has the same meaning as in
66 s. 497.005.

67 (5) "Indigent person" means a person whose family income
68 does not exceed 100 percent of the current federal poverty
69 guidelines prescribed for the family's household size by the
70 United States Department of Health and Human Services.

71 (6) "Legally authorized person" has the same meaning as in
72 s. 497.005.

73 (7) "Unclaimed remains" means human remains that are not
74 claimed by a legally authorized person, other than a medical
75 examiner or the board of county commissioners, for final
76 disposition at the person's expense.

77 Section 2. Section 406.50, Florida Statutes, is amended to
78 read:
79 406.50 Unclaimed ~~dead bodies or human~~ remains; disposition,
80 procedure.-

81 (1) A person or entity that comes ~~All public officers,~~
82 ~~agents, or employees of every county, city, village, town, or~~
83 ~~municipality and every person in charge of any prison, morgue,~~
84 ~~hospital, funeral parlor, or mortuary and all other persons~~
85 ~~coming into possession, charge, or control of unclaimed any dead~~
86 ~~human body or remains that which are unclaimed or which are~~
87 ~~required to be buried or cremated at public expense shall be~~

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88 ~~hereby required to notify,~~ immediately notify, the anatomical
89 board, unless:

90 (a) The unclaimed remains are decomposed or mutilated by
91 wounds;

92 (b) An autopsy is performed on the remains;

93 (c) The remains contain ~~whenever any such body, bodies, or~~
94 ~~remains come into its possession, charge, or control.~~
95 ~~Notification of the anatomical board is not required if the~~
96 ~~death was caused by crushing injury, the deceased had a~~
97 ~~contagious disease;~~

98 (d) A legally authorized person, ~~an autopsy was required to~~
99 ~~determine cause of death, the body was in a state of severe~~
100 ~~decomposition, or a family member objects to use of the remains~~
101 ~~body for medical education or and research; or~~

102 (e) The deceased person was a veteran of the United States
103 Armed Forces, United States Reserve Forces, or National Guard
104 and is eligible for burial in a national cemetery or was the
105 spouse or dependent child of a veteran eligible for burial in a
106 national cemetery.

107 (2)(1) Before the final disposition of unclaimed remains,
108 the person or entity in charge or control of the ~~dead body or~~
109 ~~human~~ remains shall make a reasonable effort to ~~determine:~~

110 (a) Determine the identity of the deceased person and ~~shall~~
111 ~~further make a reasonable effort to contact any relatives of the~~
112 ~~such deceased person.~~

113 (b) Determine whether ~~or not~~ the deceased person is
114 eligible under 38 C.F.R. s. 38.620 for ~~entitled to~~ burial in a
115 national cemetery as a veteran of the armed forces and, if
116 eligible ~~to~~, to cause the deceased person's remains or cremated

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117 ~~remains to be delivered to a national cemetery shall make~~
 118 ~~arrangements for such burial services in accordance with the~~
 119 ~~provisions of 38 C.F.R.~~

120
 121 For purposes of this subsection, "a reasonable effort" includes
 122 contacting the National Cemetery Scheduling Office, the county
 123 veterans service office, or the regional office of the United
 124 States Department of Veterans Affairs.

125 (3)(2) Unclaimed remains ~~Such dead human bodies as~~
 126 ~~described in this chapter~~ shall be delivered to the anatomical
 127 board as soon as possible after death. When no family exists or
 128 is available, a funeral director licensed under chapter 497 may
 129 assume the responsibility of a legally authorized person and
 130 may, after 24 hours have elapsed from the time of death,
 131 authorize arterial embalming for the purposes of storage and
 132 delivery of unclaimed remains to the anatomical board. A funeral
 133 director licensed under chapter 497 is not liable for damages
 134 under this subsection.

135 (4) The remains of a deceased person whose identity is not
 136 known may not be cremated, donated as an anatomical gift, buried
 137 at sea, or removed from the state.

138 (5) If the anatomical board does not accept the unclaimed
 139 remains, the county commission, or its designated county
 140 department, of the county in which the remains are found or the
 141 death occurred may authorize and arrange for the burial or
 142 cremation of the entire remains. A board of county commissioners
 143 may, in accordance with applicable laws and rules, prescribe
 144 policies and procedures for final disposition of unclaimed
 145 remains by resolution or ordinance.

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146 ~~(6)(3) This part does not~~ ~~Nothing herein shall~~ affect the
 147 right of a medical examiner to hold human ~~such dead body or~~
 148 remains for the purpose of investigating the cause of death or,
 149 ~~nor shall this chapter affect~~ the right of any court of
 150 competent jurisdiction to enter an order affecting the
 151 disposition of such ~~body or~~ remains.

152 ~~(4) In the event more than one legally authorized person~~
 153 ~~claims a body for interment, the requests shall be prioritized~~
 154 ~~in accordance with s. 732.103.~~

155
 156 For purposes of this chapter, the term "anatomical board" means
 157 the anatomical board of this state located at the University of
 158 Florida Health Science Center, and the term "unclaimed" means a
 159 dead body or human remains that is not claimed by a legally
 160 authorized person, as defined in s. 497.005, for interment at
 161 that person's expense.

162 Section 3. Section 406.51, Florida Statutes, is amended to
 163 read:

164 406.51 Final disposition of unclaimed deceased veterans;
 165 contract requirements.—Any contract by a local governmental
 166 entity for the final disposition ~~disposal~~ of unclaimed human
 167 remains must provide for compliance with s. 406.50(2)(1) and
 168 require that the procedures in 38 C.F.R. s. 38.620, relating to
 169 disposition of unclaimed deceased veterans, are ~~be~~ followed.

170 Section 4. Section 406.52, Florida Statutes, is amended to
 171 read:

172 (Substantial rewording of section. See
 173 s. 406.52, F.S., for present text.)
 174 406.52 Retention of human remains before use; claim after

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175 delivery to anatomical board; procedures for unclaimed remains
176 of indigent persons.-

177 (1) The anatomical board shall keep in storage all human
178 remains that it receives for at least 48 hours before allowing
179 their use for medical education or research. The anatomical
180 board may, for any reason, refuse to accept unclaimed remains or
181 the remains of an indigent person.

182 (2) At any time before their use for medical education or
183 research, human remains delivered to the anatomical board may be
184 claimed by a legally authorized person. The anatomical board
185 shall release the remains to the legally authorized person after
186 payment of the anatomical board's expenses incurred for
187 transporting, embalming, and storing the remains.

188 (3) (a) A board of county commissioners may, in accordance
189 with applicable laws and rules, prescribe policies and
190 procedures for the burial or cremation of the entire unclaimed
191 remains of an indigent person whose remains are found, or whose
192 death occurred in the county, by resolution or ordinance.

193 (b) A person licensed under chapter 497 is not liable for
194 any damages resulting from cremating or burying such human
195 remains at the written direction of the board of county
196 commissioners or its designee.

197 Section 5. Section 406.53, Florida Statutes, is amended to
198 read:

199 (Substantial rewording of section. See
200 s. 406.53, F.S., for present text.)

201 406.53 Unclaimed remains of indigent person; exemption from
202 notice to the anatomical board.-A county commission or
203 designated county department that receives a report of the

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204 unclaimed remains of an indigent person, notwithstanding s.
205 406.50(1), is not required to notify the anatomical board of the
206 remains if:

207 (1) The indigent person's remains are decomposed or
208 mutilated by wounds or if an autopsy is performed on the
209 remains;

210 (2) A legally authorized person or a relative by blood or
211 marriage claims the remains for final disposition at his or her
212 expense or, if such relative or legally authorized person is
213 also an indigent person, in a manner consistent with the
214 policies and procedures of the board of county commissioners of
215 the county in which the remains are found or the death occurred;

216 (3) The deceased person was a veteran of the United States
217 Armed Forces, United States Reserve Forces, or National Guard
218 and is eligible for burial in a national cemetery or was the
219 spouse or dependent child of a veteran eligible for burial in a
220 national cemetery; or

221 (4) A funeral director licensed under chapter 497 certifies
222 that the anatomical board has been notified and either accepted
223 or declined the remains.

224 Section 6. Section 406.55, Florida Statutes, is amended to
225 read:

226 406.55 Contracts for delivery of human remains ~~body~~ after
227 death prohibited.-The anatomical board may not enter ~~is~~
228 ~~specifically prohibited from entering~~ into any contract, oral or
229 written, that provides for ~~whereby~~ any sum of money to ~~shall~~ be
230 paid to any living person in exchange for ~~which~~ the delivery of
231 that person's remains ~~body of said person shall be delivered~~ to
232 the anatomical board when the ~~such living~~ person dies.

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233 Section 7. Section 406.56, Florida Statutes, is amended to
234 read:

235 406.56 Acceptance of human remains ~~bodies~~ under will.—If
236 any person ~~being~~ of sound mind executes ~~shall execute~~ a will
237 leaving his or her remains ~~body~~ to the anatomical board for ~~the~~
238 ~~advancement of medical education or research science and the~~
239 ~~such~~ person dies within the geographical limits of the state,
240 the anatomical board may ~~is hereby empowered to~~ accept and
241 receive the person's remains ~~such body~~.

242 Section 8. Section 406.57, Florida Statutes, is amended to
243 read:

244 406.57 Distribution of human remains ~~dead bodies~~.—The
245 anatomical board or its duly authorized agent shall take and
246 receive human remains ~~the bodies~~ delivered to it as provided in
247 under the provisions of this chapter and shall:

248 (1) Distribute the remains ~~them~~ equitably ~~to and~~ among the
249 medical and dental schools, teaching hospitals, medical
250 institutions, and health-related teaching programs that require
251 cadaveric material for study; or

252 (2) Loan the remains ~~same may be loaned for examination or~~
253 ~~study purposes to accredited colleges of mortuary science~~
254 ~~recognized associations of licensed embalmers or funeral~~
255 ~~directors, or medical or dental examining boards for educational~~
256 or research purposes at the discretion of the anatomical board.

257 Section 9. Section 406.58, Florida Statutes, is amended to
258 read:

259 406.58 Fees; authority to accept additional funds; annual
260 audit.—

261 (1) The anatomical board may:

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262 (a) Adopt ~~is empowered to prescribe~~ a schedule of fees to
263 be collected from the institutions ~~institution or association~~ to
264 which the human remains ~~bodies, as described in this chapter,~~
265 are distributed or loaned to defray the costs of obtaining and
266 preparing the remains ~~such bodies~~.

267 (b) ~~(2) The anatomical board is hereby empowered to~~ Receive
268 money from public or private sources, in addition to the fees
269 collected from the institutions ~~institution or association~~ to
270 which human remains ~~the bodies~~ are distributed, to be used to
271 defray the costs of embalming, handling, shipping, storing,
272 cremating, and otherwise ~~storage, cremation, and other costs~~
273 relating to the obtaining and using the remains. ~~use of such~~
274 ~~bodies as described in this chapter; the anatomical board is~~
275 ~~empowered to~~

276 (c) Pay the reasonable expenses, as determined by the
277 anatomical board, incurred by a funeral establishment licensed
278 under chapter 497 transporting unclaimed human remains ~~any~~
279 ~~person delivering the bodies as described in this chapter to the~~
280 ~~anatomical board. and is further empowered to~~

281 (d) Enter into contracts and perform such other acts ~~as are~~
282 necessary for ~~to~~ the proper performance of its duties. ~~+~~

283 (2) The Department of Financial Services shall keep and
284 annually audit a complete record of all fees and other financial
285 transactions of the said anatomical board and shall annually
286 submit ~~be kept and audited annually by the Department of~~
287 ~~Financial Services, and a report of the such audit shall be made~~
288 ~~annually to the University of Florida.~~

289 Section 10. Section 406.59, Florida Statutes, is amended to
290 read:

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291 406.59 Institutions receiving human remains bodies. ~~A No~~
 292 university, school, college, teaching hospital, or institution
 293 ~~may not, or association shall be allowed or permitted to~~ receive
 294 any human remains from the anatomical board such body or bodies
 295 ~~as described in this chapter~~ until its facilities are ~~have been~~
 296 inspected and approved by the anatomical board. Human remains
 297 ~~All such bodies~~ received by such university, school, college,
 298 teaching hospital, or institution ~~may not, or association shall~~
 299 be used for any no other purpose other than the ~~promotion of~~
 300 medical education or research science.

301 Section 11. Section 406.60, Florida Statutes, is amended to
 302 read:

303 406.60 Disposition of human remains bodies after use. ~~At~~
 304 ~~any time~~ When human remains any body or bodies or part or parts
 305 ~~of any body or bodies, as described in this chapter,~~ shall have
 306 been used for, and are not deemed of any no further value to,
 307 medical or dental education or research science, ~~then~~ the
 308 anatomical board or a cinerator facility licensed under chapter
 309 497 person or persons having charge of said body or parts of
 310 said body may dispose of the remains or any part thereof by
 311 cremation.

312 Section 12. Section 406.61, Florida Statutes, is amended to
 313 read:

314 406.61 Selling, buying, bartering, or conveying human
 315 remains bodies outside or within state prohibited; exceptions; ~~r~~
 316 penalty.-

317 (1) Any person who sells, ~~or~~ buys, or barters human remains
 318 or any part thereof, body or parts of bodies as described in
 319 ~~this chapter~~ or any person except a recognized Florida medical

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320 or dental school who transmits or conveys or causes to be
 321 transmitted or conveyed such remains body or part thereof parts
 322 ~~of bodies~~ to any place outside or within this state, commits a
 323 misdemeanor of the first degree, punishable as provided in s.
 324 ~~ss.~~ 775.082 or s. and 775.083. However, this chapter does not
 325 prohibit the anatomical board from transporting human remains
 326 ~~specimens~~ outside or within the state for educational or
 327 scientific purposes or prohibit the transport of human remains,
 328 any part of such remains bodies, parts of bodies, or tissue
 329 specimens for purposes in furtherance of lawful examination,
 330 investigation, or autopsy conducted pursuant to s. 406.11.

331 (2) Any nontransplant anatomical donation organization
 332 accredited by the American Association of Tissue Banks or an
 333 accredited medical or dental college or university may convey
 334 human remains person, institution, or organization that conveys
 335 bodies or any part thereof within, parts of bodies into, or out
 336 of the state for medical or dental education or research
 337 purposes. The organization must shall notify the anatomical
 338 board at least 72 hours before the organization intends to
 339 convey of such remains intent and must receive approval from the
 340 anatomical board before conveyance. The anatomical board shall:

341 (a) Establish criteria for the information required to be
 342 submitted by the organization to ensure the health and safety of
 343 the public and grant requests for approval. Failure to provide
 344 such information shall be grounds for denial of the request.

345 (b) Require documentation from a legally authorized person
 346 who may make an anatomical gift pursuant to s. 765.512
 347 authorizing its use in medical or dental education or research.
 348 If the remains or any part thereof is to be segmented or

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349 disarticulated, such documentation must include the legally
 350 authorized person's specific consent and must describe any part
 351 of the remains that is to be segmented or disarticulated.

352 ~~(3)(2)~~ Any entity accredited by the American Association of
 353 Museums may convey plastinated human remains bodies or any part
 354 thereof within, parts of bodies into, or out of the state for
 355 exhibition and public educational purposes without the consent
 356 of the anatomical board if the accredited entity:

357 (a) Notifies the anatomical board of the conveyance and the
 358 duration and location of the exhibition at least 30 days before
 359 the intended conveyance.

360 (b) Submits to the anatomical board a description of the
 361 remains bodies or any part thereof ~~parts of bodies~~ and the name
 362 and address of the company providing the remains bodies or any
 363 part thereof ~~parts of bodies~~.

364 (c) Submits to the anatomical board documentation that the
 365 remains or each part thereof ~~body~~ was donated by the decedent or
 366 his or her next of kin for purposes of plastination and public
 367 exhibition, or, in lieu of such documentation, an affidavit
 368 stating that the remains or each part thereof ~~body~~ was donated
 369 directly by the decedent or his or her next of kin for such
 370 purposes to the company providing the remains body and that such
 371 company has a donation form on file for the remains body.

372 ~~(3) Notwithstanding paragraph (2)(c) and in lieu of the~~
 373 ~~documentation or affidavit required under paragraph (2)(c), for~~
 374 ~~a plastinated body that, before July 1, 2009, was exhibited in~~
 375 ~~this state by any entity accredited by the American Association~~
 376 ~~of Museums, such an accredited entity may submit an affidavit to~~
 377 ~~the board stating that the body was legally acquired and that~~

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378 ~~the company providing the body has acquisition documentation on~~
 379 ~~file for the body. This subsection expires January 1, 2012.~~

380 Section 13. Section 406.54, Florida Statutes, is repealed.

381 Section 14. Subsection (1) of section 765.513, Florida
 382 Statutes, is amended to read:

383 765.513 Donees; purposes for which anatomical gifts may be
 384 made.—

385 (1) The following persons or entities may become donees of
 386 anatomical gifts of bodies or parts of them for the purposes
 387 stated:

388 (a) Any procurement organization or accredited medical or
 389 dental school, college, or university for education, research,
 390 therapy, or transplantation.

391 (b) Any individual specified by name for therapy or
 392 transplantation needed by him or her.

393 (c) The anatomical board as defined in s. 406.49(1) for
 394 donation of the whole body for medical or dental education or
 395 research.

396 Section 15. This act shall take effect July 1, 2012.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Budget - Subcommittee on General Government
Appropriations, *Chair*
Agriculture
Banking and Insurance
Budget
Budget - Subcommittee on Higher Education
Appropriations
Children, Families, and Elder Affairs
Reapportionment

SENATOR D. ALAN HAYS

20th District

January 12, 2012

Senator Dennis L. Jones, D.C., Chair
Regulated Industries Committee
408 Senate Office Building
330 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

RE: SB 956 Relating to Disposition of Human Remains

Dear Chair Jones:

I respectfully request my above bill be heard before your committee. I feel this bill will benefit the citizens of our state.

Thank you in advance for your consideration, and please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "D. Alan Hays, DMD".

Senator D. Alan Hays, DMD
District 20

CC: **Patrick L. "Booter" Imhof**, *Staff Director*
Lynn Koon, *Committee Administrative Assistant*

REPLY TO:

- 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
- 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

2/7/12

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

Meeting Date

Topic DISPOSITION OF HUMAN REMAINS Bill Number 956 (if applicable)

Name BRECHT HEUCHAN Amendment Barcode (if applicable)

Job Title LOBBYIST

Address 118 E. SIXTH AVE Phone (850) 702-0143

TALLAHASSEE, FL 32303 City State Zip

Speaking: [] For [x] Against [] Information

Representing MEDCURE

Appearing at request of Chair: [] Yes [x] No Lobbyist registered with Legislature: [x] Yes [] No

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

This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-7-2012

Meeting Date

Topic Disposition of Human Remains

Bill Number SB 956
(if applicable)

Name Charles W. Swain
Swain

Amendment Barcode _____
(if applicable)

Job Title President, FFCCA (below)

Address 1006 Buena Vista Drive
Street

Phone 850.567.2541

Tallahassee, FL 32304
City State Zip

E-mail cwswain37@comcast.net

Speaking: For Against Information

Representing Florida Funeral/Cemetery Consumer Advocacy (FFCCA)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Human Remains

Bill Number 956
(if applicable)

Name ^{John}
John Mixon

Amendment Barcode _____
(if applicable)

Job Title Consultant

Address 119 E Park
Street

Phone 528 4441

Tall FL 301
City State Zip

E-mail _____

Speaking: For Against Information

Representing Independent Funeral Directors

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/7/12

Meeting Date

Topic _____

Bill Number 956
(if applicable)

Name Susan Harbin

Amendment Barcode _____
(if applicable)

Job Title Leg. Coordinator

Address 115 S. Andrews Ave

Phone 954-357-7347

Street

Ft. Lauderdale FL 33301

City

State

Zip

E-mail sharbin@gmail.org

Speaking: For Against Information

Representing Broward County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/7/2012
Meeting Date

Topic Disposition of Human Remains Bill Number 956
(if applicable)

Name Heather Wildermuth Amendment Barcode _____
(if applicable)

Job Title Legislative Advocate

Address 100 S Monroe St Phone 922-4300
Street

Tallahassee FL 32301
City State Zip

E-mail hwildermuth@fl-counties.com

Speaking: For Against Information

Representing FL Assn of Counties

Appearing at request of Chair: Yes No
Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: CS/SB 1166

INTRODUCER: Regulated Industries Committee and Senator Simmons

SUBJECT: Clerks of Court

DATE: February 7, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harrington	Imhof	RI	Fav/CS
2.	_____	_____	JU	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The Committee Substitute (CS) amends current law relating to the responsibilities of the clerks of the court to enhance the collection of court fees and fines and to improve the efficiency of their operations. The bill requires a broader use of the Comprehensive Case Information System (CCIS) among state agencies to reduce operational costs and duties of the clerks of the court.

The CS:

- Requires the Department of the Lottery to use the CCIS, rather than rely on notification from the judiciary and other state agencies to enforce the current prohibition on paying a prize of \$600 or more before collecting outstanding fines and support obligations;
- Makes the clerk’s review of property and motor vehicle records of persons seeking an indigency determination for purposes of obtaining a public defender discretionary;
- Provides that filing fees are due when a party files a pleading to initiate a proceeding;
- Provides that fees are due upon filing a pleading to reopen a case that has been closed at least 90 days;
- Requires clerks to collect a \$10 service charge for issuing a certified copy of an electronic certified copy of a summons rather than only for an original summons;

- Updates jury legislation to reflect modern practices and current procedures;
- Provides a \$70 fee for rescheduling a judicial sale;
- Allows an action for the collection of court costs and fines to be brought at any time;
- Requires the state attorney to notify the clerk of the court when a defendant is a public officer charged with a specified offense before the clerk must send notice of the proceedings to the Commission on Ethics;
- Ranks claims for the collection of unpaid fees, court costs, and fines at level three for payment of claims against a decedent's estate by a personal representative;
- Removes the requirement for clerks of the court to send certified copies of felony drug convictions to agencies issuing business or professional licenses, and replaces it with a requirement for the licensing agency to obtain such information from the CCIS;
- Provides that with respect to criminal financial obligations, a previously imposed criminal or civil judgment constitutes a civil lien against the judgment debtor's real or personal property when recorded as required by s. 55.10, F.S. The CS exempts such liens from the current 10 year re-recording requirement of the statute; and
- Adds the payment of fines, fees, and other court related costs as a condition of parole in addition to the current condition of paying restitution.

This CS substantially amends the following sections of the Florida Statutes: 24.115, 27.52, 28.24, 28.241, 28.37, 34.041, 40.011, 40.02, 40.022, 40.221, 40.225, 45.035, 57.081, 95.11, 112.3173, 318.18, 668.50, 733.707, 893.11, 938.27, 938.30, and 947.181.

This CS creates section 28.2405, Florida Statutes.

II. Present Situation:

Department of the Lottery Prizes

Section 24.115(4), F.S., requires the judicial branch and state agencies to identify to the Department of the Lottery persons owing an outstanding debt to any state agency or owing child support, spousal support, or alimony collected through a court if the support obligation is being enforced by the Department of Revenue. Before any prize of \$600 or more is awarded to a person owing such a debt, the Department of the Lottery must transmit the amount of the debt owed to the agency claiming the debt and may then authorize payment of winnings of the balance, if any, to the winner. If a winner owes multiple debts, obligations of child support take priority over all other debts owed.

According to the Department of the Lottery, the department receives updated information from the agencies and entities listed below on a weekly basis for purposes of collecting state owed debt:

- Department of the Revenue/Child Support Enforcement;
- Department of Children and Families;
- Department of Economic Opportunity/Unemployment Compensation;
- Department of Education; and
- The University of Florida.

