

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Stargel, Chair
Senator Braynon, Vice Chair

MEETING DATE: Tuesday, April 9, 2013
TIME: 4:00 —6:00 p.m.
PLACE: 301 Senate Office Building

MEMBERS: Senator Stargel, Chair; Senator Braynon, Vice Chair; Senators Detert, Flores, Galvano, Gibson, Legg, Sachs, Sobel, and Thrasher

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 1174 Ring (Identical H 727)	Liens on Personal Property in Self-service Storage Facilities and Self-contained Storage Units; Revising notice requirements for enforcement of liens by the owner of the self-service storage facility or self-contained storage unit; specifying a limit on the value of property stored in the tenant's storage unit; authorizing the towing of a vehicle in a storage unit under certain circumstances; limiting the liability of the owner of a self-service storage facility or self-contained storage unit after a vehicle is towed from such facility or unit, etc. RI 04/02/2013 Temporarily Postponed RI 04/09/2013 Fav/1 Amendment JU RC	Fav/1 Amendment (417994) Yeas 8 Nays 0
2	CS/SB 1252 Community Affairs / Simpson (Similar CS/H 1245)	Building Construction; Revising notice requirements in the Local Government Code Enforcement Boards Act; specifying that certain actions relating to onsite sewage treatment and removal are not required if a bedroom is not added during a remodeling addition or modification to a single-family home; authorizing a local building department to retain 75 percent of certain fines collected if it transmits 25 percent to the Department of Business and Professional Regulation; prohibiting any provision of the International Residential Code relating to mandated fire sprinklers from incorporation into the Florida Building Code, etc. CA 03/20/2013 Fav/CS RI 04/09/2013 Fav/CS AP	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Regulated Industries

Tuesday, April 9, 2013, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 1442 Lee (Compare CS/H 973)	Alarm System Contracting and Permitting; Requiring a local enforcement agency to offer for sale uniform basic permit labels to contractors; prohibiting a local enforcement agency from applying a certain condition to the purchase of a label; requiring contractors to post an unused label in a specified place before commencing work on a low-voltage alarm system project; providing inspection procedures and requirements for low-voltage alarm system projects, etc. RI 04/09/2013 Fav/CS CJ	Fav/CS Yeas 8 Nays 0
4	CS/SB 156 Community Affairs / Detert (Compare CS/H 737)	Swimming Pools and Spas; Providing an exemption from licensure requirements for an owner or operator maintaining a swimming pool or spa for the purpose of water treatment; revising the definition of the terms "contractor," "commercial pool/spa contractor," "residential pool/spa contractor," and "swimming pool/spa servicing contractor" to include the cleaning, maintenance, and water treatment of swimming pools and spas; revising eligibility requirements to take the swimming pool/spa servicing contractors' examination, etc. CA 03/07/2013 Fav/CS RI 04/09/2013 Fav/1 Amendment AGG AP	Fav/1 Amendment (269142) Yeas 8 Nays 0
5	CS/SB 490 Judiciary / Stargel (Similar CS/H 77, Compare H 755, S 1120)	Landlords and Tenants; Revising exclusions from applicability of the Florida Residential Landlord and Tenant Act; providing that the right to attorney fees may not be waived in a lease agreement; providing that attorney fees may not be awarded in a claim for personal injury damages based on a breach of duty of premises maintenance; revising and providing landlord disclosure requirements with respect to security deposits and advance rent; providing examples of conduct for which the landlord may not retaliate, etc. JU 04/01/2013 Fav/CS RI 04/09/2013 Fav/CS RC	Fav/CS Yeas 6 Nays 3

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1174

INTRODUCER: Senator Ring

SUBJECT: Liens on Personal Property

DATE: April 9, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	Fav/1 amendment
2.	_____	_____	JU	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

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

I. Summary:

SB 1174 amends s. 83.806, F.S., relating to Liens on Personal Property in Self-Service Storage Facilities and Self-contained Storage Units. The bill allows for the advertisement of the sale or other disposition of personal property in a self-storage facility or self-contained storage unit to be posted on an Internet website accessible to the public. The bill deletes the requirement for physical posting in three conspicuous places in the neighborhood of the storage facility or unit, if there is no general circulation newspaper in the area of the storage facility or unit.

The bill provides that if the rental agreement for a storage unit states a limit on the value of the property to be stored, that limit is deemed to be the maximum value of the stored property.

The bill allows for the owners of a storage unit to have a vehicle towed from the storage unit, when the vehicle's title is deemed to have no prior lienholder. The bill provides that the storage unit owner is not liable for the vehicle or any damages to it after the vehicle is removed from the unit by a wrecker, tow truck, or car carrier.

The bill provides a July 1, 2013 effective date.

This bill substantially amends section 83.806, Florida Statutes.

II. Present Situation:

Self-storage Facility Act

Sections 83.801 to 83.809, F.S., constitute the Self-storage Facility Act (act). Nothing in the act may be construed to impair or affect the rights of parties to create additional rights, duties, and obligations in a rental agreement, and the provisions of the act are in addition to all other rights allowed by law in a creditor-debtor or landlord-tenant relationship.¹

A self-service storage facility (storage facility) is any real property designed and used for renting or leasing individual storage space to tenants who have access to the space in order to store and remove personal property, but not to use it as a residence.² A storage facility is not a warehouse as used in ch. 677, F.S.,³ and if a storage facility owner issues any warehouse receipt, bill of lading, or other document of title for the stored personal property, the owner and the tenant are subject to the provisions of ch. 677, F.S., and not the provisions of the act.⁴

A self-contained storage unit (unit) is a unit (such as a trailer, box or other shipping container) at least 200 cubic feet in size, which is leased by a tenant primarily for use as storage space and is located at a facility owned or operated by the owner or at a location designated by the tenant.⁵ An owner is defined as an owner, operator, lessor, or sublessor of a storage facility or unit, or his agent or any other person authorized by the owner to manage the facility or to receive rent from a tenant pursuant to a rental agreement for a unit.⁶

Section 83.803(4), F. S., defines tenant as a person or his sublessee, successor, or assign entitled pursuant to a rental agreement to the exclusive use agreement of storage space at a storage facility or in a unit, and s. 83.803(5), F.S., defines rental agreement as any agreement or lease which establishes or modifies terms, conditions, rules, or any other provisions concerning the use and occupancy of a storage facility or a unit.

The act addresses liens against the personal property located at a storage facility or in a unit.⁷ An owner of a storage facility or unit (and the owner's heirs, executors, administrators, successors, and assigns) has a lien upon all personal property at a storage facility or in a unit, even if that property is not owned by the tenant, for rent, labor charges, or other charges, present or future, in relation to the personal property and for expenses necessary for its preservation or expenses reasonably incurred in its sale or other disposition pursuant to the act.

The lien attaches as of the date that the personal property is brought to the storage facility or the date the tenant takes possession of the unit, and the priority of this lien is the same as a landlord's

¹ Section 83.809, F.S.

² Section 83.803(1), F.S.

³ Chapter 677, F.S., codifies article 7 of the Uniform Commercial Code and governs warehouse receipts, bills of lading, and other documents and procedures relating to goods, storage, and contracts to deliver them.

⁴ *Id.*

⁵ Section 83.803(2), F.S.

⁶ Section 83.803(3), F.S.

⁷ *See* s. 83.805, F.S.

lien pursuant to s. 83.08, F.S.⁸ In the event of default, the owner must give notice to persons who have properly documented security interests against the tenant (known as perfected interests against a debtor under the Uniform Commercial Code set forth in chs. 670 to 680, F.S.)⁹.

When a tenant does not timely pay rent, the owner may deny access (without any notice) to the property located in the storage facility or unit, beginning five days after the due date.¹⁰ The owner may then pursue legal action, or may proceed without using the courts, if doing so will not create a breach of the peace.¹¹

Section 83.806, F.S., addresses satisfaction of an owner's lien against a tenant lien. A tenant is notified in writing either in person, by electronic mail, or by first-class mail with a certificate of mailing to the tenant's last known address¹² and a copy conspicuously posted at the storage facility or on the unit. If no response, return receipt or delivery confirmation is received from the same last known electronic address of the tenant, notice of the sale must be sent by the owner to the tenant by first-class mail with a certificate of mailing to the tenant's last known address, before proceeding with the sale.¹³

As required by s. 83.806(2), F.S., the notice of the sale shall include:

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

A notice of sale is presumed delivered when deposited with the United States Postal Service, properly addressed and with prepaid postage.¹⁴ After the expiration of the notice period, an advertisement of the sale or other disposition shall be published once a week for 2 consecutive weeks in a newspaper of general circulation in the area where the storage facility or unit is

⁸ The lien rights provided by s. 83.08(2), F.S., are in favor of owners to whom rent may be due, upon the property found upon or off the leased or rented premises, and are superior to any lien acquired subsequent to the bringing of the property onto the leased premises.

⁹ See *supra* note 5 and s. 671.101, F.S.

¹⁰ Section 83.8055, F.S.

¹¹ *Id.* Section 877.03, F.S., states that person who commits acts that corrupt the public morals, or outrage the sense of public decency, or affect the peace and quiet of persons who may witness them, or engages in brawling or fighting, or engages in such conduct as to constitute a breach of the peace or disorderly conduct, shall be guilty of a second degree misdemeanor, which is punishable by up to 60 days in jail and a fine not exceeding \$500.

¹² Section 83.803(6), F.S., provides that the last known address is the street address or post office box address provided by the tenant in the latest rental agreement or in a subsequent written change-of-address notice provided by hand delivery, first-class mail, or e-mail.

¹³ Section 83.806(1), F.S.

¹⁴ Section 83.806(3), F.S.

located. A single advertisement and a single sale may be used to dispose of property, even the property is owned by more than one person.¹⁵

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

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

If there is no newspaper of general circulation in the area where the facility or unit is located, the advertisement of the sale must be posted at least 10 days before the date of the sale, in at least three conspicuous places in the neighborhood where the facility or unit is located.¹⁶

Section 83.806(5), F.S., states that a sale must be properly noticed and advertised, and conducted in a commercially reasonable manner.¹⁷ Before any sale, the tenant may redeem the property by paying the amount due and the reasonable expenses incurred by the owner in complying with the enforcement procedures required by s. 83.806, F.S. (the compliance expenses).¹⁸ Upon receipt of payment, the owner must return the property to the tenant. If the tenant fails to redeem the property or satisfy the lien and the compliance expenses, the tenant is deemed to have unjustifiably abandoned the storage facility or storage unit, and the owner may resume possession of the premises.¹⁹

Section 83.806(7), F.S., provides that a good faith purchaser of property sold to satisfy a lien for amounts due for rental of a storage facility or unit and for compliance expenses, takes the property free of any claims, except those interests provided for in s. 83.808, F.S., despite any noncompliance by the owner with the enforcement procedures.²⁰

After a sale, if the owner's lien has priority over all other liens in the property, s. 83.806(8), F.S., states:

- The owner may satisfy the lien from the sale proceeds;
- The lien rights of secured lienholders are automatically transferred to the remaining sale proceeds of the sale;
- Any balance must be held by the owner for delivery to the tenant upon demand;
- A notice of any balance must be delivered by the owner to the tenant either in person or by first-class mail with a certificate of mailing to the tenant's last known address; and

¹⁵ Section 83.806(4), F.S.