Determinations of Indigency

Section 27.52(2), F.S., requires the clerk of the court to determine whether an applicant seeking appointment of a public defender is indigent. The clerk must consider the applicant to be indigent if the applicant:

- Is at or below 200 percent of the federal poverty guidelines;
- Is receiving Temporary Assistance for Needy Families-Cash Assistance;
- Is receiving poverty-related veterans' benefits; or
- Is receiving Supplemental Security Income (SSI).

There is a presumption that the applicant is not indigent if the applicant owns, or has equity in, any intangible or tangible personal property or real property or the expectancy of an interest in property having a net equity value of \$2,500 or more, excluding the value of the person's homestead and one vehicle having a net value under \$5,000.¹

The clerk must conduct a review of property records for the county in which an applicant resides and motor vehicle records of the state to identify any property interests of the applicant.² The clerk must evaluate and consider the results of its review in making a determination of indigency. The clerk is also required to maintain the results of the review in a file with the application and provide the file to the court if the applicant seeks a court review of the clerk's determination that the applicant is not indigent.³

Filing Fees

A party "instituting any civil action" must pay the statutorily prescribed filing fees to the clerk of the court. Under current law, a party reopening a civil action or proceeding in circuit court must pay a filing fee not exceeding \$50.⁴ In county court, reopening fees are up to \$25 for all claims not more than \$500, and up to \$50 for claims over \$500.⁵ A case is "reopened" when it has previously been reported as disposed of and is resubmitted to the court. Section 28.241(1)(b), F.S., and s. 34.041, F.S., list several exceptions to the payment of a reopening fee.⁶

Service Charges

The clerk of the court must collect a \$10 service charge for issuing a summons from a party seeking to have a summons issued.⁷

In addition, s. 45.035, F.S., requires the clerk of the court to collect a service charge related to the judicial sales procedure under ss. 45.031-45.034, F.S., for real and personal property. The statute imposes a \$70 service charge for clerk's services of making, recording, and certifying the

¹ Section 27.52(2)(a)2.a., F.S.

² Section 27.52(2)(a)2.b., F.S.

³ *Id.*

⁴ Section 28.241(1)(b), F.S.

⁵ Section 34.041(2), F.S.

⁶ See ss. 28.241(1)(b) and 34.041, F.S., for a complete list of 18 circuit court and 10 county court prescribed circumstances when a party is exempt from paying the fee to reopen a case.

⁷ Section 34.041(1)(d), F.S.

sale and title from such proceedings. If there is surplus resulting from a sale, the clerk may receive the following service charges, which must be deducted from the surplus:⁸

- A \$28 service charge which may be used for purposes of educating the public on the rights of homeowners regarding foreclosure proceedings;
- A \$15 service charge for notifying a surplus trustee of his or her appointment;
- A \$15 service charge for each disbursement of surplus proceeds;
- A \$15 service charge for appointing a surplus trustee, furnishing the surplus trustee with a copy of the final judgment and certificate of disbursements, and disbursing to the trustee the trustee's cost advance.

For judicial sales conducted by electronic means, which may be conducted in accordance with s. 45.031(10), F.S., the clerk must receive an additional service charge of up to \$70 for services in conducting or contracting for the electronic sale.⁹

Juror Legislation

Section 40.01, F.S., provides that jurors in this state must be taken from all persons at least 18 years of age who are citizens of the United States and residents of this state and their respective counties and who possess a drivers' license or state issued identification card. Persons without drivers' licenses or identification cards may also be added to the list if they execute an affidavit at the office of the clerk of the court.¹⁰ Section 40.013, F.S., lists persons who are disqualified or excused from jury service, including but not limited to, persons under prosecution for any crime, the Governor, and the clerk of the court. Section 40.011, F.S., requires the Department of Highway Safety and Motor Vehicles to deliver quarterly to the clerk of the circuit court in each county a list of the names of persons eligible for jury duty.

The chief judge of each circuit, or a circuit judge in each county within the circuit who is designated by the chief judge, must request the selection of a jury list in each county within the circuit during the first week of January of each year, or as soon thereafter as practicable.¹¹ The chief judge or the chief judge's designee must direct the clerk of the court to select at random a sufficient number of names, with their addresses, from the list of persons who are qualified to serve as jurors and to generate a list of not fewer than 250 persons to serve as jurors, which list must be signed and verified by the clerk of the court as having been selected at random. A circuit judge in a county to which he or she has been assigned may request additional jury lists as necessary to prevent the jury list from becoming exhausted.

The clerk of the court is responsible for preserving the security of the jury lists.¹²

Statute of Limitations

A statute of limitations is an absolute bar to the filing of a legal case after a date set by law. Section 95.11, F.S., governs statute of limitation actions other than for the recovery of real

⁸ Section 45.035(2), F.S.

⁹ Section 45.035(3), F.S.

¹⁰ Section 40.011(1), F.S.

¹¹ Section 40.02(1), F.S.

¹² Section 40.02(2), F.S.

property. Under this section, an action on a judgment or decree of court must be commenced within 20 years.

Notice of Breach of Public Trust

Section 112.3173, F.S., requires the clerk of the court to provide notice to the Commission on Ethics when a proceeding against a public official for a “specified offense” is being conducted in its court. Under s. 112.3173(4)(a), F.S., a copy of an information, indictment, or other document containing the charges is sufficient for notice. Section 112.3173(2)(e), F.S., defines a “specified offense” as:

- The committing, aiding, or abetting of an embezzlement of public funds;
- The committing, aiding, or abetting of any theft by a public officer or employee from his or her employer;
- Bribery in connection with the employment of a public officer or employee;
- Any felony specified in ch. 838, F.S., except ss. 838.15-838.16, F.S.;
- The committing of an impeachable offense;
- The committing of any felony by a public officer or employee who, willfully and with intent to defraud the public or the public agency for which the public officer or employee acts or in which he or she is employed of the right to receive the faithful performance of his or her duty as a public officer or employee, realizes or obtains, or attempts to realize or obtain, a profit, gain, or advantage for himself or herself or for some other person through the use or attempted use of the power, rights, privileges, duties, or positions of his or her public office or employment position; or
- The committing on or after October 1, 2008, of any felony defined in s. 800.04, F.S.,¹³ against a victim younger than 16 years of age, or any felony defined in ch. 794, F.S.,¹⁴ against a victim younger than 18 years of age, by a public officer or employee through the use or attempted use of power, rights, privileges, duties, or position of his or her public office or employment position.

Community Service in Lieu of Civil Penalty

If a person has been ordered to pay a civil penalty for a noncriminal traffic infraction and is unable to do so due to a financial hardship, the court must allow the person to satisfy the civil penalty by participating in community service until the civil penalty is paid. Such persons either receive credit for community service hours against the civil penalty at a specified hourly rate based on the wage rate specified under the federal Fair Labor Standards Act of 1938 or, if the person has a trade or profession, at the average prevailing wage rate for that trade or profession.¹⁵

The supervision of the performance of community service hours is conducted by "a community service agency" that agrees to accept community service from persons unable to pay their civil penalties.¹⁶ The community service agency must record the number of community service hours

¹³ Section 800.04, F.S., pertains to lewd and lascivious offenses.

¹⁴ Chapter 794, F.S., pertains to sexual battery.

¹⁵ Section 318.18(8), F.S.

¹⁶ Section 318.18(8)(b), F.S., defines “Community service agency” as a “not-for-profit corporation, community organization, charitable organization, public officer, the state or any political subdivision of the state, or any other body the purpose of which is to improve the quality of life or social welfare of the community and which agrees to accept community service from persons unable to pay civil penalties for noncriminal traffic infractions.”

completed along with the date of the completion to the clerk of the court on the letterhead of the community service agency and signed by the designated representative of the community service agency.

Uniform Electronic Transaction Act

Section 668.50, F.S., is known as the “Uniform Electronic Transaction Act.” The act applies to electronic records and electronic signatures relating to a transaction.¹⁷ The act does not apply to the transactions to the extent they are governed by:

- A provision of law governing the creation and execution of wills, codicils, or testamentary trusts;
- The Uniform Commercial Code other than s. 671.107, F.S., and chs. 672 and 680, F.S.;
- The Uniform Computer Information Transactions Act; or
- Rules relating to judicial procedure.

Priority of Payment of Expenses and Obligations

Section 733.707, F.S., sets forth the order in which the personal representative of a decedent's estate must pay the expenses of the estate's administration and obligations against creditors. It provides the following order of payment:

- Class 1.—Costs, expenses of administration, and compensation of personal representatives and their attorneys fees and attorneys fees awarded under s. 733.106(3), F.S.
- Class 2.—Reasonable funeral, interment, and grave marker expenses, whether paid by a guardian, the personal representative, or any other person, not to exceed the aggregate of \$6,000.
- Class 3.—Debts and taxes with preference under federal law, and claims pursuant to ss. 409.9101 and 414.28, F.S.
- Class 4.—Reasonable and necessary medical and hospital expenses of the last 60 days of the last illness of the decedent, including compensation of persons attending the decedent.
- Class 5.—Family allowance.
- Class 6.—Arrearage from court-ordered child support.
- Class 7.—Debts acquired after death by the continuation of the decedent's business, in accordance with s. 733.612(22), F.S, but only to the extent of the assets of that business.
- Class 8.—All other claims, including those founded on judgments or decrees rendered against the decedent during the decedent's lifetime, and any excess over the sums allowed as Class 2 or Class 4 expenses.

Suspension of License to Practice upon Conviction of Certain Felonies

The clerk of the court must send a certified copy of a judgment of conviction of any person holding a license, permit, or certificate issued by a state agency, to the head of the licensing

¹⁷ Section 668.50(2), F.S., defines an “Electronic record” as “a record created, generated, sent, communicated, received, or stored by electronic means.” An “Electronic signature” is defined as “an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.” A “Transaction” is defined as “an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, insurance, or governmental affairs.”

agency when such conviction is for a felony offense of selling, trafficking, or conspiracy to sell or traffic in a controlled substance.¹⁸ The certified copy of the judgment must show the person's license number, permit number, or certificate number on the face of the document. The agency head must suspend or revoke the license, permit, or certificate of the convicted defendant to practice his or her profession or to carry on his or her business.

Costs of Prosecution and Investigation

Section 938.27(2)(a), F.S., requires a court to impose costs of prosecution and investigation notwithstanding a defendant's present inability to pay. These costs are to be paid within a specified period or in specified installments. Section 28.246, F.S., provides for a monthly payment plan. The court may review the reasonableness of the payment plan.

Financial Obligations in Criminal Cases

A judgment lien generally refers to a lien against property that is based on an underlying monetary judgment. A judgment lien on real property is created and perfected upon the recording of a certified copy of a judgment in the official county records. Under s. 55.10, F.S., the judgment shall be a lien for an initial period of 10 years from the date of the recording. A lien may be extended for an additional 10 years by re-recording a certified copy of the judgment prior to the expiration of the lien and by simultaneously recording an affidavit with the current address of the person who has a lien as a result of the judgment. Section 55.081, F.S., provides that a judgment lien on real property can be effective for up to 20 years from the date the judgment was entered.

Parole and Fines, Costs, and Restitution

Section 947.181, F.S., provides that the Parole Commission must require restitution to the victim as a condition of parole unless the commission states reasons on the record for not ordering it. The amount of restitution is determined by the commission unless restitution has previously been ordered by the court under s. 775.089, F.S. Court ordered restitution must be made a condition of parole. If a parolee fails to make restitution as ordered it is considered a violation of parole and may be cause for revocation of parole.

Section 775.089(3)(a), F.S., provides that the court may require that the defendant make restitution within a specified period or in specified installments. Section 775.089(3)(b), F.S., provides that the end of such period or the last installment for restitution shall be no later than:

- The end of the period of probation if probation is ordered;
- Five years after the end of the term of imprisonment imposed if the court does not order probation; or
- Five years after the date of sentencing in any other case.

III. Effect of Proposed Changes:

Section 1. Amends s. 24.115, F.S., to require the Department of the Lottery to use the Comprehensive Case Information System of the Florida Association of Court Clerks and

¹⁸ Section 893.11, F.S.

Comptrollers, Inc.,¹⁹ to determine whether a prize winner owes outstanding fines, fees, or court costs to the state, before it may pay a prize of \$600 or more. According to the Florida Association of Court Clerks, there is no charge for the department to use the CCIS.

Section 2. Amends s. 27.52, F.S., to provide that the clerk of the court may, instead of must, conduct a review of the property records for the county in which the applicant resides and the motor vehicle title records to identify any property interests of the applicant for a determination of indigent status for an appointment of a public defender. If a review is completed, the clerk must maintain the results of the review in a file with the application and provide the file to the court if the applicant seeks review of the clerk's determination of indigent status.

Section 3. Amends s. 28.24, F.S., to delete a requirement that all clerks must participate in the CCIS on or before January 1, 2006.

Section 4. Creates s. 28.2405, F.S., to provide that all clerks of the circuit court shall participate in the CCIS and shall submit electronic case data to the system based on the case types designated by the Supreme Court.

Section 5. Amends s. 28.241, F.S., to provide that circuit court filing fees are due at the time a party files a pleading to initiate a proceeding or files a pleading for relief, and reopen fees are due at the time a party files a pleading to reopen a proceeding. If a fee is not paid upon the filing of the pleading, the clerk shall pursue collection of the fee pursuant to s. 28.246, F.S.

The section provides a revised definition for when a case is "reopened." The CS provides that a case is reopened after all appeals have been exhausted or time to file an appeal from a final order or final judgment has expired. A reopen fee may not be assessed by the clerk for any motion filed by any party until 90 days after a final order or final judgment has been filed with the clerk. When the case has been reopened, an additional reopen fee may not be assessed until the reopened matter is resolved. A reservation of jurisdiction by a court does not cause a case to remain open for purposes of this section or exempt a party from paying a reopen fee. The CS provides two additional circumstances for when a party is not required to pay the fee to reopen a case to include motions to enforce stipulations or motions for contempt.

The CS provides that the clerk of court shall collect a service charge of \$10 for issuing an original, a certified copy, or an electronic certified copy of a summons.

Section 6. Amends s. 28.37, F.S., to provide that except for penalties or fines distributed to counties or municipalities under ss. 316.0083(1)(b)3. or 318.18(15)(a), F.S., 10 percent of all court-related fines collected by the clerk must be deposited into the clerk's Public Records Modernization Trust Fund.

¹⁹ The objective of the CCIS is to provide a single statewide electronic access point for court case information maintained by the Florida Clerks of Court. See <https://flcyc.cyciss.org/sites/default/files/cyciss/flcyc/CCIS%20level%20details.pdf> (Last visited February 6, 2012).

Section 7. Amends s. 34.041, F.S., to provide that all county court filing and reopen fees shall be paid by the party filing the case at the time the case is filed. If the fee is not paid at that time, the clerk shall pursue collection of these filing fees pursuant to s. 28.246, F.S.

The CS provides that the clerk of the county court shall collect a service charge of \$10 for issuing a summons or an electronic certified copy of a summons. The section provides a revised definition for when a case is “reopened.” The definition is the same as in section 5 of this CS but applies to county courts. The CS provides that a case is reopened after all appeals have been exhausted or time to file an appeal from a final order or final judgment has expired. A reopen fee may not be assessed by the clerk for any motion filed by any party under 90 days after a final order or final judgment has been filed with the clerk. When the case has been reopened, an additional reopen fee may not be assessed until the reopened matter is resolved. A reservation of jurisdiction by a court does not cause a case to remain open for purposes of this section. The CS provides two additional circumstances for when a party is not required to pay the fee to reopen a case to include motions to enforce stipulations or motions for contempt.

Section 8. Amends s. 40.011, F.S., to provide that a clerk of the court shall generate a set of juror candidate lists derived from the source lists described in s. 40.01, F.S. The source lists and the juror candidate list must be maintained as specified in ch. 40, F.S., and in accordance with the juror selection plan approved in s. 40.225, F.S.

The CS provides that in addition to the list of licensed drivers and identification card holders, the clerk of the circuit court must add to the list of jurors the name of any person who is at least 18 years of age or older and who is a citizen of the United States and resident of this state if the person desires to be a juror.

The CS provides that a clerk of the court may generate juror candidate lists as necessary to ensure a valid and consistent juror selection process. The initial juror candidate list is derived from the name sources described in s. 40.01, F.S., which must be the master list from which prospective jurors are drawn for summons. The final juror candidate list must contain a list of those persons, drawn from the initial candidate list as prescribed in ch. 40, F.S., who are to be summoned as a pool for possible juror service.

Section 9. Amends s. 40.02, F.S., to delete the requirement that the chief judge of each circuit must request the selection of a jury list in each county within the first week of January of each year, or as soon as practicable thereafter. Instead, the bill provides that the chief judge or designee must direct the clerk of the court to select, by lot and at random, a sufficient number of names from the initial juror candidate list of not fewer than 250 persons to serve as jurors as provided for in s. 40.221, F.S.

The CS provides that the final juror candidate list may be created, updated, or supplemented as often as necessary to prevent the selection list from being exhausted, but in no case less than annually during the first week of January of each year, or as soon as practicable thereafter. The CS provides that the circuit judge may also request that the final juror candidate list be updated or supplemented, or that a new list be created as necessary.

Section 10. Amends s. 40.022, F.S., to provide that each clerk of the circuit court must, upon receipt of the list of persons in the department database from the Department of Highway Safety and Motor Vehicles, purge the final juror candidate lists of, at a minimum, the names of those persons adjudicated mentally incompetent, convicted of a felony, or deceased. The CS provides that this purge is necessary to ensure that the juror candidate summons satisfy the requirements of ss. 40.01 and 40.013, F.S.

Section 11. Amends s. 40.221, F.S., to provide that a clerk of the court, under supervision of a judge of any court, must, in a manner deemed to produce a result by lot and at random, select from the final juror candidate list such number of persons as he or she deems necessary for a jury venire.

Section 12. Amends s. 40.225, F.S., to remove the alternative method for drawing jury venire. The CS provides that the chief judge of each circuit must review and consent to the process for selecting juror candidate within his or her circuit. The clerk of the court must implement an automated electronic system as the exclusive method for maintaining the names of prospective jurors and other data for the purpose of drawing juror candidates. The clerk of the circuit in each county must have the administrative responsibility for developing the automated system of jury venire selection, obtaining approval for the juror candidate selection process, and operating and updated the system in accordance with ch. 40, F.S., and the technical standards and procedures adopted by the Chief Justice.

The CS provides that the clerk of the court, or the chief judge of the circuit if performing the duties of juror candidate selection, must submit for approval a plan for the selection of juror candidates to the Chief Justice.

Section 13. Amends s. 45.035, F.S., relating to judicial sales procedures. The CS provides that if the sale is rescheduled for any reason, the plaintiff must pay a rescheduling fee of \$70 to the clerk on each occasion the sale is rescheduled. The plaintiff must pay this fee to the court before the sale.

Section 14. Amends s. 57.081, F.S., to reword the provision that a party who has obtained a certification of indigence pursuant to s. 27.52, F.S.,²⁰ or s. 57.082, F.S.,²¹ is not required to prepay costs, filing fees, or charges for issuance of a summons.

Section 15. Amends s. 95.11, F.S., to extend the statute of limitations for the collection of court costs or fines owed to the state. The CS provides that such an action may be commenced at any time.

Section 16. Amends s. 112.3173, F.S., to provide that the clerk of the court in a proceeding involving a specified offense being conducted against a public officer or employee must provide notice of the proceeding to the Commission on Ethics *after* the state attorney advises the clerk that the defendant is a public officer or employee and that the defendant is alleged to have committed a qualifying offense.

²⁰ Section 27.52, F.S., provides criteria for determining criminal indigency status.

²¹ Section 57.082, F.S., provides criteria for the clerk to determine if a civil litigant is indigent.

Section 17. Amends s. 318.18, F.S., to provide that a community service agency which supervises community service hours that submits the required data concerning hours and days worked to the clerk of the court on the letterhead of the community service agency, must bear the notarized signature of the person designated to represent the community service agency.

Section 18. Amends s. 668.50, F.S., related to the Uniform Electronic Transaction Act. The CS provides that the Uniform Electronic Transaction Act does apply to rules relating to judicial procedure, except with respect to subsections (2), (9), and (11), of s. 668.50, F.S., to the extent the transaction is governed by rules relating to judicial procedure.²²

Section 19. Amends s. 773.707, F.S., to add claims in favor of the state for unpaid court costs, fees, or fines, to a Class 3 debt for purposes of classification for the order of payments due from a decedent's estate.

Section 20. Amends s. 893.11, F.S., to restate that a state agency must immediately suspend the business or professional license of a person licensed by the agency if that person is convicted of a felony for the sale of, or trafficking in, a controlled substance or for the conspiracy to sell, or traffic in, a controlled substance. The CS provides that a state agency that renews a business or professional license must use the CCIS to obtain information relating to the conviction. The clerk of the court must provide a certified copy of the judgment upon request to the agency, rather than automatically upon conviction of the person. The CS provides that the term "business or professional license" includes any license, permit, or certificate that authorizes a person to practice his or her profession or to carry on his or her business.

Section 21. Amends s. 938.27, F.S., to provide that a court must require the defendant to pay the costs of prosecution and investigation pursuant to a payment plan under s. 28.246(4), F.S., rather than installments specified by the court.

Section 22. Amends s. 938.30, F.S., to provide that if a criminal or civil judgment has previously been entered on a court-imposed financial obligation, the judgment constitutes a civil lien against the judgment debtor's presently owned or after-acquired real or personal property when recorded pursuant to s. 55.10, F.S., except that a judgment on a court-imposed financial obligation is not subject to the 10-year re-recording requirement of s. 55.10, F.S. The judgment must secure all unpaid court-imposed financial obligations that are due and may accrue subsequent to the recording of the judgment, as well as interest and reasonable costs for issuing a satisfaction and recording of the satisfaction in the official records.

The CS provides that the clerk must enforce, satisfy, compromise, settle, subordinate, release, or otherwise dispose of any debts or liens imposed and collected under s. 938.30, F.S., in the same manner as prescribed in s. 938.29(3), F.S., relating to indigent criminal defense fees and costs.

²² Subsection (2) provides definitions, subsection (9) provides the effect of an electronic signature, and subsection (11) provides how an electronic signature is notarized or acknowledged.

Section 23. Amends s. 947.181, F.S., to rename the section “Fines, fees, restitution, or other costs ordered to be paid by a court as conditions of parole.”²³ The CS provides that the Parole Commission must require the payment of fines, fees, restitution, or other court-ordered costs as condition of parole unless the commission finds reasons to the contrary. If the commission does not require payment of fines, fees, restitution, or other court-ordered costs, or requires partial payment, the commission must state on the record the reasons for its decision. Failure of a parolee to make the above payments must be considered by the commission as a violation of parole. The CS provides that restitution to the aggrieved party for injury, damage, or loss caused by the offense for which the parolee was imprisoned must have first priority in the payment of amounts owed under s. 947.181, F.S.

The CS deletes the provision that required the commission to revoke parole if the parolee failed to make restitution payments, but maintains current law that the commission must consider the defendant’s employment status, earning ability, financial resources, willfulness of the defendant’s failure to pay, and other special circumstances that may have bearing on the defendant’s ability to pay prior to revoking parole.

Section 24. Provides that this act shall take effect on July 1, 2012.

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:

This CS adds additional fees for services provided by the Clerks of the Court.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

²³ Section 947.181, F.S., currently relates only to “victim restitution as condition of parole.”

According to the Department of the Lottery, this CS would impose an additional step in the process for determining state owed debt prior to awarding any prize greater than \$600. The impact for this additional process has not been determined by the department.

According to the Florida Association of Court Clerks, the CS provides for increased efficiencies in day-to-day office operations for the clerks and should result in an indeterminate, positive fiscal impact.

According to the Office of the State Courts Administrator, the CS will likely have a minimal fiscal impact on expenditures of the State Court Systems. However, the Office of State Courts Administrator indicated that the more narrowly drawn definition for when a case is “reopened” may result in a reduction of the amount of revenues that are generated from reopening cases.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Regulated Industries on February 7, 2012:

The CS provides that except for penalties or fines distributed to counties, 10 percent of all court-related fines collected by the clerk must be deposited into the clerk’s Public Records Modernization Trust Fund. The CS adds sections 8-12 of the bill to amend ch. 40, F.S., to be consistent with modern practices and current procedures concerning jury legislation. The CS provides that licensing agencies must use the CCIS when renewing a license to obtain conviction information. The CS clarifies that payment of restitution takes priority over payment of court costs. The CS deletes the requirement in the original bill for circuit and county courts to require a prisoner to make monthly payments of at least 20 percent of the balance of the prisoner’s trust account as payment of the court costs while imprisoned. The CS amends the effective date of the act.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2012	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (4) of section 24.115, Florida
Statutes, is amended to read:

24.115 Payment of prizes.—

(4) (a) It is the responsibility of the appropriate state
agency and of the judicial branch to identify to the department,
in the form and format prescribed by the department, persons
owing an outstanding debt to any state agency or owing child
support collected through a court, including spousal support or



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13 alimony for the spouse or former spouse of the obligor if the
14 child support obligation is being enforced by the Department of
15 Revenue.

16 (b) Notwithstanding paragraph (a), the department must use
17 the Comprehensive Case Information System of the Florida
18 Association of Court Clerks and Comptroller, Inc., to determine
19 whether a prize winner owes outstanding fines, fees, or court
20 costs to the state before it may pay a prize of \$600 or more.

21 (c) Before ~~Prior to~~ the payment of a prize of \$600 or more
22 to any claimant having such an outstanding obligation, the
23 department shall transmit the amount of the debt to the agency
24 claiming the debt or owed the debt as shown on the Comprehensive
25 Case Information System and shall authorize payment of the
26 balance to the prize winner after deduction of the debt. If a
27 prize winner owes multiple debts subject to offset under this
28 subsection and the prize is insufficient to cover all such
29 debts, the amount of the prize shall be transmitted first to the
30 agency claiming that past due child support is owed. If a
31 balance of lottery prize remains after payment of past due child
32 support, the remaining lottery prize amount shall be transmitted
33 to other agencies owed ~~claiming~~ debts ~~owed to the state~~, pro
34 rata, based upon the ratio of the individual debt to the
35 remaining debt owed to the state.

36 Section 2. Paragraph (a) of subsection (2) of section
37 27.52, Florida Statutes, is amended to read:

38 27.52 Determination of indigent status.—

39 (2) DETERMINATION BY THE CLERK.—The clerk of the court
40 shall determine whether an applicant seeking appointment of a
41 public defender is indigent based upon the information provided



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42 in the application and the criteria prescribed in this
43 subsection.

44 (a)1. An applicant, including an applicant who is a minor
45 or an adult tax-dependent person, is indigent if the applicant's
46 income is equal to or below 200 percent of the then-current
47 federal poverty guidelines prescribed for the size of the
48 household of the applicant by the United States Department of
49 Health and Human Services or if the person is receiving
50 Temporary Assistance for Needy Families-Cash Assistance,
51 poverty-related veterans' benefits, or Supplemental Security
52 Income (SSI).

53 2.a. There is a presumption that the applicant is not
54 indigent if the applicant owns, or has equity in, any intangible
55 or tangible personal property or real property or the expectancy
56 of an interest in any such property having a net equity value of
57 \$2,500 or more, excluding the value of the person's homestead
58 and one vehicle having a net value not exceeding \$5,000.

59 b. Notwithstanding the information that the applicant
60 provides, the clerk may ~~shall~~ conduct a review of the property
61 records for the county in which the applicant resides and the
62 motor vehicle title records of the state to identify any
63 property interests of the applicant under this subparagraph. The
64 clerk may ~~shall~~ evaluate and consider the results of the review
65 in making a determination under this subsection. If the review
66 is completed by the clerk, the clerk shall maintain the results
67 of the review in a file with the application and provide the
68 file to the court if the applicant seeks review under subsection
69 (4) of the clerk's determination of indigent status.

70 Section 3. Paragraph (e) of subsection (12) of section



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71 28.24, Florida Statutes, is amended to read:

72 28.24 Service charges by clerk of the circuit court.—The
73 clerk of the circuit court shall charge for services rendered by
74 the clerk's office in recording documents and instruments and in
75 performing the duties enumerated in amounts not to exceed those
76 specified in this section. Notwithstanding any other provision
77 of this section, the clerk of the circuit court shall provide
78 without charge to the state attorney, public defender, guardian
79 ad litem, public guardian, attorney ad litem, criminal conflict
80 and civil regional counsel, and private court-appointed counsel
81 paid by the state, and to the authorized staff acting on behalf
82 of each, access to and a copy of any public record, if the
83 requesting party is entitled by law to view the exempt or
84 confidential record, as maintained by and in the custody of the
85 clerk of the circuit court as provided in general law and the
86 Florida Rules of Judicial Administration. The clerk of the
87 circuit court may provide the requested public record in an
88 electronic format in lieu of a paper format when capable of
89 being accessed by the requesting entity.

90
91 Charges

92
93 (12) For recording, indexing, and filing any instrument not
94 more than 14 inches by 8 1/2 inches, including required notice
95 to property appraiser where applicable:

96 (e) An additional service charge of \$4 per page shall be
97 paid to the clerk of the circuit court for each instrument
98 listed in s. 28.222, except judgments received from the courts
99 and notices of lis pendens, recorded in the official records.



100 From the additional \$4 service charge collected:
101 1. If the counties maintain legal responsibility for the
102 costs of the court-related technology needs as defined in s.
103 29.008(1)(f)2. and (h), 10 cents shall be distributed to the
104 Florida Association of Court Clerks and Comptroller, Inc., for
105 the cost of development, implementation, operation, and
106 maintenance of the clerks' Comprehensive Case Information
107 System, ~~in which system all clerks shall participate on or~~
108 ~~before January 1, 2006~~; \$1.90 shall be retained by the clerk to
109 be deposited in the Public Records Modernization Trust Fund and
110 used exclusively for funding court-related technology needs of
111 the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall
112 be distributed to the board of county commissioners to be used
113 exclusively to fund court-related technology, and court
114 technology needs as defined in s. 29.008(1)(f)2. and (h) for the
115 state trial courts, state attorney, public defender, and
116 criminal conflict and civil regional counsel in that county. If
117 the counties maintain legal responsibility for the costs of the
118 court-related technology needs as defined in s. 29.008(1)(f)2.
119 and (h), notwithstanding any other provision of law, the county
120 is not required to provide additional funding beyond that
121 provided herein for the court-related technology needs of the
122 clerk as defined in s. 29.008(1)(f)2. and (h). All court records
123 and official records are the property of the State of Florida,
124 including any records generated as part of the Comprehensive
125 Case Information System funded pursuant to this paragraph and
126 the clerk of court is designated as the custodian of such
127 records, except in a county where the duty of maintaining
128 official records exists in a county office other than the clerk



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129 of court or comptroller, such county office is designated the
130 custodian of all official records, and the clerk of court is
131 designated the custodian of all court records. The clerk of
132 court or any entity acting on behalf of the clerk of court,
133 including an association, shall not charge a fee to any agency
134 as defined in s. 119.011, the Legislature, or the State Court
135 System for copies of records generated by the Comprehensive Case
136 Information System or held by the clerk of court or any entity
137 acting on behalf of the clerk of court, including an
138 association.

139 2. If the state becomes legally responsible for the costs
140 of court-related technology needs as defined in s.
141 29.008(1)(f)2. and (h), whether by operation of general law or
142 by court order, \$4 shall be remitted to the Department of
143 Revenue for deposit into the General Revenue Fund.

144 Section 4. Section 28.2405, Florida Statutes, is created to
145 read:

146 28.2405 Comprehensive Case Information System.—All clerks
147 of the circuit court shall participate in the Comprehensive Case
148 Information System of the Florida Association of Clerks and
149 Comptroller, Inc., and shall submit electronic case data to the
150 system based on the case types designated by the Supreme Court.

151 Section 5. Subsection (1) of section 28.241, Florida
152 Statutes, is amended to read:

153 28.241 Filing fees for trial and appellate proceedings.—

154 (1) Filing fees are due at the time a party files a
155 pleading to initiate a proceeding or files a pleading for
156 relief. Reopen fees are due at the time a party files a pleading
157 to reopen a proceeding if at least 90 days have elapsed since



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158 the filing of a final order or final judgment with the clerk. If
159 a fee is not paid upon the filing of the pleading as required
160 under this section, the clerk shall pursue collection of the fee
161 pursuant to s. 28.246.

162 (a)1.a. Except as provided in sub-subparagraph b. and
163 subparagraph 2., the party instituting any civil action, suit,
164 or proceeding in the circuit court shall pay to the clerk of
165 that court a filing fee of up to \$395 in all cases in which
166 there are not more than five defendants and an additional filing
167 fee of up to \$2.50 for each defendant in excess of five. Of the
168 first \$280 in filing fees, \$80 must be remitted by the clerk to
169 the Department of Revenue for deposit into the General Revenue
170 Fund, \$195 must be remitted to the Department of Revenue for
171 deposit into the State Courts Revenue Trust Fund, \$3.50 must be
172 remitted to the Department of Revenue for deposit into the
173 Clerks of the Court Trust Fund within the Justice Administrative
174 Commission and used to fund the Florida Clerks of Court
175 Operations Corporation created in s. 28.35, and \$1.50 shall be
176 remitted to the Department of Revenue for deposit into the
177 Administrative Trust Fund within the Department of Financial
178 Services to fund clerk budget reviews conducted by the
179 Department of Financial Services. One third of any filing fees
180 collected by the clerk of the circuit court in excess of \$100
181 shall be remitted to the Department of Revenue for deposit into
182 the Clerks of the Court Trust Fund within the Justice
183 Administrative Commission.

184 b. The party instituting any civil action, suit, or
185 proceeding in the circuit court under chapter 39, chapter 61,
186 chapter 741, chapter 742, chapter 747, chapter 752, or chapter



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187 753 shall pay to the clerk of that court a filing fee of up to
188 \$295 in all cases in which there are not more than five
189 defendants and an additional filing fee of up to \$2.50 for each
190 defendant in excess of five. Of the first \$180 in filing fees,
191 \$80 must be remitted by the clerk to the Department of Revenue
192 for deposit into the General Revenue Fund, \$95 must be remitted
193 to the Department of Revenue for deposit into the State Courts
194 Revenue Trust Fund, \$3.50 must be remitted to the Department of
195 Revenue for deposit into the Clerks of the Court Trust Fund
196 within the Justice Administrative Commission and used to fund
197 the Florida Clerks of Court Operations Corporation created in s.
198 28.35, and \$1.50 shall be remitted to the Department of Revenue
199 for deposit into the Administrative Trust Fund within the
200 Department of Financial Services to fund clerk budget reviews
201 conducted by the Department of Financial Services.

202 c. An additional filing fee of \$4 shall be paid to the
203 clerk. The clerk shall remit \$3.50 to the Department of Revenue
204 for deposit into the Court Education Trust Fund and shall remit
205 50 cents to the Department of Revenue for deposit into the
206 Clerks of the Court Trust Fund within the Justice Administrative
207 Commission to fund clerk education. An additional filing fee of
208 up to \$18 shall be paid by the party seeking each severance that
209 is granted. The clerk may impose an additional filing fee of up
210 to \$85 for all proceedings of garnishment, attachment, replevin,
211 and distress. Postal charges incurred by the clerk of the
212 circuit court in making service by certified or registered mail
213 on defendants or other parties shall be paid by the party at
214 whose instance service is made. ~~No~~ Additional fees, charges, or
215 costs may not ~~shall~~ be added to the filing fees imposed under



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216 this section, except as authorized in this section or by general
217 law.

218 2.a. Notwithstanding the fees prescribed in subparagraph
219 1., a party instituting a civil action in circuit court relating
220 to real property or mortgage foreclosure shall pay a graduated
221 filing fee based on the value of the claim.

222 b. A party shall estimate in writing the amount in
223 controversy of the claim upon filing the action. For purposes of
224 this subparagraph, the value of a mortgage foreclosure action is
225 based upon the principal due on the note secured by the
226 mortgage, plus interest owed on the note and any moneys advanced
227 by the lender for property taxes, insurance, and other advances
228 secured by the mortgage, at the time of filing the foreclosure.
229 The value shall also include the value of any tax certificates
230 related to the property. In stating the value of a mortgage
231 foreclosure claim, a party shall declare in writing the total
232 value of the claim, as well as the individual elements of the
233 value as prescribed in this sub-subparagraph.

234 c. In its order providing for the final disposition of the
235 matter, the court shall identify the actual value of the claim.
236 The clerk shall adjust the filing fee if there is a difference
237 between the estimated amount in controversy and the actual value
238 of the claim and collect any additional filing fee owed or
239 provide a refund of excess filing fee paid.

240 d. The party shall pay a filing fee of:

241 (I) Three hundred and ninety-five dollars in all cases in
242 which the value of the claim is \$50,000 or less and in which
243 there are not more than five defendants. The party shall pay an
244 additional filing fee of up to \$2.50 for each defendant in



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245 excess of five. Of the first \$280 in filing fees, \$80 must be
246 remitted by the clerk to the Department of Revenue for deposit
247 into the General Revenue Fund, \$195 must be remitted to the
248 Department of Revenue for deposit into the State Courts Revenue
249 Trust Fund, \$3.50 must be remitted to the Department of Revenue
250 for deposit into the Clerks of the Court Trust Fund within the
251 Justice Administrative Commission and used to fund the Florida
252 Clerks of Court Operations Corporation created in s. 28.35, and
253 \$1.50 shall be remitted to the Department of Revenue for deposit
254 into the Administrative Trust Fund within the Department of
255 Financial Services to fund clerk budget reviews conducted by the
256 Department of Financial Services;

257 (II) Nine hundred dollars in all cases in which the value
258 of the claim is more than \$50,000 but less than \$250,000 and in
259 which there are not more than five defendants. The party shall
260 pay an additional filing fee of up to \$2.50 for each defendant
261 in excess of five. Of the first \$785 in filing fees, \$80 must be
262 remitted by the clerk to the Department of Revenue for deposit
263 into the General Revenue Fund, \$700 must be remitted to the
264 Department of Revenue for deposit into the State Courts Revenue
265 Trust Fund, \$3.50 must be remitted to the Department of Revenue
266 for deposit into the Clerks of the Court Trust Fund within the
267 Justice Administrative Commission and used to fund the Florida
268 Clerks of Court Operations Corporation described in s. 28.35,
269 and \$1.50 shall be remitted to the Department of Revenue for
270 deposit into the Administrative Trust Fund within the Department
271 of Financial Services to fund clerk budget reviews conducted by
272 the Department of Financial Services; or

273 (III) One thousand nine hundred dollars in all cases in



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274 which the value of the claim is \$250,000 or more and in which
275 there are not more than five defendants. The party shall pay an
276 additional filing fee of up to \$2.50 for each defendant in
277 excess of five. Of the first \$1,785 in filing fees, \$80 must be
278 remitted by the clerk to the Department of Revenue for deposit
279 into the General Revenue Fund, \$1,700 must be remitted to the
280 Department of Revenue for deposit into the State Courts Revenue
281 Trust Fund, \$3.50 must be remitted to the Department of Revenue
282 for deposit into the Clerks of the Court Trust Fund within the
283 Justice Administrative Commission to fund the Florida Clerks of
284 Court Operations Corporation created in s. 28.35, and \$1.50
285 shall be remitted to the Department of Revenue for deposit into
286 the Administrative Trust Fund within the Department of Financial
287 Services to fund clerk budget reviews conducted by the
288 Department of Financial Services.

289 e. An additional filing fee of \$4 shall be paid to the
290 clerk. The clerk shall remit \$3.50 to the Department of Revenue
291 for deposit into the Court Education Trust Fund and shall remit
292 50 cents to the Department of Revenue for deposit into the
293 Clerks of the Court Trust Fund within the Justice Administrative
294 Commission to fund clerk education. An additional filing fee of
295 up to \$18 shall be paid by the party seeking each severance that
296 is granted. The clerk may impose an additional filing fee of up
297 to \$85 for all proceedings of garnishment, attachment, replevin,
298 and distress. Postal charges incurred by the clerk of the
299 circuit court in making service by certified or registered mail
300 on defendants or other parties shall be paid by the party at
301 whose instance service is made. ~~No~~ Additional fees, charges, or
302 costs may not ~~shall~~ be added to the filing fees imposed under



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303 this section, except as authorized in this section or by general
304 law.

305 (b) A party reopening any civil action, suit, or proceeding
306 in the circuit court shall pay to the clerk of court a filing
307 fee set by the clerk in an amount not to exceed \$50. For
308 purposes of this section, a case is reopened after all appeals
309 have been exhausted or time to file an appeal from a final order
310 or final judgment has expired. A reopen fee may be assessed by
311 the clerk for any motion filed by any party at least 90 days
312 after a final order or final judgment has been filed with the
313 clerk in the initial case. A reservation of jurisdiction by a
314 court does not cause a case to remain open for purposes of this
315 section or exempt a party from paying a reopen fee ~~when a case~~
316 ~~previously reported as disposed of is resubmitted to a court and~~
317 ~~includes petitions for modification of a final judgment of~~
318 ~~dissolution.~~ A party is exempt from paying the fee for any of
319 the following:

- 320 1. A writ of garnishment;
- 321 2. A writ of replevin;
- 322 3. A distress writ;
- 323 4. A writ of attachment;
- 324 5. A motion for rehearing filed within 10 days;
- 325 6. A motion for attorney's fees filed within 30 days after
326 entry of a judgment or final order;
- 327 7. A motion for dismissal filed after a mediation agreement
328 has been filed;
- 329 8. A disposition of personal property without
330 administration;
- 331 9. Any probate case prior to the discharge of a personal



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- 332 representative;
- 333 10. Any guardianship pleading prior to discharge;
- 334 11. Any mental health pleading;
- 335 12. Motions to withdraw by attorneys;
- 336 13. Motions exclusively for the enforcement of child
- 337 support orders;
- 338 14. A petition for credit of child support;
- 339 15. A Notice of Intent to Relocate and any order issuing as
- 340 a result of an uncontested relocation;
- 341 16. Stipulations and motions to enforce stipulations;
- 342 17. Responsive pleadings; ~~or~~
- 343 18. Cases in which there is no initial filing fee; or
- 344 19. Motions for contempt.

345 (c)1. A party in addition to a party described in sub-

346 subparagraph (a)1.a. who files a pleading in an original civil

347 action in circuit court for affirmative relief by cross-claim,

348 counterclaim, counterpetition, or third-party complaint shall

349 pay the clerk of court a fee of \$395. A party in addition to a

350 party described in sub-subparagraph (a)1.b. who files a pleading

351 in an original civil action in circuit court for affirmative

352 relief by cross-claim, counterclaim, counterpetition, or third-

353 party complaint shall pay the clerk of court a fee of \$295. The

354 clerk shall remit the fee to the Department of Revenue for

355 deposit into the General Revenue Fund.

356 2. A party in addition to a party described in subparagraph

357 (a)2. who files a pleading in an original civil action in

358 circuit court for affirmative relief by cross-claim,

359 counterclaim, counterpetition, or third-party complaint shall

360 pay the clerk of court a graduated fee of:



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361 a. Three hundred and ninety-five dollars in all cases in
362 which the value of the pleading is \$50,000 or less;

363 b. Nine hundred dollars in all cases in which the value of
364 the pleading is more than \$50,000 but less than \$250,000; or

365 c. One thousand nine hundred dollars in all cases in which
366 the value of the pleading is \$250,000 or more.

367

368 The clerk shall remit the fees collected under this
369 subparagraph to the Department of Revenue for deposit into the
370 General Revenue Fund, except that the clerk shall remit \$100 of
371 the fee collected under sub-subparagraph a., \$605 of the fee
372 collected under sub-subparagraph b., and \$1,605 of the fee
373 collected under sub-subparagraph c. to the Department of Revenue
374 for deposit into the State Courts Revenue Trust Fund.

375 (d) The clerk of court shall collect a service charge of
376 \$10 for issuing an original, a certified copy, or an electronic
377 certified copy of a summons. The clerk shall assess the fee
378 against the party seeking to have the summons issued.

379 Section 6. Subsection (2) of section 28.37, Florida
380 Statutes, is amended to read:

381 28.37 Fines, fees, service charges, and costs remitted to
382 the state.—

383 (2) Except as otherwise provided in ss. 28.241 and 34.041,
384 all court-related fines, fees, service charges, and costs are
385 considered state funds and shall be remitted by the clerk to the
386 Department of Revenue for deposit into the Clerks of the Court
387 Trust Fund within the Justice Administrative Commission.

388 However, 10 percent of all court-related fines collected by the
389 clerk, except for penalties or fines distributed to counties or



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390 municipalities under s. 316.0083(1)(b)3. or s. 318.18(15)(a),
391 shall be deposited into the clerk's Public Records Modernization
392 Trust Fund to be used exclusively for additional clerk court-
393 related operational needs and program enhancements.

394 Section 7. Paragraphs (a) and (d) of subsection (1) and
395 subsection (2) of section 34.041, Florida Statutes, are amended
396 to read:

397 34.041 Filing fees.—

398 (1)(a) Filing fees are due at the time a party files a
399 pleading to initiate a proceeding or files a pleading for
400 relief. Reopen fees are due at the time a party files a pleading
401 to reopen a proceeding if at least 90 days have elapsed since
402 the filing of a final order or final judgment with the clerk. If
403 a fee is not paid upon the filing of the pleading as required
404 under this section, the clerk shall pursue collection of the fee
405 pursuant to s. 28.246. Upon the institution of any civil action,
406 suit, or proceeding in county court, the party shall pay the
407 following filing fee, not to exceed:

- 408 1. For all claims less than \$100 \$50.
- 409 2. For all claims of \$100 or more but not more than \$500
410 \$75.
- 411 3. For all claims of more than \$500 but not more than
412 \$2,500 \$170.
- 413 4. For all claims of more than \$2,500 \$295.
- 414 5. In addition, for all proceedings of garnishment,
415 attachment, replevin, and distress \$85.
- 416 6. Notwithstanding subparagraphs 3. and 5., for all claims
417 of not more than \$1,000 filed simultaneously with an action for
418 replevin of property that is the subject of the claim \$125.



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419 7. For removal of tenant action \$180.

420
421 The filing fee in subparagraph 6. is the total fee due
422 under this paragraph for that type of filing, and no other
423 filing fee under this paragraph may be assessed against such a
424 filing.

425 (d) The clerk of court shall collect a service charge of
426 \$10 for issuing a summons or an electronic certified copy of a
427 summons. The clerk shall assess the fee against the party
428 seeking to have the summons issued.