¹⁶ *Id.*

¹⁷ Section 679.627(2), F.S., states that a disposition of collateral is made in a commercially reasonable manner if the disposition is made in the usual manner and at the current price in any recognized market at the time of disposition, or otherwise in conformity with reasonable commercial practices among dealers in the type of property.

¹⁸ Section 83.806(6), F.S.

¹⁹ *Id.*

²⁰ Section 83.808, F.S., states that nothing in the act affects liens created by special contract or agreement, or any other lien arising at common law, in equity, or by any state statute or any other lien, other than the lien for charges established in s. 83.805, F.S.

- If the tenant does not claim the balance of the proceeds within 2 years after the sale date, the proceeds are deemed abandoned, and the owner has no further obligation for payment of the balance.

However, if the owner's lien does not have priority over all other liens, s. 83.806(8), F.S., states:

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

Legal and Official Advertisements in Newspapers and on Websites

The requirements for legal notices containing information of a public character or of interest or value to the residents or owners of property, or of interest or value to the general public, are provided in s. 50.011, F.S. When a legal advertisement in a newspaper is directed for any purpose, the intent and meaning of such legislation is that there be publication in a newspaper (qualified newspaper), which must be:

- printed and published at least once a week, with at least 25 percent of its words in the English language;
- entered as periodicals matter at a post office in the county where published;
- for sale to the public generally; and
- available to the public generally.²¹

When any law directs advertisements to be made and there is no qualified newspaper published in the applicable county, the alternative method is posting three copies of the advertisement in three different places in the county, one of which shall be at the front door of the courthouse, and by publication in the nearest county in which a qualified newspaper is published.²²

Section 50.0211(2), F.S., provides that effective July 1, 2013, each legal notice must be placed on the newspaper's website on the same day the notice appears in the newspaper, at no additional charge. There must be a link to legal notices on the front page of that website for access to the legal notices without charge. If there is a specified size and placement required for a printed legal notice, the size and placement of the notice on the website should optimize its online visibility in keeping with the print requirements. The web pages that contain legal notices shall present the legal notices as the dominant subject matter of those pages, and the website shall contain a search function to facilitate searching the legal notices.

Section 50.0211(3), F.S., requires placement of published legal notices by the qualified newspaper on the website established and maintained as an initiative of the Florida Press Association as a repository for such notices located at www.floridapublicnotices.com. Upon

²¹ Section 50.011, F.S.

²² Section 50.021, F.S.

request and without charge, newspapers that publish legal notices shall provide e-mail notification of new legal notices when they are printed in the newspaper and added to the newspaper's website. Notification for such an e-mail registry shall be available on the front page of the legal notices section of the newspaper's website.²³ An error in the notice placed on the newspaper or statewide website shall be considered a harmless error, and proper legal notice requirements shall be considered met if the notice published in the newspaper is correct.²⁴

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 83.806, F.S., concerning the enforcement and satisfaction of liens held by an owner of a storage unit. The bill allows for the advertisement of the sale or other disposition of personal property (notice of sale) in a self-storage facility or self-contained storage unit (storage unit) to be posted on an Internet website accessible to the public. The bill deletes the requirement for physical posting of a notice of sale in three conspicuous places in the neighborhood of the storage unit, when there is no general circulation newspaper in the area of the storage unit. Owners of storage units in areas without a general circulation newspaper will be required to post a notice of sale on an Internet website accessible to the public.

The bill amends s. 83.806, F.S., to provide that if the rental agreement for a storage unit states a limit on the value of the property to be stored, that limit is deemed to be the maximum value of the stored property. Section 83.808, F.S., also addresses contracts, and contains a requirement that there must be a provision disclosing whether the applicant is a member of the uniformed services as defined in federal law.²⁵

The bill allows for the owners of a storage unit to have a vehicle towed from the storage unit, when the vehicle's title is deemed to have no prior lienholder. The bill does not describe the process to be followed to deem that a title has no prior lienholder. Vehicle Information checks may be conducted using title or vehicle identification numbers through an Internet inquiry²⁶ or by completion of a records request to the Division of Motorist Services at the Department of Highway Safety and Motor Vehicles.²⁷

The bill provides that the owner of a storage unit is not liable for the vehicle or any damages to it after the vehicle is removed from the storage unit by a wrecker,²⁸ tow truck, or car carrier. The provisions of s. 713.78 (2), F.S., address liens for services rendered by those persons regularly engaged in the business of transporting vehicles or vessels by wrecker, tow truck, or car carrier (wrecker). A wrecker has a lien for towing and storage charges for the recovery, removal, or storage of a vehicle, conditioned upon instructions from:

²³ Section 50.0211(4), F.S.

²⁴ Section 50.0211(5), F.S.

²⁵ 10 U.S.C. s. 101(a)(5) defines uniformed services as the armed forces, the commissioned corps of the National Oceanic and Atmospheric Administration, and the commissioned corps of the Public Health Service.

²⁶ Florida Highway Safety and Motor Vehicles, *Motor Vehicle Check*, <https://services.flhsmv.gov/MVCheckWeb/> (last visited Mar. 29, 2013).

²⁷ Florida Highway Safety and Motor Vehicles, *Forms*, <http://www.flhsmv.gov/dmv/forms/BTR/85054.pdf> (last visited Mar. 29, 2013).

²⁸ Section 713.78(c), F.S., defines wrecker as any truck or other vehicle used to tow, carry, or otherwise transport motor vehicles or vessels upon the streets and highways and which is equipped for that purpose with a boom, winch, car carrier, or other similar equipment.

- The owner of the vehicle;
- The owner or lessor, or a person authorized by the owner or lessor, of property on which such vehicle or vessel is wrongfully parked, and the removal is done in compliance with certain notice and other requirements in s. 715.07, F.S.;²⁹ or
- Any law enforcement agency.

Compliance with the notice provisions in s. 715.97, F.S., may be required for the towing of a vehicle from a storage facility or unit.

Section 2 of the bill provides a July 1, 2013 effective date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The reduction in publication of notices of sales may impact some newspapers of general circulation. The amount payable to a tenant after a sale may be increased by the difference in the cost associated with posting the notice of sale on an Internet website in lieu of publication of the notice in a newspaper.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

²⁹ Section 715.07, F.S., provides procedures for towing or removal of vehicles on private property.

VII. Related Issues:

The bill does not make exception for compliance with the requirements of ch. 50, F.S., regarding publication of legal notices, which may result in conflicting statutory language. The bill does not identify the websites on which legal notices may be placed.

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:**Barcode 417994 by the Regulated Industries Committee on April 9, 2013:**

The amendment deletes the posting of the notice of sale or other disposition of personal property (notice of sale) in a self-storage facility or self-contained storage unit (storage unit) on an Internet website accessible to the public. The requirement of current law regarding physical posting of a notice of sale in three conspicuous places in the neighborhood of the storage unit, when there is no general circulation newspaper in the area of the storage unit is retained. (WITH TITLE AMENDMENT)



417994

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/10/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 17 - 47
and insert:

Section 1. Subsections (9) and (10) are added to section 83.806, Florida Statutes, to read:

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

And the title is amended as follows:

Delete lines 4 - 7

and insert:

units; amending s. 83.806, F.S.; specifying a limit on



417994

13

the value of

By Senator Ring

29-00915A-13

20131174__

A bill to be entitled

An act relating to liens on personal property in self-service storage facilities and self-contained storage units; amending s. 83.806, F.S.; revising notice requirements for enforcement of liens by the owner of the self-service storage facility or self-contained storage unit; specifying a limit on the value of property stored in the tenant's storage unit; authorizing the towing of a vehicle in a storage unit under certain circumstances; limiting the liability of the owner of a self-service storage facility or self-contained storage unit after a vehicle is towed from such facility or unit; providing an effective date.

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

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

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

(4) After the expiration of the time given in the notice, an advertisement of the sale or other disposition shall be published once a week for 2 consecutive weeks in a newspaper of general circulation in the area where the self-service storage facility or self-contained storage unit is located or posted for 2 consecutive weeks on an Internet website accessible to the public. Inasmuch as any sale may involve property of more than one tenant, a single advertisement may be used to dispose of

Page 1 of 3

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

29-00915A-13

20131174__

property at any one sale.

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

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

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

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

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

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

(10) If the personal property is a vehicle and the vehicle's title is deemed to have no prior lienholder, the owner of the self-service storage facility or self-contained storage unit may have the vehicle towed. An owner of a self-service storage facility or self-contained storage unit is not liable for the vehicle or any damages to the vehicle after the wrecker, tow truck, or car carrier removes the vehicle.

Page 2 of 3

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

29-00915A-13

20131174__

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Section 2. This act shall take effect July 1, 2013.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Governmental Oversight and Accountability, *Chair*
Appropriations Subcommittee on Finance and
Tax, *Vice Chair*
Appropriations
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Commerce and Tourism
Judiciary
Rules

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR JEREMY RING

29th District

March 20, 2013

Honorable Senator Kelli Stargel
330 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairwoman Stargel,

I am writing to respectfully request your cooperation in placing Senate Bill 1174, relating to Liens on Personal Property in Self-service Storage Facilities and Self-contained Storage Units on the Regulated Industries agenda at your earliest convenience. I would greatly appreciate the opportunity to discuss the bill at greater length before your committee.

Thank you in advance for your assistance. As always, please do not hesitate to contact me with any questions or comments you may have.

Very Truly Yours,

A handwritten signature in cursive script that reads "Jeremy Ring".

Jeremy Ring
Senator District 29

cc: Patrick L. "Booter" Imhof

REPLY TO:

- 5790 Margate Boulevard, Margate, Florida 33063 (954) 917-1392 FAX: (954) 917-1394
- 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13
Meeting Date

Topic Liens on Personal Property in Self-service Storage

Bill Number 1174
(if applicable)

Name ~~Brewster Bevis~~ Jon Costello

Amendment Barcode 417994
(if applicable)

Job Title ~~Senior VP~~ lobbyist

Address 516 N. Adams St
Street
Tallahassee FL 32301
City State Zip

Phone 850-224-7173

E-mail bbevis@aif.com Jon@REUPHLAW.com

Speaking: For Against Information

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/9/13
Meeting Date

Topic Personal Property Self-storage

Bill Number SB 1174
(if applicable)

Name JACK CORY

Amendment Barcode Gibson
(if applicable)
Amendment 417999

Job Title _____

Address 110 E. College Ave.

Phone _____

Tallahassee FL 32301
Street City State Zip

E-mail _____

Speaking: For Against Information
Amendment

Representing Daily Business Review

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)

04/09/2013

Meeting Date

Topic Newspaper Notice of storage unit property sales

Bill Number 1174

(if applicable)

Name Dean Ridings

Amendment Barcode 417994

(if applicable)

Job Title President

Address 336 E. College Avenue Suite 203

Phone 850-521-1162

Street

Tallahassee

FL

32301

City

ANON DONOR

State

Zip

Speaking: For Against Information

E-mail deanr@flpress.com

Representing Florida Press Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13

Meeting Date

Topic Self Storage

Bill Number 1174
(if applicable)

Name Jeff Kottkamp

Amendment Barcode 417994
(if applicable)

Job Title _____

Address _____
Street

Phone _____

City _____ State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing Amendment
Keep the Public Noticed coalition

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.