429 (2) A party reopening any civil action, suit, or proceeding
430 in the county court shall pay to the clerk of court a filing fee
431 set by the clerk in an amount not to exceed \$25 for all claims
432 of not more than \$500 and an amount not to exceed \$50 for all
433 claims of more than \$500. For purposes of this section, a case
434 is reopened after all appeals have been exhausted, or time to
435 file an appeal from a final order or final judgment has expired.
436 A reopen fee may be assessed by the clerk for any motion filed
437 by any party at least 90 days after a final order or final
438 judgment has been filed with the clerk in the initial case. A
439 reservation of jurisdiction by a court does not cause a case to
440 remain open for purposes of this section or exempt a party from
441 paying a reopen fee when a case previously reported as disposed
442 of is resubmitted to a court. A party is exempt from paying the
443 fee for any of the following:

- 444 (a) A writ of garnishment;
- 445 (b) A writ of replevin;
- 446 (c) A distress writ;
- 447 (d) A writ of attachment;



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- 448 (e) A motion for rehearing filed within 10 days;
- 449 (f) A motion for attorney's fees filed within 30 days of
450 the entry of the judgment or final order;
- 451 (g) A motion for dismissal filed after a mediation
452 agreement has been filed;
- 453 (h) A motion to withdraw by attorneys;
- 454 (i) Stipulations and motions to enforce stipulations; ~~or~~
455 (j) Responsive pleadings; or
456 (k) Motions for contempt.
- 457 Section 8. Section 40.011, Florida Statutes, is amended to
458 read:
- 459 40.011 Jury lists.—
- 460 (1) A clerk of the court shall generate a set of juror
461 candidate lists derived from the source lists described in s.
462 40.01. The source name lists and the juror candidate lists shall
463 be maintained as specified in this chapter and in accordance
464 with the juror selection plan approved in s. 40.225.
- 465 (2) ~~(1)~~ Pursuant to s. 40.01, the Department of Highway
466 Safety and Motor Vehicles shall deliver quarterly to the clerk
467 of the circuit court in each county a list of names of persons
468 who reside in that county, who are citizens of the United
469 States, who are legal residents of Florida, who are 18 years of
470 age or older, and for whom the department has a driver's license
471 or identification card record.
- 472 (3) The clerk of the circuit court shall add to the list of
473 licensed drivers and identification card holders the name of any
474 person who is 18 years of age or older and who is a citizen of
475 the United States and a legal resident of this state ~~Florida~~ and
476 who indicates a desire to serve as a juror, but whose name does



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477 not appear on the department list, by requiring such person to
478 execute an affidavit at the office of the clerk.

479 (4)~~(2)~~ The affidavit executed pursuant to subsection (3)
480 ~~(1)~~ must be in substantially the following form:

481
482 State of Florida

483
484 I,, do solemnly swear (or affirm) that I am
485 years of age; that I am a citizen of the United States and a
486 legal resident of Florida and County; that I personally
487 make application for jury duty; that I am eligible to serve as a
488 juror under the Constitution and laws of Florida; and that I
489 reside at ...(Address)...

490
491
492(Signature)...

493 Sworn to and subscribed before me this day of,
494 ...(year)...., at County, Florida.

495
496
497 (Signature and title of officer
498 administering oath)

499 (5) Using the source name lists described in subsection
500 (1), a clerk of court may generate juror candidate lists as
501 necessary to ensure a valid and consistent juror selection
502 process.

503 (a) The initial juror candidate list is derived from the
504 name sources, described in subsections (1) and (2), and shall be
505 the master list from which prospective jurors are drawn for



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506 summons.

507 (b) The final juror candidate list shall contain a list of
508 those persons, drawn from the initial candidate list as
509 prescribed in this chapter, who are to be summoned as a pool for
510 possible juror service.

511 Section 9. Section 40.02, Florida Statutes, is amended to
512 read:

513 40.02 Selection of jury lists.—

514 ~~(1) The chief judge of each circuit, or a circuit judge in~~
515 ~~each county within the circuit who is designated by the chief~~
516 ~~judge, shall request the selection of a jury list in each county~~
517 ~~within the circuit during the first week of January of each~~
518 ~~year, or as soon thereafter as practicable.~~ The chief judge or
519 the chief judge's designee shall direct the clerk of the court
520 to select, by lot and at random, a sufficient number of names,
521 with their addresses, from the initial juror candidate list of
522 persons who are qualified to serve as jurors under the
523 provisions of s. 40.01 and to generate a final juror candidate
524 list of not fewer than 250 persons to serve as jurors as
525 provided for in s. 40.221. The final juror candidate, ~~which~~ list
526 must shall be signed and verified by the clerk of the court as
527 having been selected as aforesaid. The final juror candidate
528 list may be created, updated, or supplemented as often as
529 necessary to prevent the selection list from becoming exhausted,
530 but in no case less than annually during the first week of
531 January of each year, or as soon thereafter as practicable. A
532 circuit judge in a county to which he or she has been assigned
533 may also request that the final juror candidate list be updated
534 or supplemented, or that a new list be created additional jury



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535 ~~lists as necessary to prevent the jury list from becoming~~
536 ~~exhausted.~~

537 (2) When the final juror candidate ~~annual jury~~ list is
538 prepared pursuant to the request of a chief judge or the chief
539 judge's designee, the previously prepared final juror candidate
540 lists ~~prepared the previous year~~ shall be withdrawn from further
541 use. If, notwithstanding this provision, some names are not
542 withdrawn, such error or irregularity shall not invalidate any
543 subsequent proceeding or jury. The fact that any person so
544 selected had been on a former jury list or had served as a juror
545 in any court at any time shall not be grounds for challenge of
546 such person as a juror. If any person so selected shall be
547 ascertained to be disqualified or incompetent to serve as a
548 juror, such disqualification shall not affect the legality of
549 such list or be cause of challenge to the array of any jury
550 chosen from such list, but any person ascertained to be
551 disqualified to serve as a juror shall be subject to challenge
552 for cause, as defined by law. The set of juror candidate lists,
553 although they may be defective or irregular in form or other
554 formal requirement, or in the number or qualification of the
555 persons so named, shall be the lists from which the names of
556 persons for jury service are to be drawn as prescribed by law.

557 (3) ~~(2)~~ The clerk of the court shall be responsible for
558 preserving the security of the source and juror candidate ~~jury~~
559 lists.

560 (4) ~~(3)~~ The clerk of the court shall perform the duties set
561 forth in this section and in ss. 40.221, 40.23, and 40.231 in
562 counties having an approved, computerized jury selection system,
563 the provisions of any special law or general law of local



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564 application to the contrary notwithstanding. However, the chief
565 judge may designate the court administrator to perform these
566 duties if the county provides funding to the court administrator
567 to provide the personnel and other costs associated with jury
568 services.

569 Section 10. Subsection (1) of section 40.022, Florida
570 Statutes, is amended to read:

571 40.022 Clerk to purge jury selection lists; restoration.—

572 (1) To ensure that the juror candidates summoned satisfy
573 the requirements of ss. 40.01 and 40.013, each clerk of the
574 circuit court shall, upon receipt of the list of persons in the
575 department database from the Department of Highway Safety and
576 Motor Vehicles and at least once each month thereafter, purge
577 the final juror candidate jury selection lists of, at a minimum,
578 the names of those persons:

- 579 (a) Adjudicated mentally incompetent;
- 580 (b) Convicted of a felony; or
- 581 (c) Deceased.

582 Section 11. Section 40.221, Florida Statutes, is amended to
583 read:

584 40.221 Drawing jury venire.—A clerk of the court, under
585 supervision of a judge of any court of record, shall, in a
586 manner deemed to produce a result by lot and at random, ~~randomly~~
587 select from the final juror candidate jury list such number of
588 persons as he or she deems necessary or expedient for a jury
589 venire, to be returnable at such time as the judge shall
590 specify, from which such venire or venires any jury may be
591 organized, including a grand jury when drawn by or upon order of
592 a judge of the circuit court. The clerk of the court shall keep



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593 the list in a secure place.

594 Section 12. Section 40.225, Florida Statutes, is amended to
595 read:

596 40.225 Drawing jury venire; ~~alternative method.~~-

597 (1) Pursuant to s. 40.001, the chief judge of each circuit
598 shall review and consent to the process for selecting juror
599 candidates within his or her circuit. The clerk of court shall
600 implement an automated electronic system in which ~~Whenever a~~
601 ~~majority of the judges authorized to conduct jury trials in a~~
602 ~~county consents,~~ the names of prospective jurors and other data
603 pertinent thereto shall be maintained for the purpose of the
604 drawing of juror candidates. This system shall be used as the
605 exclusive method ~~may be fed into a mechanical, electronic, or~~
606 ~~electrical device and drawn therefrom as an alternative to other~~
607 ~~methods~~ authorized by law for obtaining jury venires, if such
608 drawing is by lot and at random and is approved by the Supreme
609 Court as hereinafter provided. Subject to the provisions of ss.
610 40.001 and 40.02, the clerk of the circuit court in each county
611 shall have the administrative responsibility for developing the
612 automated system of jury venire selection, obtaining approval
613 for the juror candidate selection process, and operating and
614 updating the system in accordance with this chapter and
615 technical standards and procedures adopted by the Chief Justice.

616 (2) The clerk of the court, or the chief judge of the
617 circuit if performing the duties of juror candidate selection as
618 provided in s. 40.02, shall submit for approval a plan for the
619 selection of juror candidates as required in this section to the
620 Chief Justice. The plan must be reapproved whenever required by
621 a change in the law, a change in the technical standards and



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622 procedures, or a change in the approved clerk-maintained
623 hardware or software used in the automated system of jury venire
624 selection. The proposed plan, if submitted by the clerk, must be
625 approved by the chief judge of the judicial circuit in which the
626 county is located, and must include a description of the
627 equipment, methods, and mode of operation to be used, in a
628 manner consistent with the technical standards and procedures
629 established by the Chief Justice. When a majority of the trial
630 judges authorizes the alternative method of drawing a jury
631 venire as provided in subsection (1), the chief judge of the
632 judicial circuit in which the county is located shall make a
633 certificate to that effect and transmit the same to the Chief
634 Justice of the Supreme Court, together with a description of the
635 equipment, methods, and mode of operation to be used.

636 (3) The Chief Justice shall examine the proposed plan for
637 compliance with applicable statutory requirements and with
638 established technical standards and procedures ~~cause the~~
639 ~~certificate and data accompanying it to be presented to the~~
640 ~~justices of the Supreme Court. If the Chief Justice court finds~~
641 ~~that the proposed plan method will produce venires selected by~~
642 ~~lot and at random,~~ is in compliance with applicable statutory
643 requirements and established technical standards and procedures,
644 will produce venires selected by lot and at random ~~all~~
645 ~~constitutional requirements of jury selection, and is otherwise~~
646 ~~feasible and practicable, an administrative order of approval of~~
647 ~~same shall be made and filed. Thereafter, the alternative method~~
648 ~~so approved~~ system for automated selection of jury venires shall
649 may be used in the county so authorized.

650 ~~(4) The chief judge of the judicial circuit in which the~~



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651 ~~county is located shall supervise the use of such alternative~~
652 ~~method whenever approval of same has been made by order of the~~
653 ~~Supreme Court.~~

654 (4)-(5) This section does not require ~~Nothing herein shall~~
655 ~~be construed as requiring~~ uniform equipment or methods
656 throughout the state.

657 Section 13. Subsection (4) is added to section 45.035,
658 Florida Statutes, to read:

659 45.035 Clerk's fees.—In addition to other fees or service
660 charges authorized by law, the clerk shall receive service
661 charges related to the judicial sales procedure set forth in ss.
662 45.031-45.034 and this section:

663 (4) If the sale is rescheduled for any reason, the
664 plaintiff shall pay a rescheduling fee of \$70 to the clerk on
665 each occasion the sale is rescheduled. The rescheduling fee must
666 be assessed as costs, and the plaintiff shall pay the fee to the
667 clerk before the sale.

668 Section 14. Subsection (1) of section 57.081, Florida
669 Statutes, is amended to read:

670 57.081 Costs; right to proceed where prepayment of costs
671 and payment of filing fees waived.—

672 (1) Any indigent person, except a prisoner as defined in s.
673 57.085, who is a party or intervenor in any judicial or
674 administrative agency proceeding or who initiates such
675 proceeding shall receive the services of the courts, sheriffs,
676 and clerks, with respect to such proceedings, despite his or her
677 present inability to pay for these services. Such services are
678 limited to filing fees; service of process; certified copies of
679 orders or final judgments; a single photocopy of any court



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680 pleading, record, or instrument filed with the clerk; examining
681 fees; mediation services and fees; private court-appointed
682 counsel fees; subpoena fees and services; service charges for
683 collecting and disbursing funds; and any other cost or service
684 arising out of pending litigation. In any appeal from an
685 administrative agency decision, for which the clerk is
686 responsible for preparing the transcript, the clerk shall record
687 the cost of preparing the transcripts and the cost for copies of
688 any exhibits in the record. A party who has obtained a
689 certification of indigence pursuant to s. 27.52 or s. 57.082
690 with respect to a proceeding is not required to prepay costs to
691 a court, clerk, or sheriff and is not required to pay filing
692 fees or charges for issuance of a summons ~~Prepayment of costs to~~
693 ~~any court, clerk, or sheriff is not required and payment of~~
694 ~~filing fees is not required in any action if the party has~~
695 ~~obtained in each proceeding a certification of indigence in~~
696 ~~accordance with s. 27.52 or s. 57.082.~~

697 Section 15. Subsection (11) is added to section 95.11,
698 Florida Statutes, to read:

699 95.11 Limitations other than for the recovery of real
700 property.—Actions other than for recovery of real property shall
701 be commenced as follows:

702 (11) COURT COSTS AND FINES.—Notwithstanding subsection (1),
703 an action to collect court costs, fees, or fines owed to the
704 state may be commenced at any time.

705 Section 16. Paragraph (a) of subsection (4) of section
706 112.3173, Florida Statutes, is amended to read:

707 112.3173 Felonies involving breach of public trust and
708 other specified offenses by public officers and employees;



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709 forfeiture of retirement benefits.-

710 (4) NOTICE.-

711 (a) The clerk of a court in which a proceeding involving a
712 specified offense is being conducted against a public officer or
713 employee shall furnish notice of the proceeding to the
714 Commission on Ethics after the state attorney advises the clerk
715 that the defendant is a public officer or employee and that the
716 defendant is alleged to have committed a specified offense. Such
717 notice is sufficient if it is in the form of a copy of the
718 indictment, information, or other document containing the
719 charges. In addition, if a verdict of guilty is returned by a
720 jury or by the court trying the case without a jury, or a plea
721 of guilty or of nolo contendere is entered in the court by the
722 public officer or employee, the clerk shall furnish a copy
723 thereof to the Commission on Ethics.

724 Section 17. Paragraph (b) of subsection (8) of section
725 318.18, Florida Statutes, is amended to read:

726 318.18 Amount of penalties.-The penalties required for a
727 noncriminal disposition pursuant to s. 318.14 or a criminal
728 offense listed in s. 318.17 are as follows:

729 (8)

730 (b)1.a. If a person has been ordered to pay a civil penalty
731 for a noncriminal traffic infraction and the person is unable to
732 comply with the court's order due to demonstrable financial
733 hardship, the court shall allow the person to satisfy the civil
734 penalty by participating in community service until the civil
735 penalty is paid.

736 b. If a court orders a person to perform community service,
737 the person shall receive credit for the civil penalty at the



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738 specified hourly credit rate per hour of community service
739 performed, and each hour of community service performed shall
740 reduce the civil penalty by that amount.

741 2.a. As used in this paragraph, the term "specified hourly
742 credit rate" means the wage rate that is specified in 29 U.S.C.
743 s. 206(a)(1) under the federal Fair Labor Standards Act of 1938,
744 that is then in effect, and that an employer subject to such
745 provision must pay per hour to each employee subject to such
746 provision.

747 b. However, if a person ordered to perform community
748 service has a trade or profession for which there is a community
749 service need, the specified hourly credit rate for each hour of
750 community service performed by that person shall be the average
751 prevailing wage rate for the trade or profession that the
752 community service agency needs.

753 3.a. The community service agency supervising the person
754 shall record the number of hours of community service completed
755 and the date the community service hours were completed. The
756 community service agency shall submit the data to the clerk of
757 court on the letterhead of the community service agency, which
758 must also bear the notarized signature of the person designated
759 to represent the community service agency.

760 b. When the number of community service hours completed by
761 the person equals the amount of the civil penalty, the clerk of
762 court shall certify this fact to the court. Thereafter, the
763 clerk of court shall record in the case file that the civil
764 penalty has been paid in full.

765 4. As used in this paragraph, the term:

766 a. "Community service" means uncompensated labor for a



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767 community service agency.

768 b. "Community service agency" means a not-for-profit
769 corporation, community organization, charitable organization,
770 public officer, the state or any political subdivision of the
771 state, or any other body the purpose of which is to improve the
772 quality of life or social welfare of the community and which
773 agrees to accept community service from persons unable to pay
774 civil penalties for noncriminal traffic infractions.

775 Section 18. Subsection (3) of section 668.50, Florida
776 Statutes, is amended to read:

777 668.50 Uniform Electronic Transaction Act.—

778 (3) SCOPE.—

779 (a) Except as otherwise provided in paragraph (b), this
780 section applies to electronic records and electronic signatures
781 relating to a transaction.

782 (b) This section does not apply to a transaction to the
783 extent the transaction is governed by:

784 1. A provision of law governing the creation and execution
785 of wills, codicils, or testamentary trusts;

786 2. The Uniform Commercial Code other than s. 671.107 and
787 chapters 672 and 680; or

788 3. The Uniform Computer Information Transactions Act. ~~or~~

789 ~~4. Rules relating to judicial procedure.~~

790 (c) Except with respect to subsections (2), (9), and (11),
791 this section does not apply to a transaction to the extent the
792 transaction is governed by rules relating to judicial procedure.

793 (d) ~~(e)~~ This section applies to an electronic record or
794 electronic signature otherwise excluded under paragraph (b) to
795 the extent such record or signature is governed by a provision



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796 of law other than those specified in paragraph (b).

797 (e)~~(d)~~ A transaction subject to this section is also
798 subject to other applicable provisions of substantive law.

799 Section 19. Paragraph (c) of subsection (1) of section
800 733.707, Florida Statutes, is amended to read:

801 733.707 Order of payment of expenses and obligations.—

802 (1) The personal representative shall pay the expenses of
803 the administration and obligations of the decedent's estate in
804 the following order:

805 (c) *Class 3.*—Debts and taxes with preference under federal
806 law, ~~and~~ claims pursuant to ss. 409.9101 and 414.28, and claims
807 in favor of the state for unpaid court costs, fees, or fines.

808 Section 20. Section 893.11, Florida Statutes, is amended to
809 read:

810 893.11 Suspension, revocation, and reinstatement of
811 business and professional licenses.—For the purposes of s.
812 120.60(6), any conviction in any court reported to the
813 Comprehensive Case Information System of the Florida Association
814 of Clerks and Comptroller, Inc., for the sale of, or trafficking
815 in, a controlled substance or for conspiracy to sell, or traffic
816 in, a controlled substance constitutes an immediate serious
817 danger to the public health, safety, or welfare, and is grounds
818 for disciplinary action by the licensing state agency. A state
819 agency shall initiate an immediate emergency suspension of an
820 individual professional license issued by the agency, in
821 compliance with the procedures for summary suspensions in s.
822 120.60(6), upon the agency's findings of the licensee's
823 conviction in any court reported to the Comprehensive Case
824 Information System of the Florida Association of Court Clerks



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825 ~~and Comptroller, Inc., Upon the conviction in any court of~~
826 ~~competent jurisdiction of any person holding a license, permit,~~
827 ~~or certificate issued by a state agency, for the sale of, or~~
828 ~~trafficking in, a controlled substance, or for conspiracy to~~
829 ~~sell, or traffic in, a controlled substance. Before renewing any~~
830 ~~professional license, a state agency that issues a professional~~
831 ~~license must use the Comprehensive Case Information System of~~
832 ~~the Florida Association of Court Clerks and Comptroller, Inc.,~~
833 ~~to obtain information relating to any conviction for the sale~~
834 ~~of, or trafficking in, a controlled substance or for conspiracy~~
835 ~~to sell, or traffic in, a controlled substance. The clerk of~~
836 ~~court shall provide electronic access to each state agency at no~~
837 ~~cost and also provide certified copies of the judgment upon~~
838 ~~request to the agency., if such offense is a felony, the clerk~~
839 ~~of said court shall send a certified copy of the judgment of~~
840 ~~conviction with the person's license number, permit number, or~~
841 ~~certificate number on the face of such certified copy to the~~
842 ~~agency head by whom the convicted defendant has received a~~
843 ~~license, permit, or certificate to practice his or her~~
844 ~~profession or to carry on his or her business. Such agency head~~
845 ~~shall suspend or revoke the license, permit, or certificate of~~
846 ~~the convicted defendant to practice his or her profession or to~~
847 ~~carry on his or her business. Upon a showing by any such~~
848 ~~convicted defendant whose professional license, permit, or~~
849 ~~certificate has been suspended or revoked pursuant to this~~
850 ~~section that his or her civil rights have been restored or upon~~
851 ~~a showing that the convicted defendant meets the following~~
852 ~~criteria, the agency head may reinstate or reactivate such~~
853 ~~license, permit, or certificate when:~~



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854 (1) The person has complied with the conditions of
855 paragraphs (a) and (b) which shall be monitored by the
856 Department of Corrections while the person is under any
857 supervisory sanction. If the person fails to comply with
858 provisions of these paragraphs by either failing to maintain
859 treatment or by testing positive for drug use, the department
860 shall notify the licensing, ~~permitting, or certifying~~ agency,
861 which shall revoke the license, ~~permit, or certification~~. The
862 person under supervision may:

863 (a) Seek evaluation and enrollment in, and once enrolled
864 maintain enrollment in until completion, a drug treatment and
865 rehabilitation program which is approved or regulated by the
866 Department of Children and Family Services. The treatment and
867 rehabilitation program shall be specified by:

868 1. The court, in the case of court-ordered supervisory
869 sanctions;

870 2. The Parole Commission, in the case of parole, control
871 release, or conditional release; or

872 3. The Department of Corrections, in the case of
873 imprisonment or any other supervision required by law.

874 (b) Submit to periodic urine drug testing pursuant to
875 procedures prescribed by the Department of Corrections. If the
876 person is indigent, the costs shall be paid by the Department of
877 Corrections; or

878 (2) The person has successfully completed an appropriate
879 program under the Correctional Education Program.

880 (3) As used in this section, the term "business or
881 professional license" includes any license, permit, or
882 certificate that authorizes a person to practice his or her



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883 profession or to carry on his or her business. However, the term
884 ~~This section~~ does not include ~~apply to~~ any of the taxes, fees,
885 or permits regulated, controlled, or administered by the
886 Department of Revenue in accordance with s. 213.05.

887 Section 21. Paragraphs (a) and (b) of subsection (2) of
888 section 938.27, Florida Statutes, are amended to read:

889 938.27 Judgment for costs on conviction.—

890 (2) (a) The court shall impose the costs of prosecution and
891 investigation notwithstanding the defendant's present ability to
892 pay. The court shall require the defendant to pay the costs
893 within a specified period or pursuant to a payment plan under s.
894 28.246(4) in specified installments.

895 (b) The end of such period or the last such installment
896 must ~~shall~~ not be later than:

897 1. The end of the period of probation or community control,
898 if probation or community control is ordered;

899 2. Five years after the end of the term of imprisonment
900 imposed, if the court does not order probation or community
901 control; or

902 3. Five years after the date of sentencing in any other
903 case.

904
905 However, ~~in no event shall~~ the obligation to pay any unpaid
906 amounts does not expire if not paid in full within the period
907 specified in this paragraph.