→ For the bill
→ Against the amendment

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13
Meeting Date

Topic Self-Storage Facilities

Bill Number 1174
(if applicable)

Name Janette Yaeger

Amendment Barcode 417994
(if applicable)

Job Title _____

Address 413 N. Meridian St.
Street

Phone 850-412-0300

Tallahassee, FL 32301
City State Zip

E-mail _____

Speaking: For Against Information
Bill Amendment

Representing Florida Self-Storage Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

> For the bill
> Against the Amendment

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

4/9/13
Meeting Date

Topic Self Storage

Bill Number 1174

Name Robert Francis

Amendment Barcode 417994
(if applicable)

Job Title _____

Address 911 N MAWST. # 7B

Phone _____

Street
Kissimmee FL 34744
City State Zip

E-mail _____

Speaking: For Against Information
for the bill against the Amendment

Representing Florida Self-Storage Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/9/13

Meeting Date

Bill

Topic Self Storage

Bill Number 1174 (if applicable)

Name Jeff Kottkamp

Amendment Barcode (if applicable)

Job Title

Address Street

Phone

City State Zip

E-mail

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

Representing Keep the Public Noticed

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.

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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)

4/9/13

Meeting Date

Topic Self Storage

Bill Number 1174 (if applicable)

Name Wayne Malaney

Amendment Barcode 417994 (if applicable)

Job Title

Address

Phone

Street

City

State

Zip

E-mail

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

Representing Daily Record

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

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

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 1252

INTRODUCER: Regulated Industries Committee, Community Affairs Committee, and Senator Simpson

SUBJECT: Building Construction

DATE: April 9, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Fav/CS
2.	Oxamendi	Imhof	RI	Fav/CS
3.			AP	
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:

CS/CS/SB 1252 amends a number of provisions related to building construction in the state. The bill:

- Revises noticing requirements of alleged violators of local codes and ordinances;
- Exempts specified septic tank system inspections and evaluations when remodeling a home and establishes guidelines for construction proximity to a system;
- Revises a definition for licensed plumbing contractors;
- Increases the maximum civil penalty a local governing body may levy against an unlicensed contractor;
- Revises local government and Department of Business and Professional Regulation (DBPR) collection retention percentages for unpaid fines and costs ordered by the Construction Industry Licensing Board;
- Removes a requirement that local governments send minor violation notices to contractors prior to seeking fines and other disciplinary penalties;
- Extends the grandfathering period for certain registered electrical and alarm system contractors to acquire statewide certified licenses;

- Clarifies a prohibition to adopt any mandatory sprinkler provisions of the International Residential Code within the Florida Building Code or any local amendments to the state code;
- Adds a member to Florida Building Commission from the natural gas distribution industry;
- Authorizes that an electronic copy of a building site plan may be maintained for record retention and inspection purposes at a building site;
- Specifies DBPR procedures for Florida Building Code product approval compliance and authorizes the process for expedited 10-day approval reviews;
- Renames the statewide standard for energy efficiency;
- Specifies that residential heating and cooling systems need only meet the manufacturer's approval and listing of equipment;
- Eliminates the DBPR's responsibilities regarding a statewide uniform building energy-efficiency rating system;
- Provides building energy-efficiency system definitions; and
- Creates the Florida Concrete and Masonry Council, Inc., as a direct support organization of the Florida Building Commission and specifies its composition and duties.

This bill amends the following sections of the Florida Statutes: 162.12, 381.0065, 489.105, 489.127, 489.131, 489.514, 489.531, 553.73, 553.74, 553.79, 553.842, 553.901, 553.902, 553.903, 553.904, 553.905, 553.906, 553.912, 553.991, 553.992, 553.993, 553.994, 553.995, 553.996, 553.997, and 553.998. This bill creates unnumbered sections of the Florida Statutes.

II. Present Situation:

Code Enforcement Notices

Notices to alleged violators of local government codes and ordinances are governed by s. 162.12, F.S. There are four options cited in s. 162.12(1), F.S., by which notices are provided, including by:

certified mail to the address listed in the tax collector's office for tax notices, or to any other address provided by the property owner in writing to the local government for the purpose of receiving notices. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. If any notice sent by certified mail is not signed as received within 30 days after the date of mailing, notice may be provided by posting as described in subparagraphs (2)(b)1. and 2., relating to publication of notices and the physical posting of notices, respectively]

The other options for serving notices in s. 162.12(1), F.S., are by:

- Hand delivery by the sheriff, code inspector, or other designated person;
- Leaving at the violator's residence with any person residing there above the age of 15; or
- For commercial premises, leaving the notice with the manager or other person in charge.¹

¹ See ss. 162.12(1)(b)-(d), F.S.

In addition to the noticing provisions outlined in s. 162.12(1), F.S., the code enforcement board may serve notice through publication or posting methods.²

Onsite Sewage Treatment and Disposal Systems and Remodeling

An “onsite sewage treatment and disposal system (system)” is a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solid or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system.³

Section 381.0065(3), F.S., authorizes the Department of Health (DOH) to adopt rules administering system statute provisions and to perform system application reviews, site evaluations and issue permits. In addition, DOH may inspect residential system construction, modification, and repair. Currently, a system modification, replacement, or upgrade is not required for a remodeling addition to a single-family home if a bedroom is not added.⁴

Construction Contracting Regulation

Construction and electrical contracting is regulated under ch. 489, F.S. With certain statutory exemptions from licensure, construction contractors are regulated by the Construction Industry Licensing Board (CILB) within the Department of Business and Professional Regulation (DBPR).⁵ Section 489.115, F.S., provides that contractors must either be certified (licensed by the state to contract statewide) or registered (licensed by a local jurisdiction and registered by the state to contract work within the geographic confines of the local jurisdiction only) to engage in contracting in Florida.

The CILB is divided into two divisions: Division I and Division II.⁶ Division I of the CILB has jurisdiction over the regulation of general contractors, building contractors, and residential contractors. Division II of the CILB has jurisdiction over the remaining contractors defined in s. 489.105(3), F.S., which include contractors in sheet metal, roofing, air conditioning, pools and spas, plumbing, underground utilities, solar panels, and pollutant storage systems.

Plumbing Contractors

Section 489.105(3)(m), F.S., defines “plumbing contractor.” This definition does not limit the scope of work of any specialty contractor certified pursuant to s. 489.113(6), F.S., and does not require certification or registration of any authorized employee of a public natural gas utility or of a private natural gas utility regulated by the Public Service Commission when disconnecting and reconnecting water lines in the servicing or replacement of an existing water heater.⁷

Liquefied Petroleum Gas Licenses

² See s.162.12(2), F.S.

³ Section 381.0065(2)(k), F.S.

⁴ Section 381.0065(4)(aa), F.S.

⁵ See s. 489.103, F.S., for statutory exemptions.

⁶ Section 489.107(4)(a)-(b), F.S.

⁷ The limit of the scope of work and responsibility of a specialty contractor shall be established by the CILB by rule.

Chapter 527, F.S., governs the sale of liquefied petroleum gas and defines the following licensing categories:

- Category I liquefied petroleum gas dealer;
- Category II liquefied petroleum gas dispenser;
- Category III liquefied petroleum gas cylinder exchange operator;
- Category IV liquefied petroleum gas dispenser and recreational vehicle servicer;
- Category V liquefied petroleum gas dealer for industrial uses only;
- LP gas installer;
- Specialty installer;
- Dealer in liquefied petroleum gas appliances and equipment;
- Manufacturer of liquefied petroleum gas appliances and equipment;
- Requalifier of cylinders; or
- Fabricator, repairer, and tester of vehicles and cargo tanks.

To lawfully engage in the above activities, a person must obtain a license from Department of Agriculture and Consumer Services.⁸

Grandfathering Provisions for Electrical and Alarm System Contractors

As noted, ch. 489, F.S., requires that all individuals who practice construction and electrical contracting in Florida must either be “certified” or “registered.” Section 489.514, F.S., provides that the CILB issue a “certification” to an electrical, electrical specialty or alarm system contractor who is “registered” upon receipt of a completed application, payment of an appropriate fee, and evidence that he or she meets statutorily specified criteria. The criteria include possessing a registered local license, passing an approved written examination, and having at least five years of contracting. Applicants wishing to obtain a “certificate” pursuant to this statutory “grandfather” allowance were required to make application by November 1, 2004.⁹

Licensing of Contractors and Subcontractors

Section 489.113, F.S., requires that a person must be certified or registered in order to engage in the business of contracting. However, subcontractors who are not certified or registered may perform construction work under the supervision of a certified or registered contractor, provided that the work is within the scope of the supervising contractor’s license, the supervising contractor is responsible for the work, and the supervised subcontractor is not engaged in construction work that would require a specialty contractor license under s. 489.105(3)(d)-(o), F.S. This provision was last amended during the 2012 Regular Session by s. 11 of ch. 2012-13, L.O.F., which replaced the term “person” with “subcontractor.” It also replaced the term “supervisor’s license” with “supervising contractor’s license.”

Penalties for Unlicensed Contracting

Prohibitions and penalties for construction contracting and electrical and alarm system contracting are found in Part I, ch. 489, F.S., and Part II, ch. 489, F.S., respectively.

⁸ See ss. 527.01 and 527.02, F.S.

⁹ Chapter 2012-211, s. 6, L.O.F., re-opened and extended a similar grandfather allowance for construction contractors in s. 489.118, F.S.

The local governing body of a county or municipality is authorized to enforce codes and ordinances against unlicensed contractors. The local governing board may enact an ordinance establishing procedures for implementing codes, including a schedule of penalties to be assessed by the code enforcement officer for violations.¹⁰ The maximum civil penalty which may be levied for a citation shall not exceed \$500.¹¹

A person charged with a violation has two options: correct the cited violation and pay the civil penalty, or, request an administrative hearing before the enforcement or licensing board or designated special magistrate. If either of these entities finds that a violation exists, it may order the violator to pay a civil penalty of not less than the original citation but not more than \$1,000 per day for each construction contracting violation and \$500 for each electrical contracting violation.¹²

Outstanding Fines Issued by the Florida Construction Industry Licensing Board

Section 489.127(6), F.S., authorizes local municipalities and counties to collect unpaid fines and costs ordered by the Florida Construction Industry Licensing Board. These local governments may retain 25 percent of the total amount collected if they remit the remaining 75 percent to the Department of Business and Professional Regulation (DBPR).¹³ According to DBPR, the department currently uses the Department of Financial Services' approved collections vendor to collect unpaid fines and costs when a required payment remains delinquent for more than 6 months.¹⁴ The vendor charges a 23 percent fee in order to collect the ordered amount. This fee becomes due upon collection regardless of who collects the unpaid fine.

Compliance with State Law and Local Ordinances on Contracting

Section 489.131(7)(a), F.S., provides that local government contracting fines and other penalties are assessed for the primary purpose of gaining compliance with the laws regulating the unlicensed practice of contracting. The subsection further requires that local jurisdictions issue a notice of noncompliance prior to seeking fines and other penalties for first-time "minor violations."¹⁵ Such notices of non-compliance must identify the ordinance violated, specify a method of compliance, and provide a reasonable time period for compliance. Failure to address a notice of non-compliance is grounds for additional disciplinary proceedings.