908 Section 22. Present subsections (8) through (12) of section
909 938.30, Florida Statutes, are renumbered as subsections (10)
910 through (14), respectively, and new subsections (8) and (9) are
911 added to that section to read:



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912 938.30 Financial obligations in criminal cases;
913 supplementary proceedings.-

914 (8) If a criminal or civil judgment has previously been
915 entered on a court-imposed financial obligation, the judgment
916 constitutes a civil lien against the judgment debtor's presently
917 owned or after-acquired real or personal property when recorded
918 pursuant to s. 55.10, except that a judgment on a court-imposed
919 financial obligation is not subject to the 10-year rerecording
920 requirement of s. 55.10. The judgment must secure all unpaid
921 court-imposed financial obligations that are due and may accrue
922 subsequent to the recording of the judgment, as well as interest
923 and reasonable costs for issuing a satisfaction and recording
924 the satisfaction in the official records.

925 (9) The clerk of the court shall enforce, satisfy,
926 compromise, settle, subordinate, release, or otherwise dispose
927 of any debts or liens imposed and collected under this section
928 in the same manner as prescribed in s. 938.29(3).

929 Section 23. Section 947.181, Florida Statutes, is amended
930 to read:

931 947.181 Fines, fees, restitution, or other costs ordered to
932 be paid ~~Victim restitution~~ as conditions ~~condition~~ of parole.-

933 (1)~~(a)~~ ~~The Parole~~ commission shall require the payment of
934 fines, fees, restitution, or other court-ordered costs as a
935 condition of parole ~~reparation or restitution to the aggrieved~~
936 ~~party for the damage or loss caused by the offense for which the~~
937 ~~parolee was imprisoned~~ unless the commission finds reasons to
938 the contrary. Restitution to the aggrieved party for injury,
939 damage, or loss caused by the offense for which the parolee was
940 imprisoned shall have first priority in the payment of amounts



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941 owed under this section. If the commission does not require the
942 payment of fines, fees, restitution, or other court-ordered
943 costs ~~order restitution~~ or requires ~~orders~~ only partial payment
944 of the fines, fees, restitution, or other court-ordered costs
945 ~~restitution~~, the commission shall state on the record the
946 reasons for its decision ~~therefor~~. ~~The amount of such reparation~~
947 ~~or restitution shall be determined by the Parole Commission.~~

948 (2) ~~(b)~~ If the parolee fails to make the payments ~~reparation~~
949 ~~or restitution to the aggrieved party as~~ required authorized in
950 subsection (1) ~~paragraph (a)~~, it shall be considered by the
951 commission as a violation of parole as specified in s. 947.21
952 and may be cause for revocation of ~~her or his~~ parole.

953 (3) ~~(2)~~ If a defendant is paroled, any restitution ordered
954 under s. 775.089 shall be a condition of such parole. The Parole
955 Commission may revoke parole if the defendant fails to comply
956 with such order.

957 (4) In determining whether to revoke parole, the ~~Parole~~
958 commission shall consider the defendant's employment status,
959 earning ability, and financial resources; the willfulness of the
960 defendant's failure to pay; and any other special circumstances
961 that may have a bearing on the defendant's ability to pay.

962 Section 24. This act shall take effect July 1, 2012.

963
964 ===== T I T L E A M E N D M E N T =====

965 And the title is amended as follows:

966 Delete everything before the enacting clause
967 and insert:

968 A bill to be entitled

969 An act relating to clerks of court; amending s.



970 24.115, F.S.; requiring the Department of the Lottery
971 to use the Comprehensive Case Information System of
972 the Florida Association of Court Clerks and
973 Comptroller, Inc., to determine whether a prize winner
974 owes outstanding fines, fees, or court costs to the
975 state before it may pay certain prizes; amending s.
976 27.52, F.S.; authorizing the clerk of court to review
977 the property records and motor vehicle records to
978 determine whether an applicant for the appointment of
979 a public defender is indigent; deleting a requirement
980 that the clerk conduct the review; amending s. 28.24,
981 F.S.; deleting a requirement for the clerks of the
982 circuit courts to participate in the Comprehensive
983 Case Information System; creating s. 28.2405, F.S.;
984 requiring clerks of the circuit courts to use the
985 Comprehensive Case Information System and to submit
986 data to the system based on case types designated by
987 the Supreme Court of Florida; amending s. 28.241,
988 F.S.; providing that filing fees and fees to reopen a
989 proceeding are due at the time a party files a
990 pleading to initiate or reopen a proceeding; requiring
991 the clerk of court to pursue the collection of fees
992 that are not timely paid; revising the circumstances
993 under which a fee to reopen a case applies; exempting
994 a person from paying a reopen fee for filing a motion
995 to enforce a stipulation or a motion for contempt;
996 authorizing the clerk of court to charge a fee to
997 issue an electronic certified copy of a summons;
998 amending s. 28.37, F.S.; providing that certain



999 penalties and fines are not deposited into the clerk's
1000 Public Records Modernization Trust Fund; amending s.
1001 34.041, F.S.; requiring the party filing a case in
1002 county court to pay all filing and reopen fees at the
1003 time of filing; requiring the clerk to pursue
1004 collection of the fees if the fees are not paid at the
1005 time of filing; authorizing the clerk of court to
1006 charge a fee for issuing an electronic certified copy
1007 of a summons; revising the circumstances under which a
1008 fee to reopen a case applies; exempting a party from
1009 paying a reopen fee for filing motions to enforce
1010 stipulations and motions for contempt; amending s.
1011 40.011, F.S.; requiring that a clerk of court generate
1012 a set of juror candidate lists; requiring that the
1013 clerk of court add names of certain persons to the
1014 juror candidate lists; authorizing the clerk of court
1015 to generate juror candidate lists to ensure a valid
1016 and consistent juror selection process; amending s.
1017 40.02, F.S.; revising the process of selecting jury
1018 lists; amending s. 40.022, F.S.; revising the process
1019 of purging jury selection lists; amending s. 40.221,
1020 F.S.; conforming provisions to changes made by the
1021 act; amending s. 40.225, F.S.; requiring that the
1022 clerk of court implement an automated electronic
1023 system for drawing jury venire; providing
1024 administrative responsibilities of the clerks of court
1025 with regard to the jury venire; requiring that the
1026 clerk of court or the chief judge submit for approval
1027 a plan for the selection of juror candidates;



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1028 requiring that the Chief Justice of the Supreme Court
1029 examine the proposed plan for compliance with
1030 applicable statutory requirements and technical
1031 standards and procedures; requiring that an
1032 administrative order be filed if the proposed plan is
1033 approved; amending s. 45.035, F.S.; requiring a
1034 plaintiff to pay a rescheduling fee to the clerk on
1035 each occasion a sale of real or personal property
1036 under an order or judgment is rescheduled; requiring
1037 the rescheduling fee to be assessed as costs;
1038 requiring the plaintiff to pay the rescheduling fee to
1039 the court before the sale; amending s. 57.081, F.S.;
1040 providing that a person who receives a certification
1041 of indigence with respect to a proceeding is not
1042 required to pay charges to issue a summons; amending
1043 s. 95.11, F.S.; providing that an action to collect
1044 any court costs, fees, or fines owed to the state may
1045 be commenced at any time; amending s. 112.3173, F.S.;
1046 providing for the duty of a clerk of court to notify
1047 the Commission on Ethics of certain proceedings
1048 involving public officers or employees to arise after
1049 the clerk is advised by the state attorney that the
1050 defendant is a public officer or employee who is
1051 alleged to have committed a specified offense;
1052 amending s. 318.18, F.S.; requiring that the signature
1053 of the person designated to represent a community
1054 service agency be notarized on letterhead that
1055 indicates the number of hours of community service
1056 completed and the date the community service hours



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1057 were completed by a person who is ordered to perform
1058 community service as a penalty for specified offenses;
1059 amending s. 668.50, F.S.; limiting the exemption from
1060 the Uniform Electronic Transaction Act for
1061 transactions governed by rules relating to judicial
1062 procedure; amending s. 733.707, F.S.; specifying the
1063 priority of payment of unpaid court costs, fees, or
1064 fines by a decedent's estate; amending s. 893.11,
1065 F.S.; providing that convictions of certain types of
1066 criminal offenses which are reported to the
1067 Comprehensive Case Information System of the Florida
1068 Association of Clerks and Comptroller, Inc., are an
1069 immediate, serious danger to the public health,
1070 safety, or welfare; providing that such convictions
1071 are grounds for disciplinary action by a licensing
1072 state agency; requiring that a state agency initiate
1073 an emergency suspension of an individual professional
1074 license upon the agency's finding of the licensee's
1075 conviction of a certain type of criminal offense which
1076 is reported to the Comprehensive Case Information
1077 System; requiring that certain state agencies use the
1078 Comprehensive Case Information System to obtain
1079 information relating to a conviction involving certain
1080 types of criminal offenses; requiring that the clerk
1081 of court provide to each state agency electronic
1082 access and provide certified copies of judgments to
1083 licensing agencies upon request; defining the term
1084 "business or professional license"; amending s.
1085 938.27, F.S.; authorizing a court to require a



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1086 defendant to pay the costs of prosecution and
1087 investigation pursuant to a payment plan under a
1088 specified provision; amending s. 938.30, F.S.;
1089 providing that criminal or civil judgment and related
1090 costs are a civil lien against the judgment debtor's
1091 presently owned or after-acquired real or personal
1092 property if the judgment is recorded; providing an
1093 exception to rerecording requirements; requiring that
1094 the clerk of court enforce, satisfy, compromise,
1095 settle, subordinate, release, or otherwise dispose of
1096 any debts or lien imposed and collected in the same
1097 manner as for an indigent defendant-recipient;
1098 amending s. 947.181, F.S.; providing that the Parole
1099 Commission require as a condition of parole the
1100 payment of fines, fees, or other court-ordered costs
1101 under certain circumstances; providing that
1102 restitution ordered as a condition of parole has first
1103 priority over the payment of other costs ordered as a
1104 condition of parole; requiring that the commission
1105 state on record the reasons for not requiring the full
1106 payment of the fines, fees, or other court-ordered
1107 costs; providing an effective date.

By Senator Simmons

22-00667-12

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1 A bill to be entitled
 2 An act relating to clerks of court; amending s.
 3 24.115, F.S.; requiring the Department of the Lottery
 4 to use the Comprehensive Case Information System of
 5 the Florida Association of Court Clerks and
 6 Comptroller, Inc., to determine whether a prize winner
 7 owes outstanding fines, fees, or court costs to the
 8 state; amending s. 27.52, F.S.; authorizing the clerk
 9 of court to review the property records and motor
 10 vehicle records to determine whether an applicant for
 11 the appointment of a public defender is indigent;
 12 deleting a requirement that the clerk conduct the
 13 review; amending s. 28.24, F.S.; deleting a
 14 requirement for the clerks of the circuit courts to
 15 participate in the Comprehensive Case Information
 16 System; creating s. 28.2405, F.S.; requiring clerks of
 17 the circuit courts to use the Comprehensive Case
 18 Information System and to submit data to the system
 19 based on case types designated by the Supreme Court of
 20 Florida; amending s. 28.241, F.S.; providing that
 21 filing fees and fees to reopen a proceeding are due at
 22 the time a party files a pleading to initiate a
 23 proceeding; requiring the clerk of court to pursue the
 24 collection of fees that are not timely paid; revising
 25 the circumstances under which a fee to reopen a case
 26 applies; exempting a person from paying a reopen fee
 27 for filing a motion to enforce a stipulation or a
 28 motion for contempt; authorizing the clerk of court to
 29 charge a fee to issue an electronic certified copy of

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30 a summons; amending s. 28.246, F.S.; requiring that
 31 the circuit court order a prisoner to make monthly
 32 payments for court-related costs under certain
 33 circumstances; requiring that the Department of
 34 Corrections or the local detention facility place a
 35 lien on the prisoner's trust account for the full
 36 amount of the costs and to forward payments from the
 37 trust account to the appropriate clerk of the court;
 38 amending s. 34.041, F.S.; requiring the party filing a
 39 case in county court to pay all filing and reopen fees
 40 at the time of filing; requiring the clerk to pursue
 41 collection of the fees if the fees are not paid at the
 42 time of filing; authorizing the clerk of court to
 43 charge a fee for issuing an electronic certified copy
 44 of a summons; revising the circumstances under which a
 45 fee to reopen a case applies; exempting a party from
 46 paying a reopen fee for filing motions to enforce
 47 stipulations and motions for contempt; amending s.
 48 45.035, F.S.; requiring a plaintiff to pay a
 49 rescheduling fee to the clerk on each occasion a sale
 50 of real or personal property under an order or
 51 judgment is rescheduled; requiring the rescheduling
 52 fee to be assessed as costs; requiring the plaintiff
 53 to pay the rescheduling fee to the court before the
 54 sale; amending s. 57.081, F.S.; providing that a
 55 person who receives a certification of indigence with
 56 respect to a proceeding is not required to pay charges
 57 to issue a summons; amending s. 57.082, F.S.;
 58 requiring that a court order a prisoner to make

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59 monthly payments for court-related costs under certain
 60 circumstances; requiring that the Department of
 61 Corrections or the local detention facility place a
 62 lien on the prisoner's trust account for the full
 63 amount of the costs and to forward payments from the
 64 trust account to the appropriate clerk of the court;
 65 amending s. 95.11, F.S.; providing that an action to
 66 collect any court costs or fines owed to the state may
 67 be commenced at any time; amending s. 112.3173, F.S.;
 68 providing for the duty of a clerk of court to notify
 69 the Commission on Ethics of certain proceedings
 70 involving public officers or employees to arise after
 71 the clerk is advised by the state attorney that the
 72 defendant is a public officer or employee who is
 73 alleged to have committed a qualifying offense;
 74 amending s. 318.18, F.S.; requiring that the signature
 75 of the person designated to represent a community
 76 service agency be notarized on letterhead that
 77 indicates the number of hours of community service
 78 completed and the date the community service hours
 79 were completed by a person who is ordered to perform
 80 community service as a penalty for a noncriminal
 81 disposition pursuant to s. 318.14, F.S., or a criminal
 82 offense listed in s. 318.17, F.S.; amending s. 668.50,
 83 F.S.; deleting the exemption from the Uniform
 84 Electronic Transaction Act for transactions governed
 85 by rules relating to judicial procedure; amending s.
 86 733.707, F.S.; specifying the priority of payment of
 87 unpaid court costs, fees, or fines by a decedent's

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88 estate; amending s. 893.11, F.S.; deleting a
 89 requirement that a clerk of court send criminal
 90 conviction information to the state agency that has
 91 issued a business or professional license to a person
 92 who is convicted of certain types of criminal
 93 offenses; requiring state agencies that issue business
 94 or professional licenses to use the Comprehensive Case
 95 Information System to obtain information relating to
 96 criminal convictions of licensees; requiring the clerk
 97 of court to provide certified copies of judgments to
 98 licensing agencies upon request; defining the term
 99 "business or professional license"; amending s.
 100 938.27, F.S.; authorizing a court to require a
 101 defendant to pay the costs of prosecution and
 102 investigation pursuant to a payment plan under s.
 103 28.246, F.S., relating to payment of court-related
 104 fees, charges, and costs; amending s. 938.30, F.S.;
 105 requiring that a court order a prisoner to make
 106 monthly payments for court-related costs under certain
 107 circumstances; requiring that the Department of
 108 Corrections or the local detention facility place a
 109 lien on the prisoner's trust account for the full
 110 amount of the costs and to forward payments from the
 111 trust account to the appropriate clerk of the court;
 112 providing that criminal or civil judgment and related
 113 costs are a civil lien against the judgment debtor's
 114 presently owned or after-acquired real or personal
 115 property if the judgment is recorded; providing an
 116 exception to rerecording requirements; requiring that

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117 the clerk of court enforce, satisfy, compromise,
 118 settle, subordinate, release, or otherwise dispose of
 119 any debts or lien imposed and collected in the same
 120 manner as for an indigent defendant-recipient;
 121 amending s. 947.181, F.S.; providing that the Parole
 122 Commission require as a condition of parole the
 123 payment of fines, fees, or other court-ordered costs
 124 under certain circumstances; requiring that the
 125 commission state on record the reasons for not
 126 requiring the full payment of the fines, fees, or
 127 other court-ordered costs; providing an effective
 128 date.

129
 130 Be It Enacted by the Legislature of the State of Florida:

131
 132 Section 1. Subsection (4) of section 24.115, Florida
 133 Statutes, is amended to read:

134 24.115 Payment of prizes.—

135 (4) (a) It is the responsibility of the appropriate state
 136 agency and of the judicial branch to identify to the department,
 137 in the form and format prescribed by the department, persons
 138 owing an outstanding debt to any state agency or owing child
 139 support collected through a court, including spousal support or
 140 alimony for the spouse or former spouse of the obligor if the
 141 child support obligation is being enforced by the Department of
 142 Revenue.

143 (b) Notwithstanding paragraph (a), the department must use
 144 the Comprehensive Case Information System of the Florida
 145 Association of Court Clerks and Comptroller, Inc., to determine

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146 whether a prize winner owes outstanding fines, fees, or court
 147 costs to the state, before it may pay a prize of \$600 or more.

148 (c) Before ~~Prior to~~ the payment of a prize of \$600 or more
 149 to any claimant having such an outstanding obligation, the
 150 department shall transmit the amount of the debt to the agency
 151 claiming the debt or owed the debt as shown on the Comprehensive
 152 Case Information System and shall authorize payment of the
 153 balance to the prize winner after deduction of the debt. If a
 154 prize winner owes multiple debts subject to offset under this
 155 subsection and the prize is insufficient to cover all such
 156 debts, the amount of the prize shall be transmitted first to the
 157 agency claiming that past due child support is owed. If a
 158 balance of lottery prize remains after payment of past due child
 159 support, the remaining lottery prize amount shall be transmitted
 160 to other agencies owed ~~claiming~~ debts ~~owed to the state~~, pro
 161 rata, based upon the ratio of the individual debt to the
 162 remaining debt owed to the state.

163 Section 2. Paragraph (a) of subsection (2) of section
 164 27.52, Florida Statutes, is amended to read:

165 27.52 Determination of indigent status.—

166 (2) DETERMINATION BY THE CLERK.—The clerk of the court
 167 shall determine whether an applicant seeking appointment of a
 168 public defender is indigent based upon the information provided
 169 in the application and the criteria prescribed in this
 170 subsection.

171 (a)1. An applicant, including an applicant who is a minor
 172 or an adult tax-dependent person, is indigent if the applicant's
 173 income is equal to or below 200 percent of the then-current
 174 federal poverty guidelines prescribed for the size of the

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175 household of the applicant by the United States Department of
 176 Health and Human Services or if the person is receiving
 177 Temporary Assistance for Needy Families-Cash Assistance,
 178 poverty-related veterans' benefits, or Supplemental Security
 179 Income (SSI).

180 2.a. There is a presumption that the applicant is not
 181 indigent if the applicant owns, or has equity in, any intangible
 182 or tangible personal property or real property or the expectancy
 183 of an interest in any such property having a net equity value of
 184 \$2,500 or more, excluding the value of the person's homestead
 185 and one vehicle having a net value not exceeding \$5,000.

186 b. Notwithstanding the information that the applicant
 187 provides, the clerk may ~~shall~~ conduct a review of the property
 188 records for the county in which the applicant resides and the
 189 motor vehicle title records of the state to identify any
 190 property interests of the applicant under this subparagraph. The
 191 clerk may ~~shall~~ evaluate and consider the results of the review
 192 in making a determination under this subsection. If the review
 193 is completed by the clerk, the clerk shall maintain the results
 194 of the review in a file with the application and provide the
 195 file to the court if the applicant seeks review under subsection
 196 (4) of the clerk's determination of indigent status.

197 Section 3. Paragraph (e) of subsection (12) of section
 198 28.24, Florida Statutes, is amended to read:

199 28.24 Service charges by clerk of the circuit court.—The
 200 clerk of the circuit court shall charge for services rendered by
 201 the clerk's office in recording documents and instruments and in
 202 performing the duties enumerated in amounts not to exceed those
 203 specified in this section. Notwithstanding any other provision

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204 of this section, the clerk of the circuit court shall provide
 205 without charge to the state attorney, public defender, guardian
 206 ad litem, public guardian, attorney ad litem, criminal conflict
 207 and civil regional counsel, and private court-appointed counsel
 208 paid by the state, and to the authorized staff acting on behalf
 209 of each, access to and a copy of any public record, if the
 210 requesting party is entitled by law to view the exempt or
 211 confidential record, as maintained by and in the custody of the
 212 clerk of the circuit court as provided in general law and the
 213 Florida Rules of Judicial Administration. The clerk of the
 214 circuit court may provide the requested public record in an
 215 electronic format in lieu of a paper format when capable of
 216 being accessed by the requesting entity.

Charges

217
 218
 219
 220 (12) For recording, indexing, and filing any instrument not
 221 more than 14 inches by 8 1/2 inches, including required notice
 222 to property appraiser where applicable:

223 (e) An additional service charge of \$4 per page shall be
 224 paid to the clerk of the circuit court for each instrument
 225 listed in s. 28.222, except judgments received from the courts
 226 and notices of lis pendens, recorded in the official records.
 227 From the additional \$4 service charge collected:

228 1. If the counties maintain legal responsibility for the
 229 costs of the court-related technology needs as defined in s.
 230 29.008(1)(f)2. and (h), 10 cents shall be distributed to the
 231 Florida Association of Court Clerks and Comptroller, Inc., for
 232 the cost of development, implementation, operation, and

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233 maintenance of the clerks' Comprehensive Case Information
 234 System, ~~in which system all clerks shall participate on or~~
 235 ~~before January 1, 2006~~; \$1.90 shall be retained by the clerk to
 236 be deposited in the Public Records Modernization Trust Fund and
 237 used exclusively for funding court-related technology needs of
 238 the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall
 239 be distributed to the board of county commissioners to be used
 240 exclusively to fund court-related technology, and court
 241 technology needs as defined in s. 29.008(1)(f)2. and (h) for the
 242 state trial courts, state attorney, public defender, and
 243 criminal conflict and civil regional counsel in that county. If
 244 the counties maintain legal responsibility for the costs of the
 245 court-related technology needs as defined in s. 29.008(1)(f)2.
 246 and (h), notwithstanding any other provision of law, the county
 247 is not required to provide additional funding beyond that
 248 provided herein for the court-related technology needs of the
 249 clerk as defined in s. 29.008(1)(f)2. and (h). All court records
 250 and official records are the property of the State of Florida,
 251 including any records generated as part of the Comprehensive
 252 Case Information System funded pursuant to this paragraph and
 253 the clerk of court is designated as the custodian of such
 254 records, except in a county where the duty of maintaining
 255 official records exists in a county office other than the clerk
 256 of court or comptroller, such county office is designated the
 257 custodian of all official records, and the clerk of court is
 258 designated the custodian of all court records. The clerk of
 259 court or any entity acting on behalf of the clerk of court,
 260 including an association, shall not charge a fee to any agency
 261 as defined in s. 119.011, the Legislature, or the State Court

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262 System for copies of records generated by the Comprehensive Case
 263 Information System or held by the clerk of court or any entity
 264 acting on behalf of the clerk of court, including an
 265 association.

266 2. If the state becomes legally responsible for the costs
 267 of court-related technology needs as defined in s.
 268 29.008(1)(f)2. and (h), whether by operation of general law or
 269 by court order, \$4 shall be remitted to the Department of
 270 Revenue for deposit into the General Revenue Fund.

271 Section 4. Section 28.2405, Florida Statutes, is created to
 272 read:

273 28.2405 Comprehensive Case Information System.-All clerks
 274 of the circuit court shall participate in the Comprehensive Case
 275 Information System of the Florida Association of Clerks and
 276 Comptroller, Inc., and shall submit electronic case data to the
 277 system based on the case types designated by the Supreme Court.