Residential Fire Sprinklers

In 2010, the Legislature amended s. 553.73(17), F.S., to prohibit the Florida Building Commission from adopting or incorporating mandatory fire sprinklers provisions in section R313 of the most current version of the International Residential Code (IRC) as part of the Florida Building Code or as a local amendment to the Code.¹⁶ Pursuant to the enacted prohibition, the Florida Building Commission did not adopt the current version section as part of

¹⁰ See ss. 489.127(5)(c) and 489.531(4)(c), F.S.

¹¹ *Id.*

¹² See 489.127(5)(f) and 489.531(4)(f), F.S.

¹³ DBPR does not have any record of local governments remitting to the department unpaid fines and costs ordered by the Construction Industry Licensing Board.

¹⁴ Florida Department of Business and Professional Regulation, *Agency Analysis of SB 1252: Building Construction* (Mar. 13, 2013) (on file with the Senate Committee on Community Affairs).

¹⁵ A violation is deemed "minor" if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm.

¹⁶ Chapter 2010-176, s. 32, L.O.F.

the 2010 Florida Building Code and, according to DBPR, the Commission is not considering it for the next edition of the Code.¹⁷

Florida Building Commission

The Florida Building Commission is a 25-member technical body responsible for the development, maintenance and interpretation of the Florida Building Code. The Commission also approves products for statewide acceptance and administers the Building Code Training Program. Members are appointed by the Governor and confirmed by the Senate and include design professionals, contractors, and government experts in the various disciplines covered by the code.¹⁸

Electronic Documents

The Building Code requires that a permit applicant submit one or more copies of construction documents to the building official and specifically authorizes applicants to submit such documents electronically when authorized by the local building official.¹⁹ Construction documents include at a minimum “a floor plan; site plan; foundation plan; floor/roof framing plan or truss layout; all fenestration penetrations; flashing; and rough opening dimensions; and all exterior elevations” pursuant to s. 107.3.5, Florida Building Code, Building (2010). Once reviewed and approved by the building official, the Florida Building Code requires that one set of construction documents be retained by the building official and another be provided to the applicant to “be kept at the site of work and shall be open to inspection by the building official or a duly authorized representative” pursuant to s.107.3.1, Florida Building Code, Building (2010).

Florida Building Code and the State Product Approval Program

The State Product Approval System, which went into effect October 1, 2003, covers certain structural products (i.e., panel walls, exterior doors, roofing products; skylights, windows, shutters, structural components, and new and innovative products) and provides manufacturers of these products with the choice of obtaining state approval as an alternative to receiving local approval.²⁰

To obtain state approval for his or her products, a manufacturer must demonstrate compliance with applicable standards and provisions of the Florida Building Code by submitting one of the following reports:

- A certification mark or listing from an approved certification agency;
- A test report from an approved test laboratory;
- A product evaluation report from an evaluation entity authorized under s. 553.842(8)(a), F.S., or
- A product evaluation report developed, signed and sealed by a Florida licensed engineer or architect.

¹⁷ Florida Department of Business and Professional Regulation, *Agency Analysis of SB 1252: Building Construction* (Mar. 13, 2013) (on file with the Senate Committee on Community Affairs).

¹⁸ See ss. 553.76 and 553.77, F.S.

¹⁹ See s. 468.604(4), F.S.

²⁰ See s. 553.842, F.S.

Currently, applications for product approval using the test report method and evaluation report method are subject to approval by the Florida Building Commission using the normal approval process. However, applications for product approval using the certification method are subject to approval by DBPR using the expedited 10-day review process as outlined in s. 553.842(5), F.S.

The Florida Energy Code

Part V of ch. 553, F.S.(ss. 553.900 – 553.912), titled “Florida Thermal Efficiency Code,” was enacted in 1979 in response to the oil crisis of the 70s and required the establishment of a “statewide thermal efficiency code.” The Florida Building Commission adopted the Florida Energy Efficiency Code for Building Construction (FEECBC), which remained Florida’s statewide energy code from 1979 to 2012.

In 2008, s. 553.73(7)(a), F. S., was amended to require the Florida Building Commission to use the International Energy Conservation Code as the foundation for Florida’s Energy Code, while retaining the Florida-specific criteria which were established as part of the FEECBC.²¹ The 2008 legislation required the Florida Building Commission to effectively adopt both the International Energy Code and the Florida Energy Efficiency Code for Building Construction. On March 15, 2012, the Florida Building Commission adopted the 2010 Florida Building Code – Energy Conservation, which is based on the 2009 IECC but maintains the Florida-specific criteria of the FEECBC.

Although “Florida’s 2010 Florida Building Code – Energy Conservation” is different from the “Florida Energy Efficiency Code for Building Construction,” according to DBPR, most of the significant changes to its content result directly from the Florida-specific changes approved by the Florida Building Commission through the code update process.²²

The Florida Building Energy Efficiency Rating System (BERS)

Chapter 553, part VIII, F.S., is known as the “Florida Building Energy-Efficiency Rating Act.” The Act requires DBPR to provide a statewide uniform system for rating the energy efficiency of buildings. In addition, DBPR is required to develop a training and certification program to certify energy raters. DBPR established the Building Energy Raters System (BERS) program to train and certify energy raters. DBPR currently outsources administration of the BERS program to the Florida Solar Energy Center (FSEC) on a no-cost basis through a Memorandum of Understanding.²³ Energy raters are trained and tested by FSEC and the Department issues the rater a certificate based on completion of the FSEC program. The rating system is a voluntary program and does not require any rating be performed.

Currently, BERS rules adopt by reference the 2006 Mortgage Industry National Home Energy Rating Systems Accreditation Standards, promulgated by the National Association of State Energy Officials (NASEO)/Residential Energy Services Network (RESNET) as the standard for energy rater certifications under the BERS program. As a national program for energy rating, RESNET’s services and rating procedures are similar to those of the BERS program. Based on

²¹ Chapter 2008-227, s. 108, L.O.F.

²² Florida Department of Business and Professional Regulation, *Agency Analysis of SB 1252: Building Construction* (Mar. 13, 2013) (on file with the Senate Committee on Community Affairs).

²³ *Id.* The remainder of this section of the analysis is drawn from the DBPR Agency Analysis of the bill.

adoption of the NASEO standard, Florida BERS raters are also required to undertake national examinations and certifications.

III. Effect of Proposed Changes:

Section 1 amends s. 162.12, F.S., which relates to noticing alleged violators of local codes and ordinances to qualify that a notice sent by certified mail include a return receipt request. The bill provides that the notice may be sent to either an address from the tax collector's office *or* one from the database of the county property appraiser. The bill also allows the local government to provide notices to any address it may have for the property owner or through publication or posting methods.

Section 2 amends s. 381.0065, F.S., which relates to on onsite sewage treatment and disposal systems when remodeling a single family home that does not include the addition of a bedroom. Currently, a system modification, replacement, or upgrade of a system is not required in these types of remodeling projects. This bill specifies that an "existing inspection or evaluation and assessment, or an existing system tank pump-out" is also not required for such remodels.

The bill provides that the remodeling addition or modification may not cover any part of the system or encroach upon a required setback or the unobstructed area as determined by a timely local health department floor and site plan review. It provides that the Department of Health would determine whether the setback or unobstructed area is impacted through a review and verification of the floor plan for the proposed remodeling of, or addition to, a home. If the review and verification is not completed within seven days, the proposed remodeling or addition is deemed approved.

Section 3 amends the definition of the term "contractor" in s. 489.105(3), F.S., to include the demolition of buildings or residences of more than three stories.

The bill also amends the definition of a plumbing contractor in s. 489.105(3)(m), F.S., to include a person licensed under the liquefied petroleum gas provisions of ch. 527, F.S., among those not requiring certification or registration as a plumbing contractor when disconnecting or reconnecting a water heater.

Section 4 provides that the amendments to s. 489.113(2), F.S., by s. 11 of ch. 2012, L.O.F., are remedial in nature and intended to clarify existing law. It provides that this section applies retroactively to any action initiated or pending on or after March 23, 2012.

Section 5 amends s. 489.127, F.S., relating to construction contracting prohibitions and penalties, to increase the maximum amount local municipalities and counties may charge for unlicensed contracting citations from \$500 to \$2,000 and to increase the maximum civil penalties for unlicensed contracting from \$1,000 to \$1,500 per day of each violation. In addition, the bill increases the percentage of funds a local government may retain when they collect unpaid fines and costs ordered by the Construction Industry Licensing Board from 25 percent to 75 percent. The remaining 25 percent would be remitted to DBPR.

Section 6 amends s. 489.131, F.S., which relates to compliance with state law and local ordinances for contractors, to remove the statement of Legislative intent that collection of fines and imposition of other penalties is secondary to the goal of attaining compliance with current regulations. In addition, the bill removes the requirement that local counties and municipalities issue a notice of non-compliance for first time minor violations prior to seeking fines and other disciplinary penalties.

Section 7 amends s. 489.514, F.S., relating to the certification of registered contractors, to re-open and extend the period for grandfathering of “registered” electrical, specialty electrical and alarm system contractor licenses to statewide “certified” licenses until November 1, 2015. Current law requires a license application by November 1, 2002.

Section 8 amends s. 489.531, F.S., relating to electrical and alarm systems contracting prohibitions and penalties, to increase, from \$500 to \$2,000, the maximum amount local municipalities and counties may charge for unlicensed contracting citations.

Section 9 amends s. 553.73(17), F.S., to prohibit the adoption of any mandatory fire sprinkler provisions of the International Residential Code within the Florida Building Code or any local amendments to the state code. The section also clarifies that cost-saving incentives for IRC fire sprinklers are permissible when mutually agreed upon between a builder and code official.

Section 10 amends s. 553.74, F.S., to add a 26th member to the Florida Building Commission to represent the natural gas distribution system industry.

Section 11 amends s. 553.79, F.S., relating to the Florida Building Code permits and applications, to authorize that an electronic copy of a building site plan may be maintained for record retention and inspection purposes at a building site.

Section 12 amends s. 553.842, F.S., to include impact protective systems among the categories of products that must receive the approval of the commission. Current law includes the categories of panel walls, exterior doors, roofing, skylights, windows, shutters, and structural components as established by commission rule.

The bill also requires that DBPR approve products that demonstrate compliance with the Florida Building Code using product evaluation reports from approved evaluation entities. Applications for product approval using product evaluation reports may be considered and approved by DBPR under the expedited 10-day review process. The current procedure requires applications be held until the next meeting of the Florida Building Commission.

Section 13 amends s. 553.901, F.S., to change the title of statewide standard for energy efficiency from the Florida Energy Efficiency Code for Building Construction to the Florida Building Code-Energy Conservation, to reflect a coordination of construction standards related to energy efficiency within the Florida Building Code adopted in accordance with s. 553.73(7)(a), F.S.

Section 14 amends s. 553.902, F.S., to reference the Florida Building Code-Energy Conservation as provided in section 13 of the bill.

Section 15 amends s. 553.903, F.S., to reference the Florida Building Code-Energy Conservation as provided in section 13 of the bill.

Section 16 amends s. 553.904, F.S., to reference the Florida Building Code-Energy Conservation as provided in section 13 of the bill.

Section 17 amends s. 553.905, F.S., to reference the Florida Building Code-Energy Conservation as provided in section 13 of the bill.

Section 18 amends s. 553.906, F.S., to reference the Florida Building Code-Energy Conservation as provided in section 13 of the bill.

Section 19 amends s. 553.912, F.S., to reference the Florida Building Code-Energy Conservation as provided in section 13 of the bill. The bill also codifies the current energy code provision applicable to existing residential heating and cooling equipment to exempt that equipment, including system size and duct sealing, from meeting minimum equipment efficiencies unless necessary to preserve the listing of the equipment.

Section 20 amends s. 553.991, F.S., of Florida Building Energy-Efficiency Rating Act to identify the purpose of the act as statewide oversight of energy rating systems to promote energy efficiency instead of to develop a statewide rating system.

Section 21 repeals s. 553.992, F.S., to eliminate the DBPR's responsibility to adopt, update, and maintain a statewide uniform building energy-efficiency rating system.

Section 22 amends s. 553.993, F.S., to include a definition of "building energy-efficiency rating system" as a system established by the Residential Energy Services Network, the Commercial Energy Services Network, the Building Performance Institute, or the Florida Solar Energy Center. The section also provides definitions for "energy auditor," "energy-efficiency rating," and "energy rater."

Section 23 amends s. 553.994, F.S., to reference the "building energy-efficiency system" instead of the "rating system" that applies to all public, commercial, and residential buildings in this state.

Section 24 amends s. 553.995, F.S., to delete the requirement that a building energy-efficiency rating system provide a uniform rating scale of the efficiency of buildings. The bill also deletes the requirement that the DBPR establish a voluntary working group of interested persons to provide input on the adoption and administration of the system; and to specify that DBPR approve training and certification programs applicable to raters.

Section 25 amends s. 553.996, F.S., to delete the DBPR's responsibility to prepare, and make available for distribution, at no cost, a brochure that informs the prospective purchasers of real property about the option for an energy efficiency rating on the building. The bill requires that the building energy-efficiency rating system providers must prepare the information on building ratings and make it available for distribution.

Section 26 amends s. 553.997, F.S., to delete the DBPR's responsibility to make available energy-efficiency practices information for individuals involved in the design, construction, retrofitting, and maintenance of buildings for state and local governments.

Section 27 amends s. 553.998, F.S., to delete the DBPR's responsibility to adopt rules for the tools and procedures used to develop energy-efficiency ratings.

Section 28 creates the Concrete Masonry Products Research, Education, and Promotion Act. This provision creates the Florida Concrete Masonry Council, Inc., (council) as a nonprofit corporation that operates as a direct-support organization of the commission. The bill defines the purposes of the council, which include the development, implementation, and monitoring of a system for the system of masonry products and for collecting a self-imposed voluntary assessment from masonry manufacturers. The council responsibilities also includes the development of markets, the development of educational materials, and the development of methods to improve the energy-efficiency of masonry product. The council may contract for scientific research with educational institutions.

The governing board of the council would consist of 15 members. Nine members would represent concrete masonry manufacturers. The commission and the Florida Home Builders Association would each have one member represented on the council. There would be one member with expertise in apprenticeship or vocational training, and two members who are masonry contractors and members of the Masonry Association of Florida. There would also be one member who is not affiliated with the masonry industry.

The council could accept grants, donations, contributions, or gifts from any source, provided that they are not restricted in any manner and are consistent with the objectives of the program. If manufacturers pay a self impose a voluntary assessment, the manufacturer must list and separately identify the assessment as the "Florida Building Sustainability Assessment" on its invoice to the purchaser. Manufacturers who commit to the voluntary assessment must make such commitment for one year.

Section 29 provides an effective date of July 1, 2013.

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 provides that the amendments to s. 489.113(2), F.S., by s. 11 of ch. 2012, L.O.F., are remedial in nature and intended to clarify existing law. It also provides that this section applies retroactively to any action initiated or pending on or after March 23, 2012.

In regards to the retroactive application of law, the general rule courts follow is that, in the absence of clear legislative intent to the contrary, a law affecting substantive rights, liabilities, and duties is presumed to apply prospectively.²⁴ The Florida Supreme Court has addressed retroactive application of statutes. The court follows an analysis with two interrelated inquiries. The first inquiry is one of statutory construction, which asks whether there is clear evidence of legislative intent to apply the statute retrospectively. If the legislation clearly expresses intent that it apply retroactively, then the second inquiry is whether retroactive application is constitutionally permissible.²⁵ If a statute attaches new legal consequences to events completed before its enactment, the courts will not apply the statute to pending cases, absent clear legislative intent favoring retroactive application. This analysis is not necessary where the language of a statute contains an express command that the statute is retroactive.²⁶

When the language expressly states that it applies retroactively, the courts review a statute on the basis only of whether it is constitutionally permissible. A court must determine whether substantive or procedural rights are affected by the retroactive application of the new statute. In *Alamo Rent-A-Car, Inc. v. Mancusi*, 632 So. 2d 1352, 1358 (Fla.1994), the Supreme Court stated that “substantive law prescribes duties and rights and procedural law concerns the means and methods to apply and enforce those duties and rights.” A substantive, vested right is “an immediate right of present enjoyment, or a present, fixed right of future enjoyment.” A retroactive abolition of substantive vested rights is prohibited by constitutional due process considerations.²⁷

In 2001, a Florida court interpreted the possible retroactive application of a 2000 amendment to s. 489.128, F.S.²⁸ In this case, a contractor brought suit after the owner terminated the contract. The Legislature amended s. 489.128, F.S., while the suit was pending by removing a provision in the statute that provided a contractor with the ability to cure his or her unlicensed status. At issue was whether s. 489.128, F.S., could be applied retroactively without the deleted provision that allowed the contractor to cure its unlicensed status. The court held that the 2000 amendment changed the contractor’s substantive rights because it removed the contractor’s previously existing right to cure. The 2000 amendment, therefore, did not operate retroactively.

Regarding the provision’s intent to clarify existing law, the courts have considered a subsequent amendment to clarify original legislative intent of a statute when the amendment was enacted soon after a controversy regarding the statute's interpretation

²⁴ *Metropolitan Dade County v. Chase Federal Housing Authority Corp.*, 737 So. 2d 494, 499 (Fla. 1999).

²⁵ *Id.* at 499.

²⁶ *Id.* at 500.

²⁷ *Id.* at 503.

²⁸ *The Palms v. Magil Construction Florida, Inc.*, 785 So. 2d 597 (Fla. 3rd DCA 2001).

arose.²⁹ However, courts have held that it is inappropriate to use an amendment to clarify intent when the amendment was enacted seven years after the original statute.³⁰

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill amends s. 489.127(6), F.S., to increase the percentage of outstanding fines collected by local government collection from 25 percent to 75 percent. According to the DBPR, certain DFS approved collection vendors currently utilized by DBPR may experience indeterminate revenue losses related to the collection retention percentage changes in the bill.

The bill amends s. 381.0065(4)(aa), F.S., to provide that an existing system inspection or evaluation, or pump-out of an existing septic tank for a remodeling or addition to a single-family residence is not required. According to the Department of Health, homeowners may experience more failures and incur repair costs due to the lack of such inspections. However, homeowners would not incur costs related to existing system evaluations and pump-outs, which the Department of Health estimates to cost between \$250 and \$500.

C. Government Sector Impact:

According to the DBPR, the amendment to s. 489.127(6), F.S., will have an indeterminate impact on DBPR and local government revenue. The department does not have any record of local governments remitting to the department unpaid fines and costs ordered by the Construction Industry Licensing Board.³¹ It is unknown to what extent the bill's increase in the local government collection retention percentage from 25 percent to 75 percent may entice local governments to begin such collections. Any collections by local governments would increase local revenue at the expense of DBPR revenue.

According to the Department of Health, the amendment to s. 381.0065(4)(aa), F.S., to provide that an existing system inspection or evaluation, or pump-out of an existing septic tank for a remodeling or addition to a single-family residence is not required will have an indeterminate fiscal impact from the loss or revenue from the inspections.

VI. Technical Deficiencies:

None.

²⁹ See *Lowry v. Parole & Prob. Comm'n*, 473 So.2d 1248, 1250 (Fla.1985), in which the relevant statute was signed by the Governor two days before the date of the court's opinion.

³⁰ See *McKenzie Check Advance of Florida, LLC v. Betts*, 928 So.2d 1204 (Fla., 2006).

³¹ Florida Department of Business and Professional Regulation, *Agency Analysis of SB 1252: Building Construction* (Mar. 13, 2013) (on file with the Senate Committee on Community Affairs).

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 April 9, 2013:

The committee substitute (CS) differs from CS/SB 1252 as follows:

The CS creates an unnumbered section of the Florida Statutes to provide that the amendments to s. 489.113(2), F.S., by s. 11 of ch. 2012, L.O.F., are remedial in nature and intended to clarify existing law, and that this section applies retroactively to any action initiated or pending on or after March 23, 2012.

The CS amends s. 381.0065, F.S., to reference the “evaluation and assessment” of an onsite sewage treatment and disposal system. It provides that the Department of Health would determine whether the setback or unobstructed area is impacted through a review and verification of the floor plan for the proposed remodeling of, or addition to, the home. It also increases from five to seven days the period of time during which the Department of Health must complete its review and verification of the proposed remodeling or addition before the proposed remodeling or addition is deemed approved.

The CS amends the definition of the term “contractor” in s. 489.105(3), F.S., to include the demolition of buildings or residences of more than three stories.

The CS amends s. 553.842, F.S., to include impact protective systems among the categories of products that must receive the approval of the commission.

The CS amends s. 553.912, F.S., to provide that legislative intent that all replacement systems be installed using quality installation procedures in residential equipment sizing analysis and duct inspection. It also references system size and duct sealing as the type of existing heating and cooling equipment in residential applications that do not have to meet minimum equipment efficiencies.

The CS repeals s. 553.992, F.S., to eliminate the DBPR’s responsibility to adopt, update, and maintain a statewide uniform building energy-efficiency rating system.

The CS amends s. 553.994, F.S., to reference the “building energy-efficiency system” instead of the “rating system” that applies to all public, commercial, and residential buildings in this state.

The CS amends s. 553.996, F.S., to delete the DBPR’s responsibility to prepare, and make available for distribution, at no cost, a brochure that informs the prospective purchasers of real property about the option for an energy efficiency rating on the

building. The CS requires that the building energy-efficiency rating system providers must prepare the information on building ratings and make it available for distribution.

The CS amends s. 553.997, F.S., to delete the DBPS's responsibility to make available energy-efficiency practices information for individuals involved in the design, construction, retrofitting, and maintenance of buildings for state and local governments.

The CS amends s. 553.998, F.S., to delete the DBPR's responsibility to adopt rules for the tools and procedures used to develop energy-efficiency ratings.

The CS creates the Concrete Masonry Products Research, Education, and Promotion Act to establish the Florida Concrete and Masonry Council, Inc., as a direct support organization of the Florida Building Commission and to provide its composition and duties.

CS by Community Affairs on March 20, 2013:

- Revises noticing requirements regarding alleged violation of local codes and ordinances.
- Revises a definition for licensed plumbing contractors.
- Re-opens and extends the grandfathering period for certain registered electrical and alarm system contractors to acquire statewide certified licenses.
- Adds a member to Florida Building Commission from the natural gas distribution industry.
- Clarifies that cost-saving incentives for IRC fire sprinklers are permissible when mutually agreed upon between a builder and code official.
- Provides building energy-efficiency system definitions.

B. Amendments:

None.