278 Section 5. Subsection (1) of section 28.241, Florida
 279 Statutes, is amended to read:

280 28.241 Filing fees for trial and appellate proceedings.-
 281 (1) Filing fees are due at the time a party files a
 282 pleading to initiate a proceeding or files a pleading for
 283 relief, and reopen fees are due at the time a party files a
 284 pleading to reopen a proceeding. If a fee is not paid upon the
 285 filing of the pleading, the clerk shall pursue collection of the
 286 fee pursuant to s. 28.246.

287 (a)1.a. Except as provided in sub-subparagraph b. and
 288 subparagraph 2., the party instituting any civil action, suit,
 289 or proceeding in the circuit court shall pay to the clerk of
 290 that court a filing fee of up to \$395 in all cases in which

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 291 there are not more than five defendants and an additional filing
 292 fee of up to \$2.50 for each defendant in excess of five. Of the
 293 first \$280 in filing fees, \$80 must be remitted by the clerk to
 294 the Department of Revenue for deposit into the General Revenue
 295 Fund, \$195 must be remitted to the Department of Revenue for
 296 deposit into the State Courts Revenue Trust Fund, \$3.50 must be
 297 remitted to the Department of Revenue for deposit into the
 298 Clerks of the Court Trust Fund within the Justice Administrative
 299 Commission and used to fund the Florida Clerks of Court
 300 Operations Corporation created in s. 28.35, and \$1.50 shall be
 301 remitted to the Department of Revenue for deposit into the
 302 Administrative Trust Fund within the Department of Financial
 303 Services to fund clerk budget reviews conducted by the
 304 Department of Financial Services. One third of any filing fees
 305 collected by the clerk of the circuit court in excess of \$100
 306 shall be remitted to the Department of Revenue for deposit into
 307 the Clerks of the Court Trust Fund within the Justice
 308 Administrative Commission.

309 b. The party instituting any civil action, suit, or
 310 proceeding in the circuit court under chapter 39, chapter 61,
 311 chapter 741, chapter 742, chapter 747, chapter 752, or chapter
 312 753 shall pay to the clerk of that court a filing fee of up to
 313 \$295 in all cases in which there are not more than five
 314 defendants and an additional filing fee of up to \$2.50 for each
 315 defendant in excess of five. Of the first \$180 in filing fees,
 316 \$80 must be remitted by the clerk to the Department of Revenue
 317 for deposit into the General Revenue Fund, \$95 must be remitted
 318 to the Department of Revenue for deposit into the State Courts
 319 Revenue Trust Fund, \$3.50 must be remitted to the Department of

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 320 Revenue for deposit into the Clerks of the Court Trust Fund
 321 within the Justice Administrative Commission and used to fund
 322 the Florida Clerks of Court Operations Corporation created in s.
 323 28.35, and \$1.50 shall be remitted to the Department of Revenue
 324 for deposit into the Administrative Trust Fund within the
 325 Department of Financial Services to fund clerk budget reviews
 326 conducted by the Department of Financial Services.

327 c. An additional filing fee of \$4 shall be paid to the
 328 clerk. The clerk shall remit \$3.50 to the Department of Revenue
 329 for deposit into the Court Education Trust Fund and shall remit
 330 50 cents to the Department of Revenue for deposit into the
 331 Clerks of the Court Trust Fund within the Justice Administrative
 332 Commission to fund clerk education. An additional filing fee of
 333 up to \$18 shall be paid by the party seeking each severance that
 334 is granted. The clerk may impose an additional filing fee of up
 335 to \$85 for all proceedings of garnishment, attachment, replevin,
 336 and distress. Postal charges incurred by the clerk of the
 337 circuit court in making service by certified or registered mail
 338 on defendants or other parties shall be paid by the party at
 339 whose instance service is made. ~~No~~ Additional fees, charges, or
 340 costs may not ~~shall~~ be added to the filing fees imposed under
 341 this section, except as authorized in this section or by general
 342 law.

343 2.a. Notwithstanding the fees prescribed in subparagraph
 344 1., a party instituting a civil action in circuit court relating
 345 to real property or mortgage foreclosure shall pay a graduated
 346 filing fee based on the value of the claim.

347 b. A party shall estimate in writing the amount in
 348 controversy of the claim upon filing the action. For purposes of

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 349 this subparagraph, the value of a mortgage foreclosure action is
 350 based upon the principal due on the note secured by the
 351 mortgage, plus interest owed on the note and any moneys advanced
 352 by the lender for property taxes, insurance, and other advances
 353 secured by the mortgage, at the time of filing the foreclosure.
 354 The value shall also include the value of any tax certificates
 355 related to the property. In stating the value of a mortgage
 356 foreclosure claim, a party shall declare in writing the total
 357 value of the claim, as well as the individual elements of the
 358 value as prescribed in this sub-subparagraph.

359 c. In its order providing for the final disposition of the
 360 matter, the court shall identify the actual value of the claim.
 361 The clerk shall adjust the filing fee if there is a difference
 362 between the estimated amount in controversy and the actual value
 363 of the claim and collect any additional filing fee owed or
 364 provide a refund of excess filing fee paid.

365 d. The party shall pay a filing fee of:

366 (I) Three hundred and ninety-five dollars in all cases in
 367 which the value of the claim is \$50,000 or less and in which
 368 there are not more than five defendants. The party shall pay an
 369 additional filing fee of up to \$2.50 for each defendant in
 370 excess of five. Of the first \$280 in filing fees, \$80 must be
 371 remitted by the clerk to the Department of Revenue for deposit
 372 into the General Revenue Fund, \$195 must be remitted to the
 373 Department of Revenue for deposit into the State Courts Revenue
 374 Trust Fund, \$3.50 must be remitted to the Department of Revenue
 375 for deposit into the Clerks of the Court Trust Fund within the
 376 Justice Administrative Commission and used to fund the Florida
 377 Clerks of Court Operations Corporation created in s. 28.35, and

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 378 \$1.50 shall be remitted to the Department of Revenue for deposit
 379 into the Administrative Trust Fund within the Department of
 380 Financial Services to fund clerk budget reviews conducted by the
 381 Department of Financial Services;

382 (II) Nine hundred dollars in all cases in which the value
 383 of the claim is more than \$50,000 but less than \$250,000 and in
 384 which there are not more than five defendants. The party shall
 385 pay an additional filing fee of up to \$2.50 for each defendant
 386 in excess of five. Of the first \$785 in filing fees, \$80 must be
 387 remitted by the clerk to the Department of Revenue for deposit
 388 into the General Revenue Fund, \$700 must be remitted to the
 389 Department of Revenue for deposit into the State Courts Revenue
 390 Trust Fund, \$3.50 must be remitted to the Department of Revenue
 391 for deposit into the Clerks of the Court Trust Fund within the
 392 Justice Administrative Commission and used to fund the Florida
 393 Clerks of Court Operations Corporation described in s. 28.35,
 394 and \$1.50 shall be remitted to the Department of Revenue for
 395 deposit into the Administrative Trust Fund within the Department
 396 of Financial Services to fund clerk budget reviews conducted by
 397 the Department of Financial Services; or

398 (III) One thousand nine hundred dollars in all cases in
 399 which the value of the claim is \$250,000 or more and in which
 400 there are not more than five defendants. The party shall pay an
 401 additional filing fee of up to \$2.50 for each defendant in
 402 excess of five. Of the first \$1,785 in filing fees, \$80 must be
 403 remitted by the clerk to the Department of Revenue for deposit
 404 into the General Revenue Fund, \$1,700 must be remitted to the
 405 Department of Revenue for deposit into the State Courts Revenue
 406 Trust Fund, \$3.50 must be remitted to the Department of Revenue

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407 for deposit into the Clerks of the Court Trust Fund within the
 408 Justice Administrative Commission to fund the Florida Clerks of
 409 Court Operations Corporation created in s. 28.35, and \$1.50
 410 shall be remitted to the Department of Revenue for deposit into
 411 the Administrative Trust Fund within the Department of Financial
 412 Services to fund clerk budget reviews conducted by the
 413 Department of Financial Services.

414 e. An additional filing fee of \$4 shall be paid to the
 415 clerk. The clerk shall remit \$3.50 to the Department of Revenue
 416 for deposit into the Court Education Trust Fund and shall remit
 417 50 cents to the Department of Revenue for deposit into the
 418 Clerks of the Court Trust Fund within the Justice Administrative
 419 Commission to fund clerk education. An additional filing fee of
 420 up to \$18 shall be paid by the party seeking each severance that
 421 is granted. The clerk may impose an additional filing fee of up
 422 to \$85 for all proceedings of garnishment, attachment, replevin,
 423 and distress. Postal charges incurred by the clerk of the
 424 circuit court in making service by certified or registered mail
 425 on defendants or other parties shall be paid by the party at
 426 whose instance service is made. ~~No~~ Additional fees, charges, or
 427 costs may not ~~shall~~ be added to the filing fees imposed under
 428 this section, except as authorized in this section or by general
 429 law.

430 (b) A party reopening any civil action, suit, or proceeding
 431 in the circuit court shall pay to the clerk of court a filing
 432 fee set by the clerk in an amount not to exceed \$50. For
 433 purposes of this section, a case is reopened after all appeals
 434 have been exhausted, or time to file an appeal from a final
 435 order or final judgment has expired. A reopen fee may not be

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436 assessed by the clerk for any motion filed by any party until 90
 437 days after a final order or final judgment has been filed with
 438 the clerk. When the case has been reopened, an additional reopen
 439 fee may not be assessed until the reopened matter is resolved. A
 440 reservation of jurisdiction by a court does not cause a case to
 441 remain open for purposes of this section or exempt a party from
 442 paying a reopen fee when a case previously reported as disposed
 443 of is resubmitted to a court and includes petitions for
 444 modification of a final judgment of dissolution. A party is
 445 exempt from paying the fee for any of the following:
 446 1. A writ of garnishment;
 447 2. A writ of replevin;
 448 3. A distress writ;
 449 4. A writ of attachment;
 450 5. A motion for rehearing filed within 10 days;
 451 6. A motion for attorney's fees filed within 30 days after
 452 entry of a judgment or final order;
 453 7. A motion for dismissal filed after a mediation agreement
 454 has been filed;
 455 8. A disposition of personal property without
 456 administration;
 457 9. Any probate case prior to the discharge of a personal
 458 representative;
 459 10. Any guardianship pleading prior to discharge;
 460 11. Any mental health pleading;
 461 12. Motions to withdraw by attorneys;
 462 13. Motions exclusively for the enforcement of child
 463 support orders;
 464 14. A petition for credit of child support;

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465 15. A Notice of Intent to Relocate and any order issuing as
466 a result of an uncontested relocation;

467 16. Stipulations and motions to enforce stipulations;

468 17. Responsive pleadings; ~~or~~

469 18. Cases in which there is no initial filing fee; or

470 19. Motions for contempt.

471 (c)1. A party in addition to a party described in sub-
472 subparagraph (a)1.a. who files a pleading in an original civil
473 action in circuit court for affirmative relief by cross-claim,
474 counterclaim, counterpetition, or third-party complaint shall
475 pay the clerk of court a fee of \$395. A party in addition to a
476 party described in sub-subparagraph (a)1.b. who files a pleading
477 in an original civil action in circuit court for affirmative
478 relief by cross-claim, counterclaim, counterpetition, or third-
479 party complaint shall pay the clerk of court a fee of \$295. The
480 clerk shall remit the fee to the Department of Revenue for
481 deposit into the General Revenue Fund.

482 2. A party in addition to a party described in subparagraph
483 (a)2. who files a pleading in an original civil action in
484 circuit court for affirmative relief by cross-claim,
485 counterclaim, counterpetition, or third-party complaint shall
486 pay the clerk of court a graduated fee of:

487 a. Three hundred and ninety-five dollars in all cases in
488 which the value of the pleading is \$50,000 or less;

489 b. Nine hundred dollars in all cases in which the value of
490 the pleading is more than \$50,000 but less than \$250,000; or

491 c. One thousand nine hundred dollars in all cases in which
492 the value of the pleading is \$250,000 or more.

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494 The clerk shall remit the fees collected under this subparagraph
495 to the Department of Revenue for deposit into the General
496 Revenue Fund, except that the clerk shall remit \$100 of the fee
497 collected under sub-subparagraph a., \$605 of the fee collected
498 under sub-subparagraph b., and \$1,605 of the fee collected under
499 sub-subparagraph c. to the Department of Revenue for deposit
500 into the State Courts Revenue Trust Fund.

501 (d) The clerk of court shall collect a service charge of
502 \$10 for issuing an original, a certified copy, or an electronic
503 certified copy of a summons. The clerk shall assess the fee
504 against the party seeking to have the summons issued.

505 Section 6. Subsection (4) of section 28.246, Florida
506 Statutes, is amended to read:

507 28.246 Payment of court-related fees, charges, and costs;
508 partial payments; distribution of funds.—

509 (4) (a) The clerk of the circuit court shall accept partial
510 payments for court-related fees, service charges, costs, and
511 fines in accordance with the terms of an established payment
512 plan. An individual seeking to defer payment of fees, service
513 charges, costs, or fines imposed by operation of law or order of
514 the court under any provision of general law shall apply to the
515 clerk for enrollment in a payment plan. The clerk shall enter
516 into a payment plan with an individual who the court determines
517 is indigent for costs. A monthly payment amount, calculated
518 based upon all fees and all anticipated costs, is presumed to
519 correspond to the person's ability to pay if the amount does not
520 exceed 2 percent of the person's annual net income, as defined
521 in s. 27.52(1), divided by 12. The court may review the
522 reasonableness of the payment plan.

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523 (b) If court-related costs are assessed as part of a
524 criminal judgment and sentence and the defendant is sentenced to
525 serve time in custody, the court shall order the prisoner to
526 make monthly payments of at least 20 percent of the balance of
527 the prisoner's trust account as payment of the court costs. The
528 Department of Corrections or the local detention facility shall
529 place a lien on the prisoner's trust account for the full amount
530 of the court-related costs. The department or the local facility
531 shall withdraw money from the trust account when the balance
532 exceeds \$10 and forward the payment to the appropriate clerk of
533 court until the court-related costs are paid in full.

534 Section 7. Paragraphs (a) and (d) of subsection (1) and
535 subsection (2) of section 34.041, Florida Statutes, are amended
536 to read:

537 34.041 Filing fees.-

538 (1) (a) All filing and reopen fees shall be paid by the
539 party filing the case at the time the case is filed. If the fee
540 is not paid at that time, the clerk shall pursue collection of
541 these filing fees pursuant to s. 28.246. Upon the institution of
542 any civil action, suit, or proceeding in county court, the party
543 shall pay the following filing fee, not to exceed:

- 544 1. For all claims less than \$100.....\$50.
545 2. For all claims of \$100 or more but not more
546 than \$500.....\$75.
547 3. For all claims of more than \$500 but not more than
548 \$2,500.....\$170.
549 4. For all claims of more than \$2,500.....\$295.
550 5. In addition, for all proceedings of garnishment,
551 attachment, replevin, and distress.....\$85.

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552 6. Notwithstanding subparagraphs 3. and 5., for all claims
553 of not more than \$1,000 filed simultaneously with an action for
554 replevin of property that is the subject of the claim.....\$125.

555 7. For removal of tenant action.....\$180.

556
557 The filing fee in subparagraph 6. is the total fee due under
558 this paragraph for that type of filing, and no other filing fee
559 under this paragraph may be assessed against such a filing.

560 (d) The clerk of court shall collect a service charge of
561 \$10 for issuing a summons or an electronic certified copy of a
562 summons. The clerk shall assess the fee against the party
563 seeking to have the summons issued.

564 (2) A party reopening any civil action, suit, or proceeding
565 in the county court shall pay to the clerk of court a filing fee
566 set by the clerk in an amount not to exceed \$25 for all claims
567 of not more than \$500 and an amount not to exceed \$50 for all
568 claims of more than \$500. For purposes of this section, a case
569 is reopened after all appeals have been exhausted, or time to
570 file an appeal from a final order or final judgment has expired.
571 A reopen fee may not be assessed by the clerk for any motion
572 filed by any party until 90 days after a final order or final
573 judgment has been filed with the clerk. If the case has been
574 reopened, an additional reopen fee may not be assessed until the
575 reopened matter is resolved. A court's reservation of
576 jurisdiction does not have any effect on whether a case is
577 reopened for the purposes of this section when a case previously
578 ~~reported as disposed of is resubmitted to a court.~~ A party is
579 exempt from paying the fee for any of the following:

- 580 (a) A writ of garnishment;

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581 (b) A writ of replevin;
 582 (c) A distress writ;
 583 (d) A writ of attachment;
 584 (e) A motion for rehearing filed within 10 days;
 585 (f) A motion for attorney's fees filed within 30 days of
 586 the entry of the judgment or final order;
 587 (g) A motion for dismissal filed after a mediation
 588 agreement has been filed;
 589 (h) A motion to withdraw by attorneys;
 590 (i) Stipulations and motions to enforce stipulations; ~~or~~
 591 (j) Responsive pleadings; or
 592 (k) Motions for contempt.

593 Section 8. Subsection (4) is added to section 45.035,
 594 Florida Statutes, to read:
 595 45.035 Clerk's fees.—In addition to other fees or service
 596 charges authorized by law, the clerk shall receive service
 597 charges related to the judicial sales procedure set forth in ss.
 598 45.031-45.034 and this section:
 599 (4) If the sale is rescheduled for any reason, the
 600 plaintiff shall pay a rescheduling fee of \$70 to the clerk on
 601 each occasion the sale is rescheduled. This rescheduling fee
 602 must be assessed as costs, and the plaintiff shall pay this fee
 603 to the court before the sale.

604 Section 9. Subsection (1) of section 57.081, Florida
 605 Statutes, is amended to read:
 606 57.081 Costs; right to proceed where prepayment of costs
 607 and payment of filing fees waived.—
 608 (1) Any indigent person, except a prisoner as defined in s.
 609 57.085, who is a party or intervenor in any judicial or

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610 administrative agency proceeding or who initiates such
 611 proceeding shall receive the services of the courts, sheriffs,
 612 and clerks, with respect to such proceedings, despite his or her
 613 present inability to pay for these services. Such services are
 614 limited to filing fees; service of process; certified copies of
 615 orders or final judgments; a single photocopy of any court
 616 pleading, record, or instrument filed with the clerk; examining
 617 fees; mediation services and fees; private court-appointed
 618 counsel fees; subpoena fees and services; service charges for
 619 collecting and disbursing funds; and any other cost or service
 620 arising out of pending litigation. In any appeal from an
 621 administrative agency decision, for which the clerk is
 622 responsible for preparing the transcript, the clerk shall record
 623 the cost of preparing the transcripts and the cost for copies of
 624 any exhibits in the record. A party who has obtained a
 625 certification of indigence pursuant to s. 27.52 or s. 57.082
 626 with respect to a proceeding is not required to prepay costs to
 627 a court, clerk, or sheriff and is not required to pay filing
 628 fees or charges for issuance of a summons. Prepayment of costs
 629 to any court, clerk, or sheriff is not required and payment of
 630 filing fees is not required in any action if the party has
 631 obtained in each proceeding a certification of indigence in
 632 accordance with s. 27.52 or s. 57.082.

633 Section 10. Present subsection (7) of section 57.082,
 634 Florida Statutes, is redesignated as subsection (8), and a new
 635 subsection (7) is added to that section, to read:
 636 57.082 Determination of civil indigent status.—
 637 (7) PRISONER INDIGENCE.—If the court finds that deferral of
 638 prepayment of court costs and fees under s. 57.085 is not

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 639 applicable, the clerk shall proceed with a determination of
 640 indigency under this section. If the clerk finds the prisoner to
 641 be indigent and places the prisoner on a payment plan under
 642 subsection (5), the court shall order the prisoner to make
 643 monthly payments of at least 20 percent of the balance of the
 644 prisoner's trust account as payment of court costs. The
 645 Department of Corrections or the local detention facility shall
 646 place a lien on the prisoner's trust account for the full amount
 647 of the court-related costs. The department or the local facility
 648 shall withdraw funds from the trust account when the balance
 649 exceeds \$10 and forward the payment to the appropriate clerk of
 650 court until the court-related costs are paid in full.

651 Section 11. Subsection (11) is added to section 95.11,
 652 Florida Statutes, to read:

653 95.11 Limitations other than for the recovery of real
 654 property.—Actions other than for recovery of real property shall
 655 be commenced as follows:

656 (11) COURT COSTS AND FINES.—Notwithstanding subsection (1),
 657 an action to collect court costs or fines owed to the state may
 658 be commenced at any time.

659 Section 12. Paragraph (a) of subsection (4) of section
 660 112.3173, Florida Statutes, is amended to read:

661 112.3173 Felonies involving breach of public trust and
 662 other specified offenses by public officers and employees;
 663 forfeiture of retirement benefits.—

664 (4) NOTICE.—

665 (a) The clerk of a court in which a proceeding involving a
 666 specified offense is being conducted against a public officer or
 667 employee shall furnish notice of the proceeding to the

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 668 Commission on Ethics after the state attorney advises the clerk
 669 that the defendant is a public officer or employee and that the
 670 defendant is alleged to have committed a qualifying offense.
 671 Such notice is sufficient if it is in the form of a copy of the
 672 indictment, information, or other document containing the
 673 charges. In addition, if a verdict of guilty is returned by a
 674 jury or by the court trying the case without a jury, or a plea
 675 of guilty or of nolo contendere is entered in the court by the
 676 public officer or employee, the clerk shall furnish a copy
 677 thereof to the Commission on Ethics.

678 Section 13. Paragraph (b) of subsection (8) of section
 679 318.18, Florida Statutes, is amended to read:

680 318.18 Amount of penalties.—The penalties required for a
 681 noncriminal disposition pursuant to s. 318.14 or a criminal
 682 offense listed in s. 318.17 are as follows:

683 (8)

684 (b)1.a. If a person has been ordered to pay a civil penalty
 685 for a noncriminal traffic infraction and the person is unable to
 686 comply with the court's order due to demonstrable financial
 687 hardship, the court shall allow the person to satisfy the civil
 688 penalty by participating in community service until the civil
 689 penalty is paid.

690 b. If a court orders a person to perform community service,
 691 the person shall receive credit for the civil penalty at the
 692 specified hourly credit rate per hour of community service
 693 performed, and each hour of community service performed shall
 694 reduce the civil penalty by that amount.

695 2.a. As used in this paragraph, the term "specified hourly
 696 credit rate" means the wage rate that is specified in 29 U.S.C.

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 697 s. 206(a)(1) under the federal Fair Labor Standards Act of 1938,
 698 that is then in effect, and that an employer subject to such
 699 provision must pay per hour to each employee subject to such
 700 provision.

701 b. However, if a person ordered to perform community
 702 service has a trade or profession for which there is a community
 703 service need, the specified hourly credit rate for each hour of
 704 community service performed by that person shall be the average
 705 prevailing wage rate for the trade or profession that the
 706 community service agency needs.

707 3.a. The community service agency supervising the person
 708 shall record the number of hours of community service completed
 709 and the date the community service hours were completed. The
 710 community service agency shall submit the data to the clerk of
 711 court on the letterhead of the community service agency, which
 712 must also bear the notarized signature of the person designated
 713 to represent the community service agency.

714 b. When the number of community service hours completed by
 715 the person equals the amount of the civil penalty, the clerk of
 716 court shall certify this fact to the court. Thereafter, the
 717 clerk of court shall record in the case file that the civil
 718 penalty has been paid in full.

719 4. As used in this paragraph, the term:

720 a. "Community service" means uncompensated labor for a
 721 community service agency.