901732

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2013	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 191 - 203
and insert:

(aa) An existing-system inspection or evaluation and assessment, or a modification, replacement, or upgrade of an onsite sewage treatment and disposal system is not required for a remodeling addition or modification to a single-family home if a bedroom is not added. However, a remodeling addition or modification to a single-family home may not cover any part of the existing system or encroach upon a required setback or the unobstructed area. To determine if a setback or the unobstructed



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13 area is impacted, the local health department shall review and
14 verify a floor plan and site plan of the proposed remodeling
15 addition or modification to the home submitted by a remodeler
16 which shows the location of the system, including the distance
17 of the remodeling addition or modification to the home from the
18 onsite sewage treatment and disposal system. The local health
19 department may visit the site or otherwise determine the best
20 means of verifying the information submitted. A verification of
21 the location of a system is not an inspection or evaluation and
22 assessment of the system. The review and verification must be
23 completed within 7 business days after receipt by the local
24 health department of a floor plan and site plan. If the review
25 and verification is not completed within such time, the
26 remodeling addition or modification to the single-family home,
27 for the purposes of this paragraph, is approved.



191520

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/11/2013	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 203 and 204
insert:

Section 3. Subsection (23) is added to section 489.103,
Florida Statutes, to read:

489.103 Exemptions.—This part does not apply to:

(23) A volunteer or a person acting out of charity and not
for personal monetary or other personal gain who assists a
property owner of a single-family residential building and its
appurtenances in making improvements to the owner's property.

This subsection does not exempt a person who is employed by or



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13 has a contract with the property owner and who acts in the
14 capacity of a contractor. This subsection does not exempt a
15 person who advertises that he or she is a contractor or who
16 otherwise represents that he or she is qualified to engage in
17 contracting. The property owner must be present on the job site
18 and must actively engage in and participate in the supervision
19 of work performed by a volunteer or a person acting out of
20 charity.

21
22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 Between lines 13 and 14

25 insert:

26 amending s. 489.103, F.S.; providing an exemption to
27 construction contracting;



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2013	.	
	.	
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	.	

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

Senate Amendment

Delete lines 204 - 268
and insert:

Section 3. Subsection (3) of section 489.105, Florida Statutes, is amended to read:

489.105 Definitions.—As used in this part:

(3) "Contractor" means the person who is qualified for, and is only responsible for, the project contracted for and means, except as exempted in this part, the person who, for compensation, undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add



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13 to, demolish, subtract from, or improve any building or
14 structure, including related improvements to real estate, for
15 others or for resale to others; and whose job scope is
16 substantially similar to the job scope described in one of the
17 paragraphs of this subsection. For the purposes of regulation
18 under this part, the term "demolish" applies only to demolition
19 of steel tanks more than 50 feet in height; towers more than 50
20 feet in height; other structures more than 50 feet in height,
21 other than buildings or residences more than three stories tall;
22 and ~~all~~ buildings or residences more than three stories tall.

23 Contractors are subdivided into two divisions, Division I,
24 consisting of those contractors defined in paragraphs (a)-(c),
25 and Division II, consisting of those contractors defined in
26 paragraphs (d)-(q):

27 (a) "General contractor" means a contractor whose services
28 are unlimited as to the type of work which he or she may do, who
29 may contract for any activity requiring licensure under this
30 part, and who may perform any work requiring licensure under
31 this part, except as otherwise expressly provided in s. 489.113.

32 (b) "Building contractor" means a contractor whose services
33 are limited to construction of commercial buildings and single-
34 dwelling or multiple-dwelling residential buildings, which do
35 not exceed three stories in height, and accessory use structures
36 in connection therewith or a contractor whose services are
37 limited to remodeling, repair, or improvement of any size
38 building if the services do not affect the structural members of
39 the building.

40 (c) "Residential contractor" means a contractor whose
41 services are limited to construction, remodeling, repair, or



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42 improvement of one-family, two-family, or three-family
43 residences not exceeding two habitable stories above no more
44 than one uninhabitable story and accessory use structures in
45 connection therewith.

46 (d) "Sheet metal contractor" means a contractor whose
47 services are unlimited in the sheet metal trade and who has the
48 experience, knowledge, and skill necessary for the manufacture,
49 fabrication, assembling, handling, erection, installation,
50 dismantling, conditioning, adjustment, insulation, alteration,
51 repair, servicing, or design, if not prohibited by law, of
52 ferrous or nonferrous metal work of U.S. No. 10 gauge or its
53 equivalent or lighter gauge and of other materials, including,
54 but not limited to, fiberglass, used in lieu thereof and of air-
55 handling systems, including the setting of air-handling
56 equipment and reinforcement of same, the balancing of air-
57 handling systems, and any duct cleaning and equipment sanitizing
58 that requires at least a partial disassembling of the system.

59 (e) "Roofing contractor" means a contractor whose services
60 are unlimited in the roofing trade and who has the experience,
61 knowledge, and skill to install, maintain, repair, alter,
62 extend, or design, if not prohibited by law, and use materials
63 and items used in the installation, maintenance, extension, and
64 alteration of all kinds of roofing, waterproofing, and coating,
65 except when coating is not represented to protect, repair,
66 waterproof, stop leaks, or extend the life of the roof. The
67 scope of work of a roofing contractor also includes skylights
68 and any related work, required roof-deck attachments, and any
69 repair or replacement of wood roof sheathing or fascia as needed
70 during roof repair or replacement and any related work.



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71 (f) "Class A air-conditioning contractor" means a
72 contractor whose services are unlimited in the execution of
73 contracts requiring the experience, knowledge, and skill to
74 install, maintain, repair, fabricate, alter, extend, or design,
75 if not prohibited by law, central air-conditioning,
76 refrigeration, heating, and ventilating systems, including duct
77 work in connection with a complete system if such duct work is
78 performed by the contractor as necessary to complete an air-
79 distribution system, boiler and unfired pressure vessel systems,
80 and all appurtenances, apparatus, or equipment used in
81 connection therewith, and any duct cleaning and equipment
82 sanitizing that requires at least a partial disassembling of the
83 system; to install, maintain, repair, fabricate, alter, extend,
84 or design, if not prohibited by law, piping, insulation of
85 pipes, vessels and ducts, pressure and process piping, and
86 pneumatic control piping; to replace, disconnect, or reconnect
87 power wiring on the load side of the dedicated existing
88 electrical disconnect switch; to install, disconnect, and
89 reconnect low voltage heating, ventilating, and air-conditioning
90 control wiring; and to install a condensate drain from an air-
91 conditioning unit to an existing safe waste or other approved
92 disposal other than a direct connection to a sanitary system.
93 The scope of work for such contractor also includes any
94 excavation work incidental thereto, but does not include any
95 work such as liquefied petroleum or natural gas fuel lines
96 within buildings, except for disconnecting or reconnecting
97 changeouts of liquefied petroleum or natural gas appliances
98 within buildings; potable water lines or connections thereto;
99 sanitary sewer lines; swimming pool piping and filters; or



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100 electrical power wiring. A Class A air-conditioning contractor
101 may test and evaluate central air-conditioning, refrigeration,
102 heating, and ventilating systems, including duct work; however,
103 a mandatory licensing requirement is not established for the
104 performance of these specific services.

105 (g) "Class B air-conditioning contractor" means a
106 contractor whose services are limited to 25 tons of cooling and
107 500,000 Btu of heating in any one system in the execution of
108 contracts requiring the experience, knowledge, and skill to
109 install, maintain, repair, fabricate, alter, extend, or design,
110 if not prohibited by law, central air-conditioning,
111 refrigeration, heating, and ventilating systems, including duct
112 work in connection with a complete system only to the extent
113 such duct work is performed by the contractor as necessary to
114 complete an air-distribution system being installed under this
115 classification, and any duct cleaning and equipment sanitizing
116 that requires at least a partial disassembling of the system; to
117 install, maintain, repair, fabricate, alter, extend, or design,
118 if not prohibited by law, piping and insulation of pipes,
119 vessels, and ducts; to replace, disconnect, or reconnect power
120 wiring on the load side of the dedicated existing electrical
121 disconnect switch; to install, disconnect, and reconnect low
122 voltage heating, ventilating, and air-conditioning control
123 wiring; and to install a condensate drain from an air-
124 conditioning unit to an existing safe waste or other approved
125 disposal other than a direct connection to a sanitary system.
126 The scope of work for such contractor also includes any
127 excavation work incidental thereto, but does not include any
128 work such as liquefied petroleum or natural gas fuel lines



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129 within buildings, except for disconnecting or reconnecting
130 changeouts of liquefied petroleum or natural gas appliances
131 within buildings; potable water lines or connections thereto;
132 sanitary sewer lines; swimming pool piping and filters; or
133 electrical power wiring. A Class B air-conditioning contractor
134 may test and evaluate central air-conditioning, refrigeration,
135 heating, and ventilating systems, including duct work; however,
136 a mandatory licensing requirement is not established for the
137 performance of these specific services.

138 (h) "Class C air-conditioning contractor" means a
139 contractor whose business is limited to the servicing of air-
140 conditioning, heating, or refrigeration systems, including any
141 duct cleaning and equipment sanitizing that requires at least a
142 partial disassembling of the system, and whose certification or
143 registration, issued pursuant to this part, was valid on October
144 1, 1988. Only a person who was registered or certified as a
145 Class C air-conditioning contractor as of October 1, 1988, shall
146 be so registered or certified after October 1, 1988. However,
147 the board shall continue to license and regulate those Class C
148 air-conditioning contractors who held Class C licenses before
149 October 1, 1988.

150 (i) "Mechanical contractor" means a contractor whose
151 services are unlimited in the execution of contracts requiring
152 the experience, knowledge, and skill to install, maintain,
153 repair, fabricate, alter, extend, or design, if not prohibited
154 by law, central air-conditioning, refrigeration, heating, and
155 ventilating systems, including duct work in connection with a
156 complete system if such duct work is performed by the contractor
157 as necessary to complete an air-distribution system, boiler and



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158 unfired pressure vessel systems, lift station equipment and
159 piping, and all appurtenances, apparatus, or equipment used in
160 connection therewith, and any duct cleaning and equipment
161 sanitizing that requires at least a partial disassembling of the
162 system; to install, maintain, repair, fabricate, alter, extend,
163 or design, if not prohibited by law, piping, insulation of
164 pipes, vessels and ducts, pressure and process piping, pneumatic
165 control piping, gasoline tanks and pump installations and piping
166 for same, standpipes, air piping, vacuum line piping, oxygen
167 lines, nitrous oxide piping, ink and chemical lines, fuel
168 transmission lines, liquefied petroleum gas lines within
169 buildings, and natural gas fuel lines within buildings; to
170 replace, disconnect, or reconnect power wiring on the load side
171 of the dedicated existing electrical disconnect switch; to
172 install, disconnect, and reconnect low voltage heating,
173 ventilating, and air-conditioning control wiring; and to install
174 a condensate drain from an air-conditioning unit to an existing
175 safe waste or other approved disposal other than a direct
176 connection to a sanitary system. The scope of work for such
177 contractor also includes any excavation work incidental thereto,
178 but does not include any work such as potable water lines or
179 connections thereto, sanitary sewer lines, swimming pool piping
180 and filters, or electrical power wiring. A mechanical contractor
181 may test and evaluate central air-conditioning, refrigeration,
182 heating, and ventilating systems, including duct work; however,
183 a mandatory licensing requirement is not established for the
184 performance of these specific services.

185 (j) "Commercial pool/spa contractor" means a contractor
186 whose scope of work involves, but is not limited to, the



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187 construction, repair, and servicing of any swimming pool, or hot
188 tub or spa, whether public, private, or otherwise, regardless of
189 use. The scope of work includes the installation, repair, or
190 replacement of existing equipment, any cleaning or equipment
191 sanitizing that requires at least a partial disassembling,
192 excluding filter changes, and the installation of new pool/spa
193 equipment, interior finishes, the installation of package pool
194 heaters, the installation of all perimeter piping and filter
195 piping, and the construction of equipment rooms or housing for
196 pool/spa equipment, and also includes the scope of work of a
197 swimming pool/spa servicing contractor. The scope of such work
198 does not include direct connections to a sanitary sewer system
199 or to potable water lines. The installation, construction,
200 modification, or replacement of equipment permanently attached
201 to and associated with the pool or spa for the purpose of water
202 treatment or cleaning of the pool or spa requires licensure;
203 however, the usage of such equipment for the purposes of water
204 treatment or cleaning does not require licensure unless the
205 usage involves construction, modification, or replacement of
206 such equipment. Water treatment that does not require such
207 equipment does not require a license. In addition, a license is
208 not required for the cleaning of the pool or spa in a way that
209 does not affect the structural integrity of the pool or spa or
210 its associated equipment.

211 (k) "Residential pool/spa contractor" means a contractor
212 whose scope of work involves, but is not limited to, the
213 construction, repair, and servicing of a residential swimming
214 pool, or hot tub or spa, regardless of use. The scope of work
215 includes the installation, repair, or replacement of existing



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216 equipment, any cleaning or equipment sanitizing that requires at
217 least a partial disassembling, excluding filter changes, and the
218 installation of new pool/spa equipment, interior finishes, the
219 installation of package pool heaters, the installation of all
220 perimeter piping and filter piping, and the construction of
221 equipment rooms or housing for pool/spa equipment, and also
222 includes the scope of work of a swimming pool/spa servicing
223 contractor. The scope of such work does not include direct
224 connections to a sanitary sewer system or to potable water
225 lines. The installation, construction, modification, or
226 replacement of equipment permanently attached to and associated
227 with the pool or spa for the purpose of water treatment or
228 cleaning of the pool or spa requires licensure; however, the
229 usage of such equipment for the purposes of water treatment or
230 cleaning does not require licensure unless the usage involves
231 construction, modification, or replacement of such equipment.
232 Water treatment that does not require such equipment does not
233 require a license. In addition, a license is not required for
234 the cleaning of the pool or spa in a way that does not affect
235 the structural integrity of the pool or spa or its associated
236 equipment.

237 (1) "Swimming pool/spa servicing contractor" means a
238 contractor whose scope of work involves, but is not limited to,
239 the repair and servicing of a swimming pool, or hot tub or spa,
240 whether public or private, or otherwise, regardless of use. The
241 scope of work includes the repair or replacement of existing
242 equipment, any cleaning or equipment sanitizing that requires at
243 least a partial disassembling, excluding filter changes, and the
244 installation of new pool/spa equipment, interior refinishing,



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245 the reinstallation or addition of pool heaters, the repair or
246 replacement of all perimeter piping and filter piping, the
247 repair of equipment rooms or housing for pool/spa equipment, and
248 the substantial or complete draining of a swimming pool, or hot
249 tub or spa, for the purpose of repair or renovation. The scope
250 of such work does not include direct connections to a sanitary
251 sewer system or to potable water lines. The installation,
252 construction, modification, substantial or complete disassembly,
253 or replacement of equipment permanently attached to and
254 associated with the pool or spa for the purpose of water
255 treatment or cleaning of the pool or spa requires licensure;
256 however, the usage of such equipment for the purposes of water
257 treatment or cleaning does not require licensure unless the
258 usage involves construction, modification, substantial or
259 complete disassembly, or replacement of such equipment. Water
260 treatment that does not require such equipment does not require
261 a license. In addition, a license is not required for the
262 cleaning of the pool or spa in a way that does not affect the
263 structural integrity of the pool or spa or its associated
264 equipment.

265 (m) "Plumbing contractor" means a contractor whose services
266 are unlimited in the plumbing trade and includes contracting
267 business consisting of the execution of contracts requiring the
268 experience, financial means, knowledge, and skill to install,
269 maintain, repair, alter, extend, or, if not prohibited by law,
270 design plumbing. A plumbing contractor may install, maintain,
271 repair, alter, extend, or, if not prohibited by law, design the
272 following without obtaining an additional local regulatory
273 license, certificate, or registration: sanitary drainage or



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274 storm drainage facilities, water and sewer plants and
275 substations, venting systems, public or private water supply
276 systems, septic tanks, drainage and supply wells, swimming pool
277 piping, irrigation systems, and solar heating water systems and
278 all appurtenances, apparatus, or equipment used in connection
279 therewith, including boilers and pressure process piping and
280 including the installation of water, natural gas, liquefied
281 petroleum gas and related venting, and storm and sanitary sewer
282 lines. The scope of work of the plumbing contractor also
283 includes the design, if not prohibited by law, and installation,
284 maintenance, repair, alteration, or extension of air-piping,
285 vacuum line piping, oxygen line piping, nitrous oxide piping,
286 and all related medical gas systems; fire line standpipes and
287 fire sprinklers if authorized by law; ink and chemical lines;
288 fuel oil and gasoline piping and tank and pump installation,
289 except bulk storage plants; and pneumatic control piping
290 systems, all in a manner that complies with all plans,
291 specifications, codes, laws, and regulations applicable. The
292 scope of work of the plumbing contractor applies to private
293 property and public property, including any excavation work
294 incidental thereto, and includes the work of the specialty
295 plumbing contractor. Such contractor shall subcontract, with a
296 qualified contractor in the field concerned, all other work
297 incidental to the work but which is specified as being the work
298 of a trade other than that of a plumbing contractor. This
299 definition does not limit the scope of work of any specialty
300 contractor certified pursuant to s. 489.113(6), and does not
301 require certification or registration under this part of a
302 person licensed under chapter 527 or any authorized employee of



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303 a public natural gas utility or of a private natural gas utility
304 regulated by the Public Service Commission when disconnecting
305 and reconnecting water lines in the servicing or replacement of
306 an existing water heater. A plumbing contractor may perform
307 drain cleaning and clearing and install or repair rainwater
308 catchment systems; however, a mandatory licensing requirement is
309 not established for the performance of these specific services.

310 (n) "Underground utility and excavation contractor" means a
311 contractor whose services are limited to the construction,
312 installation, and repair, on public or private property, whether
313 accomplished through open excavations or through other means,
314 including, but not limited to, directional drilling, auger
315 boring, jacking and boring, trenchless technologies, wet and dry
316 taps, grouting, and slip lining, of main sanitary sewer
317 collection systems, main water distribution systems, storm sewer
318 collection systems, and the continuation of utility lines from
319 the main systems to a point of termination up to and including
320 the meter location for the individual occupancy, sewer
321 collection systems at property line on residential or single-
322 occupancy commercial properties, or on multioccupancy properties
323 at manhole or wye lateral extended to an invert elevation as
324 engineered to accommodate future building sewers, water
325 distribution systems, or storm sewer collection systems at storm
326 sewer structures. However, an underground utility and excavation
327 contractor may install empty underground conduits in rights-of-
328 way, easements, platted rights-of-way in new site development,
329 and sleeves for parking lot crossings no smaller than 2 inches
330 in diameter if each conduit system installed is designed by a
331 licensed professional engineer or an authorized employee of a



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332 municipality, county, or public utility and the installation of
333 such conduit does not include installation of any conductor
334 wiring or connection to an energized electrical system. An
335 underground utility and excavation contractor may not install
336 piping that is an integral part of a fire protection system as
337 defined in s. 633.021 beginning at the point where the piping is
338 used exclusively for such system.

339 (o) "Solar contractor" means a contractor whose services
340 consist of the installation, alteration, repair, maintenance,
341 relocation, or replacement of solar panels for potable solar
342 water heating systems, swimming pool solar heating systems, and
343 photovoltaic systems and any appurtenances, apparatus, or
344 equipment used in connection therewith, whether public, private,
345 or otherwise, regardless of use. A contractor, certified or
346 registered pursuant to this chapter, is not required to become a
347 certified or registered solar contractor or to contract with a
348 solar contractor in order to provide services enumerated in this
349 paragraph that are within the scope of the services such
350 contractors may render under this part.

351 (p) "Pollutant storage systems contractor" means a
352 contractor whose services are limited to, and who has the
353 experience, knowledge, and skill to install, maintain, repair,
354 alter, extend, or design, if not prohibited by law, and use
355 materials and items used in the installation, maintenance,
356 extension, and alteration of, pollutant storage tanks. Any
357 person installing a pollutant storage tank shall perform such
358 installation in accordance with the standards adopted pursuant
359 to s. 376.303.

360 (q) "Specialty contractor" means a contractor whose scope



438124

361 of work and responsibility is limited to a particular phase of
362 construction established in a category adopted by board rule and
363 whose scope is limited to a subset of the activities described
364 in one of the paragraphs of this subsection.



816802

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2013	.	
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The Committee on Regulated Industries (Detert) recommended the following:

Senate Amendment

Delete line 555
and insert:
doors, roofing, skylights, windows, shutters, impact protective systems, and structural



574916

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2013	.	
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The Committee on Regulated Industries (Detert) recommended the following:

Senate Amendment (with title amendment)

Delete lines 749 - 870
and insert:

Section 19. Section 553.991, Florida Statutes, is amended to read:

553.991 Purpose.—The purpose of this part is to identify systems ~~provide for a statewide uniform system~~ for rating the energy efficiency of buildings. It is in the interest of the state to encourage the consideration of ~~the~~ energy-efficiency rating systems ~~system~~ in the market so as to provide market rewards for energy-efficient buildings and to those persons or



574916

13 companies designing, building, or selling energy-efficient
14 buildings.

15 Section 20. Section 553.992, Florida Statutes, is repealed.

16 Section 21. Section 553.993, Florida Statutes, is amended
17 to read:

18 553.993 Definitions.—For purposes of this part:

19 (1) "Acquisition" means to gain the sole or partial use of
20 a building through a purchase agreement.

21 (2) "Builder" means the primary contractor who possesses
22 the requisite skill, knowledge, and experience, and has the
23 responsibility, to supervise, direct, manage, and control the
24 contracting activities of the business organization with which
25 she or he is connected and who has the responsibility to
26 supervise, direct, manage, and control the construction work on
27 a job for which she or he has obtained the building permit.
28 Construction work includes, but is not limited to, foundation,
29 framing, wiring, plumbing, and finishing work.

30 (3) "Building energy-efficiency rating system" means a
31 whole building energy evaluation system established by the
32 Residential Energy Services Network, the Commercial Energy
33 Services Network, the Building Performance Institute, or the
34 Florida Solar Energy Center.

35 (4) ~~(3)~~ "Designer" means the architect, engineer, landscape
36 architect, builder, interior designer, or other person who
37 performs the actual design work or under whose direct
38 supervision and responsible charge the construction documents
39 are prepared.