722 b. "Community service agency" means a not-for-profit
 723 corporation, community organization, charitable organization,
 724 public officer, the state or any political subdivision of the
 725 state, or any other body the purpose of which is to improve the

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 726 quality of life or social welfare of the community and which
 727 agrees to accept community service from persons unable to pay
 728 civil penalties for noncriminal traffic infractions.

729 Section 14. Subsection (3) of section 668.50, Florida
 730 Statutes, is amended to read:

731 668.50 Uniform Electronic Transaction Act.—

732 (3) SCOPE.—

733 (a) Except as otherwise provided in paragraph (b), this
 734 section applies to electronic records and electronic signatures
 735 relating to a transaction.

736 (b) This section does not apply to a transaction to the
 737 extent the transaction is governed by:

738 1. A provision of law governing the creation and execution
 739 of wills, codicils, or testamentary trusts;

740 2. The Uniform Commercial Code other than s. 671.107 and
 741 chapters 672 and 680; or

742 3. The Uniform Computer Information Transactions Act. ~~7-08~~

743 ~~4. Rules relating to judicial procedure.~~

744 (c) This section applies to an electronic record or
 745 electronic signature otherwise excluded under paragraph (b) to
 746 the extent such record or signature is governed by a provision
 747 of law other than those specified in paragraph (b).

748 (d) A transaction subject to this section is also subject
 749 to other applicable provisions of substantive law.

750 Section 15. Paragraph (c) of subsection (1) of section
 751 733.707, Florida Statutes, is amended to read:

752 733.707 Order of payment of expenses and obligations.—

753 (1) The personal representative shall pay the expenses of
 754 the administration and obligations of the decedent's estate in

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755 the following order:

756 (c) Class 3.—Debts and taxes with preference under federal
757 law, ~~and~~ claims pursuant to ss. 409.9101 and 414.28, and claims
758 in favor of the state for unpaid court costs, fees, or fines.

759 Section 16. Section 893.11, Florida Statutes, is amended to
760 read:

761 893.11 Suspension, revocation, and reinstatement of
762 business and professional licenses.—A state agency must revoke
763 or suspend the business or professional license of a person
764 licensed by the agency if that person is convicted of a felony
765 upon the conviction in any court of competent jurisdiction of
766 any person holding a license, permit, or certificate issued by a
767 state agency, for the sale of, or trafficking in, a controlled
768 substance or for conspiracy to sell, or traffic in, a controlled
769 substance. A state agency that issues a business or professional
770 license must use the Comprehensive Case Information System of
771 the Florida Association of Court Clerks and Comptroller, Inc.,
772 to obtain information relating to the conviction. The clerk of
773 court shall provide certified copies of the judgment upon
774 request to the agency., if such offense is a felony, the clerk
775 of said court shall send a certified copy of the judgment of
776 conviction with the person's license number, permit number, or
777 certificate number on the face of such certified copy to the
778 agency head by whom the convicted defendant has received a
779 license, permit, or certificate to practice his or her
780 profession or to carry on his or her business. Such agency head
781 shall suspend or revoke the license, permit, or certificate of
782 the convicted defendant to practice his or her profession or to
783 carry on his or her business. Upon a showing by any such

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784 convicted defendant whose business or professional license,
785 ~~permit, or certificate~~ has been suspended or revoked pursuant to
786 this section that his or her civil rights have been restored or
787 upon a showing that the convicted defendant meets the following
788 criteria, the agency head may reinstate or reactivate such
789 license, ~~permit, or certificate~~ when:

790 (1) The person has complied with the conditions of
791 paragraphs (a) and (b) which shall be monitored by the
792 Department of Corrections while the person is under any
793 supervisory sanction. If the person fails to comply with
794 provisions of these paragraphs by either failing to maintain
795 treatment or by testing positive for drug use, the department
796 shall notify the licensing, ~~permitting, or certifying~~ agency,
797 which shall revoke the license, ~~permit, or certification~~. The
798 person under supervision may:

799 (a) Seek evaluation and enrollment in, and once enrolled
800 maintain enrollment in until completion, a drug treatment and
801 rehabilitation program which is approved or regulated by the
802 Department of Children and Family Services. The treatment and
803 rehabilitation program shall be specified by:

804 1. The court, in the case of court-ordered supervisory
805 sanctions;

806 2. The Parole Commission, in the case of parole, control
807 release, or conditional release; or

808 3. The Department of Corrections, in the case of
809 imprisonment or any other supervision required by law.

810 (b) Submit to periodic urine drug testing pursuant to
811 procedures prescribed by the Department of Corrections. If the
812 person is indigent, the costs shall be paid by the Department of

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813 Corrections; or

814 (2) The person has successfully completed an appropriate
815 program under the Correctional Education Program.

816 (3) As used in this section, the term "business or
817 professional license" includes any license, permit, or
818 certificate that authorizes a person to practice his or her
819 profession or to carry on his or her business. However, the term
820 ~~This section~~ does not include apply to any of the taxes, fees,
821 or permits regulated, controlled, or administered by the
822 Department of Revenue in accordance with s. 213.05.

823 Section 17. Paragraphs (a) and (b) of subsection (2) of
824 section 938.27, Florida Statutes, are amended to read:

825 938.27 Judgment for costs on conviction.-

826 (2)(a) The court shall impose the costs of prosecution and
827 investigation notwithstanding the defendant's present ability to
828 pay. The court shall require the defendant to pay the costs
829 within a specified period or pursuant to a payment plan under s.
830 28.246(4) in specified installments.

831 (b) The end of such period or the last such installment
832 must shall not be later than:

833 1. The end of the period of probation or community control,
834 if probation or community control is ordered;

835 2. Five years after the end of the term of imprisonment
836 imposed, if the court does not order probation or community
837 control; or

838 3. Five years after the date of sentencing in any other
839 case.

840 However, ~~in no event shall~~ the obligation to pay any unpaid

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842 amounts ~~does not~~ expire if not paid in full within the period
843 specified in this paragraph.

844 Section 18. Present subsections (6), (7), (8), (9), (10),
845 (11), and (12) of section 938.30, Florida Statutes, are
846 renumbered as subsections (7), (10), (11), (12), (13), (14), and
847 (15), respectively, and new subsections (6), (8), and (9) are
848 added to that section, to read:

849 938.30 Financial obligations in criminal cases;
850 supplementary proceedings.-

851 (6) The court may order a prisoner, as defined in s.
852 57.085(1), to make monthly payments of at least 20 percent of
853 the balance of the prisoner's trust account as payment of court-
854 related costs. If the court orders such payment, the Department
855 of Corrections or the local detention facility shall place a
856 lien on the prisoner's trust account for the full amount of the
857 court-related costs. The department or the local facility shall
858 withdraw funds from the trust account when the balance exceeds
859 \$10 and forward the payment to the appropriate clerk of court
860 until the court-related costs are paid in full.

861 (8) If a criminal or civil judgment has previously been
862 entered on a court-imposed financial obligation, the judgment
863 constitutes a civil lien against the judgment debtor's presently
864 owned or after-acquired real or personal property when recorded
865 pursuant to s. 55.10, except that a judgment on a court-imposed
866 financial obligation is not subject to the 10-year rerecording
867 requirement of s. 55.10. The judgment must secure all unpaid
868 court-imposed financial obligations that are due and may accrue
869 subsequent to the recording of the judgment, as well as interest
870 and reasonable costs for issuing a satisfaction and recording

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871 the satisfaction in the official records.

872 (9) The clerk shall enforce, satisfy, compromise, settle,
 873 subordinate, release, or otherwise dispose of any debts or liens
 874 imposed and collected under this section in the same manner as
 875 prescribed in s. 938.29(3).

876 Section 19. Section 947.181, Florida Statutes, is amended
 877 to read:

878 947.181 Fines, fees, restitution, or other costs ordered to
 879 be paid by a court ~~Victim restitution~~ as conditions ~~condition~~ of
 880 parole.-

881 (1)~~(a)~~ The Parole Commission shall require the payment of
 882 finest, fees, restitution, or other court-ordered costs as a
 883 condition of parole ~~reparation or restitution to the aggrieved~~
 884 ~~party for the damage or loss caused by the offense for which the~~
 885 ~~parolee was imprisoned unless the commission finds reasons to~~
 886 ~~the contrary. If the commission does not~~ require the payment of
 887 finest, fees, restitution, or other court-ordered costs ~~order~~
 888 ~~restitution or requires orders~~ only partial payment of the
 889 finest, fees, restitution, or other court-ordered costs
 890 ~~restitution~~, the commission shall state on the record the
 891 reasons for its decision therefor. ~~The amount of such reparation~~
 892 ~~or restitution shall be determined by the Parole Commission.~~

893 ~~(2)(b)~~ If the parolee fails to make the payments ~~reparation~~
 894 ~~or restitution to the aggrieved party as required~~ authorized in
 895 subsection (1) paragraph (a), it shall be considered by the
 896 commission as a violation of parole as specified in s. 947.21
 897 and may be cause for revocation of ~~her or his~~ parole.

898 ~~(2) If a defendant is paroled, any restitution ordered~~
 899 ~~under s. 775.089 shall be a condition of such parole. The Parole~~

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900 ~~Commission may revoke parole if the defendant fails to comply~~
 901 ~~with such order.~~

902 (3) In determining whether to revoke parole, the Parole
 903 Commission shall consider the defendant's employment status,
 904 earning ability, and financial resources; the willfulness of the
 905 defendant's failure to pay; and any other special circumstances
 906 that may have a bearing on the defendant's ability to pay.

907 Section 20. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on Education Pre-K - 12
 Appropriations, *Chair*
Agriculture
Budget
Budget - Subcommittee on Higher Education
 Appropriations
Judiciary
Rules - Subcommittee on Ethics and Elections
Reapportionment

SENATOR DAVID SIMMONS

Majority Whip
22nd District

January 12, 2012

The Honorable Dennis Jones
408 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Jones:

I would like to respectfully request that you place Senate Bill 1166, Clerks of Court, on the next agenda for the Regulated Industries Committee.

Please feel free to contact me if you have any questions regarding this bill.

Sincerely yours

A handwritten signature in black ink, appearing to read "David Simmons", with a stylized flourish at the end.

David Simmons

cc: Patrick Imhof, staff director for Regulated Industries Committee

REPLY TO:

- 251 Maitland Avenue, Suite 304, Altamonte Springs, FL 32701 (407) 262-7578
- 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5050

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/7/12

Meeting Date

Topic _____

Bill Number 1166
(if applicable)

Name MIKE MANLEY

Amendment Barcode _____
(if applicable)

Job Title DIR. OF LEG AFFAIRS / FL. LOTTERY

Address 250 MARRIOTT DRIVE
Street

Phone 850-487-7729

TALLAHASSEE FL 32301
City State Zip

E-mail _____

Speaking: For Against Information

Representing FLORIDA LOTTERY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/7/12

Meeting Date

Topic Clerks of Court

Bill Number 1166
(if applicable)

Name Fred Baggett

Amendment Barcode _____
(if applicable)

Job Title _____

Address 101 E. College Ave.
Street

Phone 475 8512

Tall _____
City State Zip

E-mail _____

Speaking: For Against Information

Representing Fl. Assoc. of Court Clerks

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: CS/SB 1656

INTRODUCER: Regulated Industries Committee and Senator Latvala

SUBJECT: Public Accounting

DATE: February 7, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Fav/CS
2.			BC	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill deletes the requirement that the one year of work experience that is required for a license as a certified public accountant (CPA) must be under the supervision of a licensed CPA. The bill requires that the applicant's work must be verified by a licensed CPA. The bill deletes the requirement that applicants for a license as a certified public accountant (CPA) must have the one year of work experience, which is required to qualify for a license, be verified by the CPA who supervise them.

The bill provides an alternative method for licensure by endorsement for out-of-state applicants who are licensed. The bill would permit a CPA who has been licensed in another state or territory to become licensed in Florida if they have been licensed in another state for at least 10 years before the date of application and meet the Florida requirements for good moral character

The bill provides a process for reactivation of licenses that have become inactive due to failure to complete the continuing education requirements. If a person's license has become inactive due to a failure to complete continuing education requirements, the person is able to complete 120 hours of education if that person applies for reactivation between June 30, 2012 and December 31, 2012. The process would require the inactive licensee to pay a fee as determined by the

department and to submit proof of satisfactorily completing the continuing education requirement. The inactive licensee must also submit the completed application for reactivation to the board by March 15 immediately following the inactive period.

The bill requires the Board of Accountancy, upon the approval of the board, to complete a report on the potential cost savings for privatization of the division or its functions as outlined in s. 455.32, F.S. The CS also requires that the report must be submitted to the presiding officers of the Senate and the House of Representatives no later than November 30, 2012.

The bill provides an effective date of July 1, 2012.

This bill substantially amends sections 473.308, and 473.313, Florida Statutes. The bill creates an unnumbered section of the Florida Statutes.

II. Present Situation:

The Board of Accountancy (board) within the Department of Business and Professional Regulation (department) is the agency charged with regulating the practice of public accountancy.¹ The Division of Certified Public Accounting performs for the board all services concerning the enforcement of ch. 473, F.S., including, but not limited to, recordkeeping services, examination services, legal services, and investigative services, and those services in ch. 455, F.S., necessary to perform the board's duties under the chapter. The offices of the division are located in Gainesville.²

Section 473.302(4), F.S., defines a "certified public accountant" to mean a person who holds a license to practice public accounting in this state under the authority of ch. 473, F.S.

Section 473.302(8), F.S., defines the "practice of," "practicing public accountancy," or "public accounting" to mean:

(a) Offering to perform or performing for the public one or more types of services involving the expression of an opinion on financial statements, the attestation as an expert in accountancy to the reliability or fairness of presentation of financial information, the utilization of any form of opinion or financial statements that provide a level of assurance, the utilization of any form of disclaimer of opinion which conveys an assurance of reliability as to matters not specifically disclaimed, or the expression of an opinion on the reliability of an assertion by one party for the use by a third party;

(b) Offering to perform or performing for the public one or more types of services involving the use of accounting skills, or one or more types of tax, management advisory, or consulting services, by any person who is a certified public accountant who holds an active license, including the performance of such services by a certified public accountant in the employ of a person or firm; or

¹ Section 473.303, F.S.

² See s. 20.165(2)(c)2., F.S.

(c) Offering to perform or performing for the public one or more types of service involving the preparation of financial statements not included within paragraph (a), by a certified public accountant who holds an active license, a firm of certified public accountants, or a firm in which a certified public accountant has an ownership interest, including the performance of such services in the employ of another person. The board shall adopt rules establishing standards of practice for such reports and financial statements; provided, however, that nothing in this paragraph shall be construed to permit the board to adopt rules that have the result of prohibiting licensees employed by unlicensed firms from preparing financial statements as authorized by this paragraph.

However, these terms [of practice] shall not include services provided by the American Institute of Certified Public Accountants or the Florida Institute of Certified Public Accountants, or any full service association of certified public accounting firms whose plans of administration have been approved by the board, to their members or services performed by these entities in reviewing the services provided to the public by members of these entities.

Section 473.302(5), F.S., defines the term “firm” to mean “any entity that is engaged in the practice of public accounting.”

Section 473.3101(1)(a), F.S., requires that firms must hold a license if the firm:

- Uses the title “CPA,” “CPA firm,” or any other title, designation, words, letters, abbreviations, or device tending to indicate that the firm practices public accounting; or
- Does not have an office in this state but performs the services described in s. 473.3141(4), F.S.,³ for a client having its home office in this state, as defined by rule of the board.

Section 473.308(4)(a), F.S., requires an applicant for licensure as a CPA to demonstrate work experience. The work experience must have been attained under the supervision of a licensed CPA.

Section 473.308(7), F.S., provides for the licensure by endorsement, which permits persons from other states to qualify for a Florida certification if they meet specified requirements. To qualify for a license by endorsement an applicant must:

If not licensed in another state or territory, the person must:

- Meet the Florida requirement for education, work experience, and good moral character;
- Have passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306, F.S.; and
- Have completed, during the 2 years immediately preceding her or his application for licensure by endorsement, the continuing education courses as the board deems

³ Section 473.3141, F.S., provides the practice requirements for CPA’s from out-of-state.

appropriate for each applicable 2-year period, provided that such courses are equivalent to the continuing education requirements for a Florida certified public accountant licensed in this state;

Alternatively, a person may be licensed by endorsement if the person holds a valid license in another state or territory of the United States and the criteria for that license is substantially equivalent to the licensure criteria that existed in this state at the time the license was issued.

If the criteria in the other state or territory is not substantially equivalent to the criteria in Florida, the applicant may be licensed if he or she meets the Florida requirement for education, work experience, and good moral character, passed a licensing examination that is substantially equivalent to the examination required under Florida law, and has completed continuing education courses that are equivalent to those required in Florida during the 2 years immediately preceding her or his application for licensure by endorsement.

Inactive Licenses

Section 473.313(1), F.S., permits Florida-licensed CPA's to request that their license be placed on inactive status. Section 473.313(2), F.S., authorizes the board to provide that the minimum requirements for placing a license on inactive status, renewing an inactive license, and reactivating the inactive license.

The minimum continuing education requirements are those required by board rule, the most recent biennium reporting period, and one-half of the requirements under s. 473.312, F.S.⁴

Section 473.303(2), F.S., provided a reduced number of hours for applicants to reactivate an inactive license if the license was inactive on June 30, 2009. To reactivate, the person must have complete 120 hours of continuing education, including at least 30 hours in accounting-related and auditing-related subjects, not more than 30 hours in behavioral subjects, and a minimum of 8 hours in ethics subjects approved by the board. To reactivate, the CPA must also have notified the board by December 31, 2009, of his or her intention to reactivate such a license and have completed such reactivation by June 30, 2011.

The department noted that the last time amnesty was offered in 2009, the division notified approximately 2,900 inactive licensees of the amnesty provision. Five hundred and twenty-nine licensees submitted letters of intent to reactivate under the amnesty program and only 214 actually completed the reactivation process under that provision.

Rule 61H1-33.006, F.A.C., provides that licenses that have been inactive for no more than two reporting periods may be reactivated upon the completion of the most recent 2-year continuing education requirement plus a minimum of 120 hours of continuing education. The required additional continuing education hours increase to 200 hours if the CPA has been inactive for three or more reporting periods.

⁴ Section 473.312(1), F.S., requires that at least 48, but not more than 80 hours must be completed within 2 years prior to the application for renewal.

Peer Review

Florida does not require that firms participate in a peer review program. It also does not have a peer review oversight committee or other oversight process for peer review. According to the Florida Institute of Certified Public Accountants (FICPA), 48 states have a peer review requirement. Also according to FICPA, Florida and Delaware are the only states without a peer review requirement.

Further, according to the FICPA, the goal of a peer review is to help CPA firms improve their work, if needed, or to show that the CPA's work meets professional auditing standards.

The Florida Institute of Certified Public Accountants has represented that Florida CPA firms that perform one or more audits, reviews, compilations, or any other agreed-upon attestation engagement, and are members of the American Institute of Certified Public Accountants are currently required to perform work under the Yellow Book standards⁵ and public company audits which require that they enroll in a peer review program and undergo a peer review at least once every three years.

The American Institute of Certified Public Accountants Peer Review Board has approved 42 state CPA societies or groups of societies as "administering entities" to administer the peer review program for 55 licensing jurisdictions.⁶

The board has unanimously approved the concept of peer review as a requirement for firm license renewal.⁷

Section 473.308(4)(a), F.S., requires an applicant for licensure as a CPA to demonstrate work experience. The work experience must have been attained under the supervision of a licensed CPA.

Management Privatization Act

Section 455.32, F.S., provides the model for the privatization of the regulation of professionals under the department. It provides that, at the request of any board, the department may establish and contract with a nonprofit corporation to provide administrative, investigative, and prosecutorial services to any board created with the department.

Section 455.32(4), F.S., requires that the board's privatization request must contain a business case that includes a needs assessment and financial feasibility study with specific performance standards and measurable outcomes. The term "business case" means a needs assessment, financial feasibility study, and corporate financial model as specified in s. 455.32(4), F.S.⁸ The

⁵ The "Yellow Book" provides the government auditing standards.

⁶ *Peer Review Program, Annual Report on Oversight*, American Institute of Certified Public Accountants, January 12, 2012. A copy is located at:

<http://www.aicpa.org/interestareas/peerreview/resources/transparency/downloadabledocuments/annrptoversight2011.pdf> (Last visited February 4, 2011).

⁷ See correspondence from David C. Tipton, CPA, Chairman, Florida Board of Accountancy, to the Florida Institute of Certified Public Accountants, dated December 7, 2010, which is on file with the Senate Committee on Regulated Industries.

⁸ Section 455.32(3)(e), F.S.

term “performance standards and measurable outcomes” is defined to include, but not be limited to, timeliness and quantitative criteria for activities specified in s. 455.32(6)(o), F.S.⁹

Section 455.32(4), F.S., requires that the feasibility study must evaluate the department’s current and projected performance standards in regard to those standards. The financial model must include projected costs and expenses for the first two years of operation and specific performance standards and measurable outcomes. The business case must be approved by the Executive Office of the Governor and the Legislature pursuant to s. 216.023, F.S., which requires state agencies to submit legislative budget requests to the Governor and the Legislature.

III. Effect of Proposed Changes:

Licensure by Endorsement

The bill amends s. 473.308(4)(a), F.S., to provide that applicants for licensure must submit proof of experience verified by a licensed CPA. It deletes the requirement that the work experience must be under the CPA who supervised the applicant.

The bill also amends s. s. 473.308(7), F.S., to provide an alternative method for licensure by endorsement for out-of-state applicants who are licensed. The bill would permit a CPA who has been licensed in another state or territory to become licensed in Florida if they have been licensed in another state for at least 10 years before the date of application. They must also meet the requirements for good moral character as provided in s. 473.308, F.S.

Inactive Licenses

The bill amends s. 473.313(2), F.S., to provide CPAs who hold an inactive license due to failure to complete the continuing education requirements in s. 473.312, F.S., may be reactivated under s. 473.311, F.S.,¹⁰ upon application to the department.

Section 473.313(3), permits a license that has become inactive due to failure to meet the continuing education requirements to be renewed upon the licensee applying to the department with payment of a fee as determined by the department.¹¹ The applicant must submit proof of satisfactorily completing the continuing education requirement. The applicant must also submit the completed application to the board by March 15 immediately following the inactive period.

Privatization Report

The bill creates an unnumbered section of the Florida Statutes to require the Board of Accountancy, upon the approval of the board, to complete a report on the potential cost savings for privatization of the division or its functions as outlined in s. 455.32, F.S. The CS also requires

⁹ Section 455.32(3)(f), F.S.

¹⁰ Section 473.311, F.S., provides for the renewal of licenses upon the satisfaction of continuing education requirements.

¹¹ Section 473.305, F.S., authorizes the board to establish, by rule, a reactivation fee, and a delinquency fee not to exceed \$50 for continuing professional education reporting forms. This section also provides that the board must “establish fees which are adequate to ensure the continued operation of the board and to fund the proportionate expenses incurred by the department which are allocated to the regulation of public accountants.” The fees established by the board must be based on department estimates of the revenue required to implement ch. 473, F.S., and the provisions of law with respect to the regulation of certified public accountants.

that the report must be submitted to the presiding officers of the Senate and the House of Representatives no later than November 30, 2012.

Effective Date

The bill provides an effective date of July 1, 2012.

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:

If the Board of Accountancy approves, it would be required to conduct a feasibility study to assess the privatization of the Division of Certified Public Accounting. The department estimates that this would be a three month study with a cost ranging from \$64,828 to \$82,342.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Regulated Industries on February 7, 2012:

The committee substitute (CS) does not amend s. 473.3035(3), F.S., to require the Department of Business and Professional Regulation (department), upon the approval of the Board of Accountancy (board), to conduct a feasibility study, in accordance with the Management Privatization Act, to assess the privatization of the Division of Certified Public Accounting (division). Instead, the CS creates an unnumbered section of the Florida Statutes to require the department, upon the approval of the board, to complete a report on the potential cost savings for privatization of the division or its functions as outlined in s. 455.32, F.S. The CS also requires that the report must be submitted to the presiding officers of the Senate and the House of Representatives no later than November 30, 2012.

The CS does not amend s. s. 473.308(7), F.S., to permit a CPA who is licensed in another state or territory to become licensed in Florida if they have completed a license exam substantially equivalent to Florida's exam at least 10 years before filing their application. Instead, the CS amends this subsection to permit a CPA who has been licensed in another state or territory to become licensed in Florida if they have been licensed in another state for at least 10 years before the date of application.

The CS does not amend s. 473.311, F.S., relating to the renewal of the license for a firm upon certification by the board that it is enrolled in a peer review program.

The CS does not create s. 473.3125, F.S, relating to peer review.

- B. **Amendments:**

None.



383894

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2012	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (4) and paragraph
(b) of subsection (7) of section 473.308, Florida Statutes, are
amended to read:

473.308 Licensure.—

(4) (a) An applicant for licensure after December 31, 2008,
must show that he or she has had 1 year of work experience. This
experience shall include providing any type of service or advice
involving the use of accounting, attest, compilation, management



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13 advisory, financial advisory, tax, or consulting skills, all of
14 which must be verified by a certified public accountant who is
15 licensed by a state or territory of the United States ~~and who~~
16 ~~has supervised the applicant.~~ This experience is acceptable if
17 it was gained through employment in government, industry,
18 academia, or public practice; constituted a substantial part of
19 the applicant's duties; and was verified by ~~under the~~
20 ~~supervision of~~ a certified public accountant licensed by a state
21 or territory of the United States. The board shall adopt rules
22 specifying standards and providing for the review and approval
23 of the work experience required by this section.

24 (7) The board shall certify as qualified for a license by
25 endorsement an applicant who:

26 (b)1.a. Holds a valid license to practice public accounting
27 issued by another state or territory of the United States, if
28 the criteria for issuance of such license were substantially
29 equivalent to the licensure criteria that existed in this state
30 at the time the license was issued; ~~or~~

31 b. Holds a valid license to practice public accounting
32 issued by another state or territory of the United States but
33 the criteria for issuance of such license did not meet the
34 requirements of sub-subparagraph a.; has met the requirements of
35 this section for education, work experience, and good moral
36 character; and has passed a national, regional, state, or
37 territorial licensing examination that is substantially
38 equivalent to the examination required by s. 473.306; or ~~and~~

39 c. Holds a valid license to practice public accounting
40 issued by another state or territory of the United States for at
41 least 10 years before the date of application; has passed a



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42 national, regional, state, or territorial licensing examination
43 that is substantially equivalent to the examination required by
44 s. 473.306; and has met the requirements of this section for
45 good moral character; and

46 2. Has completed continuing education courses that are
47 equivalent to the continuing education requirements for a
48 Florida certified public accountant licensed in this state
49 during the 2 years immediately preceding her or his application
50 for licensure by endorsement.

51 Section 2. Subsections (3) and (4) of section 473.313,
52 Florida Statutes, are redesignated as subsections (4) and (5),
53 respectively, a new subsection (3) is added to that section, and
54 subsection (2) of that section is amended, to read:

55 473.313 Inactive status.—

56 (2) A license that has become inactive under subsection (1)
57 or for failure to complete the requirements in s. 473.312 may be
58 reactivated under s. 473.311 upon application to the department.
59 The board may prescribe by rule continuing education
60 requirements as a condition of reactivating a license. The
61 minimum continuing education requirements for reactivating a
62 license shall be those prescribed by board rule and those of the
63 most recent biennium plus one-half of the requirements in s.
64 473.312. Notwithstanding any other provision of this section,
65 the continuing education requirements are 120 hours, including
66 at least 30 hours in accounting-related and auditing-related
67 subjects, not more than 30 hours in behavioral subjects, and a
68 minimum of 8 hours in ethics subjects approved by the board, for
69 the reactivation of a license that is inactive or delinquent on
70 June 30, 2012 ~~2009~~, if the Florida certified public accountant



383894

71 notifies the Board of Accountancy by December 31, 2012 ~~2009~~, of
72 an intention to reactivate such a license and completes such
73 reactivation by June 30, 2014 ~~2011~~.

74 (3) A license that has become delinquent for failure to
75 report completion of the requirements in s. 473.312 may be
76 reactivated under s. 473.311 upon application to the department.
77 Reactivation requires the payment of an application fee as
78 determined by the board and certification by the Florida
79 certified public accountant that the applicant satisfactorily
80 completed the continuing education requirements set forth under
81 s. 473.311. If the license is delinquent on December 31 because
82 of failure to report completed continuing education
83 requirements, the applicant must submit a complete application
84 to the board by March 15 immediately after the delinquent
85 period.

86 Section 3. Upon approval of the Board of Accountancy, the
87 board shall complete a report on the potential cost savings for
88 privatization of the Division of Certified Public Accounting or
89 its functions as outlined in s. 455.32, Florida Statutes. This
90 report must be completed and submitted to the President of the
91 Senate and the Speaker of the House of Representatives no later
92 than November 30, 2012.

93 Section 4. This act shall take effect July 1, 2012.

94
95 ===== T I T L E A M E N D M E N T =====

96 And the title is amended as follows:

97 Delete everything before the enacting clause
98 and insert:

99 A bill to be entitled



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100 An act relating to public accountancy; amending s.
101 473.308, F.S.; revising and updating education and
102 work experience requirements for applicants for
103 licensure as a certified public accountant; revising
104 provisions governing licensure by endorsement;
105 amending s. 473.313, F.S.; revising requirements for
106 reactivation of an inactive license as a certified
107 public accountant; requiring the Board of Accountancy
108 to conduct a study to assess the privatization of the
109 Division of Certified Public Accounting; providing a
110 deadline for completion of the study; providing an
111 effective date.

By Senator Latvala

16-01041A-12

20121656__

1 A bill to be entitled
 2 An act relating to public accounting; amending s.
 3 473.3035, F.S.; requiring that the Department of
 4 Business and Professional Regulation conduct a
 5 feasibility study to assess the privatization of the
 6 Division of Certified Public Accounting; requiring the
 7 study to be completed by a specified date; amending s.
 8 473.308, F.S.; revising the criteria for the work
 9 experience that is required for obtaining a license as
 10 a certified public accountant in this state; requiring
 11 the Board of Accountancy to certify as qualified for a
 12 license by endorsement an applicant who holds a valid
 13 license to practice public accounting issued by
 14 another state and who meets certain other
 15 requirements; amending s. 473.311, F.S.; requiring
 16 that the department renew a license upon certification
 17 by the board that the sole proprietor, partnership,
 18 corporation, limited liability company, or other firm
 19 engaged in the practice of public accounting is
 20 enrolled in a peer review program; creating s.
 21 473.3125, F.S.; providing definitions; requiring the
 22 board to adopt rules that establish minimum standards
 23 for peer review programs and minimum criteria for the
 24 board's approval of peer review administering
 25 organizations that facilitate and administer peer
 26 review programs; authorizing the board to establish a
 27 peer review oversight committee; amending s. 473.313,
 28 F.S.; providing requirements for renewing a license
 29 that becomes inactive for failure of the licensee to

Page 1 of 7

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

16-01041A-12

20121656__

30 report the completion of a specified number of hours
 31 of continuing professional education in public
 32 accounting; providing an effective date.
 33
 34 Be It Enacted by the Legislature of the State of Florida:
 35
 36 Section 1. Subsection (3) is added to section 473.3035,
 37 Florida Statutes, to read:
 38 473.3035 Division of Certified Public Accounting.—
 39 (3) Upon approval of the board, the department shall
 40 conduct a feasibility study in accordance with s. 455.32(4) to
 41 assess the privatization of the division. This study shall be
 42 completed by November 30, 2012.
 43
 44 Section 2. Subsections (4) and (7) of section 473.308,
 45 Florida Statutes, are amended to read:
 46 473.308 Licensure.—
 47 (4) (a) An applicant for licensure after December 31, 2008,
 48 must show that he or she has had 1 year of work experience. This
 49 experience shall include providing any type of service or advice
 50 involving the use of accounting, attest, compilation, management
 51 advisory, financial advisory, tax, or consulting skills, all of
 52 which must be verified by a certified public accountant who is
 53 licensed by a state or territory of the United States ~~and who~~
 54 ~~has supervised the applicant.~~ This experience is acceptable if
 55 it was gained through employment in government, industry,
 56 academia, or public practice; constituted a substantial part of
 57 the applicant's duties; and was verified by ~~under the~~
 58 ~~supervision of~~ a certified public accountant licensed by a state
 or territory of the United States. The board shall adopt rules

Page 2 of 7

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

16-01041A-12 20121656

59 specifying standards and providing for the review and approval
60 of the work experience required by this section.

61 (b) However, an applicant who completed the requirements of
62 subsection (3) on or before December 31, 2008, and who passes
63 the licensure examination on or before June 30, 2010, is exempt
64 from the requirements of this subsection.

65 (7) The board shall certify as qualified for a license by
66 endorsement an applicant who:

67 (a)1. Is not licensed and has not been licensed in another
68 state or territory and who has met the requirements of this
69 section for education, work experience, and good moral character
70 and has passed a national, regional, state, or territorial
71 licensing examination that is substantially equivalent to the
72 examination required by s. 473.306; and

73 2. Has completed such continuing education courses as the
74 board deems appropriate, within the limits for each applicable
75 2-year period as set forth in s. 473.312, but at least such
76 courses as are equivalent to the continuing education
77 requirements for a Florida certified public accountant licensed
78 in this state during the 2 years immediately preceding her or
79 his application for licensure by endorsement; or

80 (b)1.a. Holds a valid license to practice public accounting
81 issued by another state or territory of the United States, if
82 the criteria for issuance of such license were substantially
83 equivalent to the licensure criteria that existed in this state
84 at the time the license was issued; ~~or~~

85 b. Holds a valid license to practice public accounting
86 issued by another state or territory of the United States but
87 the criteria for issuance of such license did not meet the

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88 requirements of sub-subparagraph a.; has met the requirements of
89 this section for education, work experience, and good moral
90 character; and has passed a national, regional, state, or
91 territorial licensing examination that is substantially
92 equivalent to the examination required by s. 473.306; ~~or and~~
93 c. Holds a valid license to practice public accounting
94 issued by another state or territory of the United States; has
95 passed a national, regional, state, or territorial licensing
96 examination that is substantially equivalent to the examination
97 required by s. 473.306 at least 10 years before the date of
98 application; and has met the requirements of this section for
99 good moral character; and

100 2. Has completed continuing education courses that are
101 equivalent to the continuing education requirements for a
102 Florida certified public accountant licensed in this state
103 during the 2 years immediately preceding her or his application
104 for licensure by endorsement.

105 Section 3. Section 473.311, Florida Statutes, is amended to
106 read:

107 473.311 Renewal of license.—

108 (1) The department shall renew a license issued under s.
109 473.308 upon receipt of the renewal application and fee and upon
110 certification by the board that the Florida certified public
111 accountant has satisfactorily completed the continuing education
112 requirements of s. 473.312.

113 (2) Effective January 1, 2015, the department shall renew a
114 license issued under s. 473.3101 upon certification by the board
115 that the sole proprietor, partnership, corporation, limited
116 liability company, or other firm engaged in the practice of

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117 public accounting, as defined in s. 473.302(8)(a), is enrolled
 118 in a peer review program.

119 ~~(3)(2)~~ The department shall adopt rules establishing a
 120 procedure for the biennial renewal of licenses issued under ss.
 121 473.308 and 473.3101.

122 Section 4. Section 473.3125, Florida Statutes, is created
 123 to read:

124 473.3125 Peer review.—

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

126 (a) "Licensee" means a sole proprietor, partnership,
 127 corporation, limited liability company, or any other firm
 128 engaged in the practice of public accounting, as defined in s.
 129 473.302(8)(a), which is required to be licensed under s.
 130 473.3101.

131 (b) "Peer review" means the study, appraisal, or review by
 132 one or more independent certified public accountants of one or
 133 more aspects of the professional work of a licensee.

134 (2) The board shall adopt rules establishing minimum
 135 standards for peer review programs, including, but not limited
 136 to, standards for administering, performing, and reporting peer
 137 reviews. The board shall also adopt rules establishing minimum
 138 criteria for the board's approval of one or more peer review
 139 administering organizations to facilitate and administer peer
 140 review programs.

141 (3) For the purposes of maintaining oversight of a firm's
 142 licensure renewal requirements in s. 473.311(2), the board may
 143 establish a peer review oversight committee that is composed of
 144 no fewer than three and no more than five members who are
 145 licensed under this chapter and whose firm is subject to s.

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146 473.311(2) and has received a review rating of "pass" on the
 147 most recent peer review.

148 Section 5. Section 473.313, Florida Statutes, is amended to
 149 read:

150 473.313 Inactive status.—

151 (1) A Florida certified public accountant may request that
 152 her or his license be placed in an inactive status by making
 153 application to the department. The board may prescribe by rule
 154 fees for placing a license on inactive status, renewal of
 155 inactive status, and reactivation of an inactive license.

156 (2) A license that has become inactive for failure of the
 157 licensee to complete the requirements in s. 473.312 may be
 158 reactivated under s. 473.311 upon application to the department.
 159 The board may prescribe by rule continuing education
 160 requirements as a condition of reactivating a license. The
 161 minimum continuing education requirements for reactivating a
 162 license shall be those prescribed by board rule and those of the
 163 most recent biennium plus one-half of the requirements in s.
 164 473.312. Notwithstanding any other provision of this section,
 165 the continuing education requirements are 120 hours, including
 166 at least 30 hours in accounting-related and auditing-related
 167 subjects, not more than 30 hours in behavioral subjects, and a
 168 minimum of 8 hours in ethics subjects approved by the board, for
 169 the reactivation of a license that is inactive on June 30, 2012
 170 ~~2009~~, if the Florida certified public accountant notifies the
 171 Board of Accountancy by December 31, 2012 ~~2009~~, of an intention
 172 to reactivate such a license and completes such reactivation by
 173 June 30, 2014 ~~2011~~.

174 (3) A license that has become inactive for failure of the

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175 licensee to report completion of the requirements in s. 473.312
176 may be reactivated under s. 473.311 upon application to the
177 department. In order to reactive the license, the licensee
178 shall:

179 (a) Pay an application fee as determined by the board;

180 (b) Submit proof of certification by the Florida certified
181 public accountant that the licensee satisfactorily completed the
182 continuing education requirements set forth under s. 473.311;
183 and

184 (c) Submit a completed application to the board by March 15
185 immediately following the inactive period.

186 (4)(3) Any Florida certified public accountant holding an
187 inactive license may be permitted to reactivate such license in
188 a conditional manner. The conditions of reactivation shall
189 require the payment of fees and the completion of required
190 continuing education.

191 (5)(4) Notwithstanding the provisions of s. 455.271, the
192 board may, at its discretion, reinstate the license of an
193 individual whose license has become null and void if the
194 individual has made a good faith effort to comply with this
195 section but has failed to comply because of illness or unusual
196 hardship. The individual shall apply to the board for
197 reinstatement in a manner prescribed by rules of the board and
198 shall pay an application fee in an amount determined by rule of
199 the board. The board shall require that the individual meet all
200 continuing education requirements as provided in subsection (2),
201 pay appropriate licensing fees, and otherwise be eligible for
202 renewal of licensure under this chapter.

203 Section 6. This act shall take effect July 1, 2012.



SENATOR JACK LATVALA
16th District

Tallahassee, Florida 32399-1100

COMMITTEES:

Transportation, Chair
Budget - Subcommittee on General Government
Appropriations
Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations
Children, Families, and Elder Affairs
Environmental Preservation and Conservation
Governmental Oversight and Accountability
Reapportionment

January 25, 2011

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

Dear Chairman Jones:

I respectfully request consideration of Senate Bill 1656 regarding Public Accounting at your earliest convenience.

This bill makes several changes to the Statutes governing the licensure and certification of public accountants in the state of Florida. I would greatly appreciate the opportunity to present this legislation to the Committee on Regulated Industries as soon as possible.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Jack".

Jack Latvala
State Senator
District 16

JL: JW

cc: Patrick Emhoff, Staff Director; Lynn Koon, Administrative Assistant

REPLY TO:

- 12425 28th Street North, Suite 102, St. Petersburg, Florida 33716 (727) 556-6500
- 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5075

Senate's Website: www.flsenate.gov

MICHAEL S. "MIKE" BENNETT

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic CPA LICENSING

Bill Number 1636
(if applicable)

Name JENNIFER GREEN

Amendment Barcode _____
(if applicable)

Job Title _____

Address 113 E. COLLEGE AVE #300

Phone _____

Street
TLH FL 32301
City State Zip

E-mail _____

Speaking: For Against Information

Representing FLORIDA INSTITUTE OF CPAs

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/7/12

Meeting Date

Topic Accountancy

Deborah

Bill Number 1656

(if applicable)

Name Deborah Curry

Amendment Barcode _____

(if applicable)

Job Title CEO

Address 325 E College Ave

Street

Phone 224-2727

Tallahassee

City

FL

State

32301

Zip

E-mail curryd@FICPA.org

Speaking: For Against Information

Representing FICPA

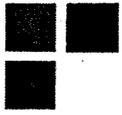
Appearing at request of Chair: Yes No

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 (10/20/11)



December 7, 2010

Ms. Kathy Anderson, CEO
Florida Institute of Certified Public Accountants
P.O. Box 5437
Tallahassee, Florida 32314

Re: Mandatory Peer Review

Dear Ms. Anderson,

On behalf of the Florida Board of Accountancy, I would like to inform the Florida Institute of CPAs (FICPA) of recent action the Board has taken regarding potential changes to the practice of public accounting in Florida.

At the December 2, 2010 meeting in Tallahassee, the Board unanimously approved the concept of Peer Review as a requirement for Firm license renewal.

Since this provision requires statutory changes, I would respectfully request that the FICPA consider advocating for legislation during the 2011 regular session that would include this provision. Such legislation would have full support of this Board.

We look forward to working with you and the FICPA on this issue. Please contact Veloria Kelly at (352) 333-2504 if you need any additional information. Otherwise, we will see you at the Jan. 28, 2011 Board meeting in Tampa.

Sincerely,

David C. Tipton, CPA
Chairman, Florida Board of
Accountancy

cc: Florida Board of Accountancy
Charlie Liem, DBPR Secretary

501 West 19th Street
Panama City, Florida 32405
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(850) 233-1360 ■ Fax: (850) 233-1941
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CourtSmart Tag Report

Room: EL 110

Case:

Caption: Senate Regulated Industries Committee

Type:

Judge:

Started: 2/7/2012 1:32:59 PM

Ends: 2/7/2012 2:45:36 PM Length: 01:12:38

1:33:05 PM Meeting called to order.
1:33:16 PM Roll call
1:33:31 PM Senator Jones with opening remarks
1:34:11 PM Senator Dean commenting
1:34:28 PM Senator Rich introducing FSU student
1:35:27 PM SB 1166 - Senator Simmons
1:36:16 PM Strike-all Amendment
1:36:27 PM Senator Simmons to explain
1:38:51 PM Senator Siplin questioning
1:40:44 PM Amendment #424220 - Adopted
1:41:02 PM Mike Manley, Florida Lottery
1:42:02 PM Senator Dean questioning
1:43:37 PM Senator Siplin questioning
1:45:04 PM Fred Baggett, FL Association of Court Clerks
1:46:14 PM Senator Siplin questioning
1:47:35 PM Senator Sachs questioning
1:49:49 PM Senator Sachs moves SB 1166 as a CS
1:50:12 PM CS/SB 1166 - Passes
1:50:29 PM Senator Altman introduces a FSU student
1:51:03 PM CS/SB 888 - Senator Flores
1:51:17 PM Senator Flores to present the bill
1:52:06 PM Late filed Amendment #373374 - Senator Diaz de la Portilla
1:52:37 PM Amendment - Adopted
1:53:05 PM Motion by Senator Sachs for CS
1:53:21 PM CS/CS/SB 888 - Passes
1:53:38 PM SB 632 - Senator Benacquiso
1:54:06 PM Matthew Hunter to explain the bill
1:55:13 PM SB 632 - Passes
1:55:44 PM SB 1656 - Senator Latvala
1:55:57 PM Late-filed strike-all -# 383894- Senator Altman
1:56:31 PM Jennifer Wilson to explain the strike-all and the bill
1:56:59 PM Amendment - Adopted
1:57:41 PM Senator Sachs moves SB 1656 a CS
1:57:54 PM CS/SB 1656 - Passes
1:58:15 PM SB 956 - Senator Hays
1:58:43 PM Paul Runk to explain the amendment #317402
1:59:47 PM Amendment - Adopted
2:00:04 PM Brecht Heuchan, MedCare
2:02:32 PM Senaator Sachs moves a CS for SB 956
2:02:49 PM CS/SB 956 - Passes
2:03:05 PM SB 986 - Senator Altman
2:03:25 PM Late Filed Amendment to the Amendment #331510 - Senator Altman
2:03:50 PM Senator Altman to explain
2:04:38 PM Tim Nungesser, DBPR
2:07:08 PM Senator Sachs questioning
2:09:42 PM Michael Martinez, Deputy General Counsel, DBPR
2:12:43 PM Senator Sachs questioning
2:16:48 PM Senator Braynon to introduce a FSU student
2:17:20 PM Amendment to the Amendment #140816 - Senator Diaz de la Portilla withdraws the amendment
2:18:27 PM Amendment to the Amendment #699574 Senator Diaz de la Portilla withdraws the amendment
2:19:08 PM Amendment to the Amendment Senator Sachs, #342936
2:19:38 PM Amendment to be explained by Senator Sachs

2:19:55 PM Senator Altman commenting
2:20:35 PM Senator Sachs to speak to the Point
2:21:24 PM Senator Jones rules "not Germain"
2:21:42 PM Amendment to the Amendment #203754, Senator Sachs
2:22:05 PM Senator Sachs to explain the amendment
2:22:56 PM Amendment - Adopted
2:23:17 PM Senator Jones commenting
2:23:27 PM Bar Code #233724 - withdrawn
2:23:50 PM Barcode #207754 - Withdrawwn
2:24:06 PM Barcode #224720 - Withdrawn
2:24:24 PM Barcode #725726 - Withdrawn
Barcode # 690838 - Withdrawn
2:24:40 PM Amendment as amended - Adopted
2:24:58 PM John Lockwood, IGT, Innerblock
2:29:36 PM Senator Sachs questioning
2:32:29 PM Senator Thrasher questioning
2:33:14 PM Senator Diaz de la Portilla questioning
2:35:51 PM Marc Dunbar, Bally Technologies, Shufflemaster, Gulfstream Park
2:37:39 PM Tim Nungesser, DBPR
2:38:17 PM Senator Altman commenting
2:38:45 PM Senator Sachs commenting in debate
2:40:37 PM Senator Diaz de la Portilla commenting in debate
2:41:37 PM Senator Sachs moves SB 986 as as CS
2:41:58 PM Senator Altman commenting on the bill
2:43:45 PM CS/SB 986 - Fails
2:44:34 PM late member votes
2:45:23 PM Meeting adjourned