40 (5) "Energy auditor" means a trained and certified
41 professional who conducts energy evaluations of an existing



574916

42 building and uses tools to identify the building's current
43 energy usage and the condition of the building and equipment.

44 (6) "Energy-efficiency rating" means an unbiased indication
45 of a building's relative energy efficiency based on consistent
46 inspection procedures, operating assumptions, climate data, and
47 calculation methods.

48 (7) "Energy rater" means an individual certified by a
49 building energy-efficiency rating system to perform building
50 energy-efficiency ratings for the 810 building type and in the
51 rating class for which the rater is certified.

52 (8)-(4) "New building" means commercial occupancy buildings
53 permitted for construction after January 1, 1995, and
54 residential occupancy buildings permitted for construction after
55 January 1, 1994.

56 (9)-(5) "Public building" means a building comfort-
57 conditioned for occupancy that is owned or leased by the state,
58 a state agency, or a governmental subdivision, including, but
59 not limited to, a city, county, or school district.

60 Section 22. Section 553.994, Florida Statutes, is amended
61 to read:

62 553.994 Applicability.-Building energy-efficiency ~~The~~
63 ~~rating systems system shall~~ apply to all public, commercial, and
64 residential buildings in the state.

65 Section 23. Section 553.995, Florida Statutes, is amended
66 to read:

67 553.995 Energy-efficiency ratings for buildings.-

68 (1) Building ~~The~~ energy-efficiency rating systems must,
69 ~~system shall~~ at a minimum:

70 ~~(a) Provide a uniform rating scale of the efficiency of~~



574916

71 ~~buildings based on annual energy usage.~~

72 ~~(a)(b)~~ Take into account local climate conditions,
73 construction practices, and building use.

74 ~~(b)(e)~~ Be compatible with standard federal rating systems
75 and state building codes and standards, where applicable, and
76 shall satisfy the requirements of s. 553.9085 with respect to
77 residential buildings and s. 255.256 with respect to state
78 buildings.

79 ~~(c)(2)~~ ~~The energy-efficiency rating system adopted by the~~
80 ~~department shall~~ Provide a means of analyzing and comparing the
81 relative energy efficiency of buildings upon the sale of new or
82 existing residential, public, or commercial buildings.

83 ~~(3)~~ ~~The department shall establish a voluntary working~~
84 ~~group of persons interested in the energy-efficiency rating~~
85 ~~system or energy efficiency, including, but not limited to, such~~
86 ~~persons as electrical engineers, mechanical engineers,~~
87 ~~architects, public utilities, and builders. The interest group~~
88 ~~shall advise the department in the development of the energy-~~
89 ~~efficiency rating system and shall assist the department in the~~
90 ~~implementation of the rating system by coordinating educational~~
91 ~~programs for designers, builders, businesses, and other~~
92 ~~interested persons to assist compliance and to facilitate~~
93 ~~incorporation of the rating system into existing practices.~~

94 ~~(2)(a)(4)~~ ~~The department shall develop a training and~~
95 ~~certification program to certify raters. In addition to the~~
96 ~~department,~~ Ratings may be conducted by a any local government
97 or private entity if, ~~provided that~~ the appropriate persons have
98 completed the necessary training established by the applicable
99 building energy-efficiency rating system ~~and have been certified~~



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100 ~~by the department.~~

101 **(b)** The Department of Management Services shall rate state-
102 owned or state-leased buildings if, ~~provided that~~ the
103 appropriate persons have completed the necessary training
104 established by the applicable building energy-efficiency rating
105 system and ~~have been certified by the Department of Business and~~
106 ~~Professional Regulation.~~

107 **(c)** A state agency that ~~which~~ has building construction
108 regulation authority may rate its own buildings and those it is
109 responsible for, if the appropriate persons have completed the
110 necessary training established by the applicable building
111 energy-efficiency rating system and ~~have been certified by the~~
112 ~~Department of Business and Professional Regulation.~~ The
113 ~~Department of Business and Professional Regulation may charge a~~
114 ~~fee not to exceed the costs for the training and certification~~
115 ~~of raters. The department shall by rule set the appropriate~~
116 ~~charges for raters to charge for energy ratings, not to exceed~~
117 ~~the actual costs.~~

118 Section 24. Section 553.996, Florida Statutes, is amended
119 to read:

120 553.996 Energy-efficiency information provided by building
121 energy-efficiency rating systems providers brochure.—A
122 prospective purchaser of real property with a building for
123 occupancy located thereon shall be provided ~~with a copy of an~~
124 ~~information brochure~~, at the time of or before ~~prior to~~ the
125 purchaser's execution of the contract for sale and purchase
126 which notifies, ~~notifying~~ the purchaser of the option for an
127 energy-efficiency rating on the building. Building energy-
128 efficiency rating system providers identified in this part shall



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129 prepare such information and make it available for distribution

130 ~~Such brochure shall be prepared, made available for~~

131 ~~distribution, and provided at no cost by the department.~~ Such

132 ~~brochure shall contain~~ information relevant to that class of

133 building must include, including, but need not be limited to:

134 (1) How to analyze the building's energy-efficiency rating.

135 (2) Comparisons to statewide averages for new and existing
136 construction of that class.

137 (3) Information concerning methods to improve the
138 building's energy-efficiency rating.

139 (4) A notice to residential purchasers that the energy-
140 efficiency rating may qualify the purchaser for an energy-
141 efficient mortgage from lending institutions.

142 Section 25. Subsection (2) of section 553.997, Florida
143 Statutes, is amended to read:

144 553.997 Public buildings.—

145 (2) ~~The department, together with other~~ State agencies
146 having building construction and maintenance responsibilities,
147 shall make available energy-efficiency practices information to
148 be used by individuals involved in the design, construction,
149 retrofitting, and maintenance of buildings for state and local
150 governments.

151 Section 26. Section 553.998, Florida Statutes, is amended
152 to read:

153 553.998 Compliance.—All ratings must ~~shall~~ be determined
154 using tools and procedures developed by the systems recognized
155 under this part ~~adopted by the department by rule in accordance~~
156 ~~with chapter 120~~ and must ~~shall~~ be certified by the rater as
157 accurate and correct and in compliance with procedures of the



574916

158 system under which the rater is certified ~~adopted by the~~
159 ~~department by rule in accordance with chapter 120.~~

160

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

162 And the title is amended as follows:

163 Delete lines 52 - 67

164 and insert:

165 Efficiency Rating Act; repealing s. 553.992, F.S.,
166 relating to the adoption of a rating system; amending
167 s. 553.993, F.S.; providing definitions; amending s.
168 553.994, F.S.; providing for the applicability of
169 building energy-efficiency rating systems; amending s.
170 553.995, F.S.; deleting a minimum requirement for the
171 building energy-efficiency rating systems; revising
172 language; deleting provisions relating to a certain
173 interest group; deleting provisions relating to the
174 Department of Business and Professional Regulation;
175 amending s. 553.996, F.S.; requiring building energy-
176 efficiency rating system providers to provide certain
177 information; amending s. 553.997, F.S.; deleting a
178 provision relating to the department; amending s.
179 553.998, F.S.; revising provisions relating to rating
180 compliance; providing



624556

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/11/2013	.	
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The Committee on Regulated Industries (Detert) recommended the following:

Senate Amendment

Delete lines 734 - 743
and insert:
efficiency ratings of the Florida Building Code-Energy Conservation ~~Energy Efficiency Code for Building Construction~~.
These efficiency ratings must ~~shall~~ be minimums and may be updated in the Florida Building Code-Energy Conservation ~~Florida Energy Efficiency Code for Building Construction~~ by the department in accordance with s. 553.901, following its determination that more cost-effective energy-saving equipment and techniques are available. It is the intent of the



624556

13 Legislature that all replacement air-conditioning systems be
14 installed using energy-saving, quality installation procedures
15 in residential, ~~including, but not limited to,~~ equipment sizing



498426

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/11/2013	.	
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The Committee on Regulated Industries (Detert) recommended the following:

Senate Substitute for Amendment (624556)

Delete lines 734 - 746
and insert:
efficiency ratings of the Florida Building Code-Energy Conservation ~~Energy Efficiency Code for Building Construction~~.
These efficiency ratings must ~~shall~~ be minimums and may be updated in the Florida Building Code-Energy Conservation ~~Florida Energy Efficiency Code for Building Construction~~ by the department in accordance with s. 553.901, following its determination that more cost-effective energy-saving equipment and techniques are available. It is the intent of the



498426

13 Legislature that all replacement air-conditioning systems be
14 installed using energy-saving, quality installation procedures
15 in residential, including, but not limited to, equipment sizing
16 analysis and duct inspection. Notwithstanding this section,
17 existing heating and cooling equipment in residential
18 applications need not meet the minimum equipment efficiencies,
19 including system sizing and duct sealing,



228936

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2013	.	
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The Committee on Regulated Industries (Galvano) recommended the following:

Senate Amendment (with title amendment)

Between lines 870 and 871
insert:

Section 22. Concrete Masonry Products Research, Education, and Promotion Act.—

(1) SHORT TITLE.—This section may be cited as the “Concrete Masonry Products Research, Education, and Promotion Act.”

(2) FLORIDA CONCRETE MASONRY COUNCIL, INC.; CREATION; PURPOSES.—

(a) There is created the Florida Concrete Masonry Council, Inc., a nonprofit corporation organized under the laws of this



228936

13 state and operating as a direct-support organization of the
14 Florida Building Commission.

15 (b) The council shall:

16 1. Develop, implement, and monitor a system for the
17 definition of masonry products and for the collection of self-
18 imposed voluntary assessments.

19 2. Plan, implement, and conduct programs of education,
20 promotion, research, and consumer information and industry
21 information which are designed to strengthen the market position
22 of the concrete masonry industry in this state and in the
23 nation, to maintain and expand domestic and foreign markets, and
24 to expand the uses for concrete masonry products.

25 3. Use the means authorized by this subsection for the
26 purpose of funding research, education, promotion, and consumer
27 and industry information of concrete masonry products in this
28 state and in the nation.

29 4. Coordinate research, education, promotion, industry, and
30 consumer information programs with national programs or programs
31 of other states.

32 5. Develop new uses and markets for concrete masonry
33 products.

34 6. Develop and improve educational access to individuals
35 seeking employment in the field of concrete masonry.

36 7. Develop methods of improving the quality of concrete
37 masonry products for the purpose of windstorm protection.

38 8. Develop methods of improving the energy efficiency
39 attributes of concrete masonry products.

40 9. Inform and educate the public concerning the
41 sustainability and economic benefits of concrete masonry



228936

42 products.

43 10. Do all other acts necessary or expedient for the
44 administration of the affairs and attainment of the purposes of
45 the council.

46 (c) The council may:

47 1. Conduct or contract for scientific research with any
48 accredited university, college, or similar institution and enter
49 into other contracts or agreements that will aid in carrying out
50 the purposes of this section, including contracts for the
51 purchase or acquisition of facilities or equipment necessary to
52 carry out the purposes of this section.

53 2. Disseminate reliable information benefiting the consumer
54 and the concrete masonry industry.

55 3. Provide to governmental bodies, on request, information
56 relating to subjects of concern to the concrete masonry industry
57 and act jointly or in cooperation with the state or Federal
58 Government, and agencies thereof, in the development or
59 administration of programs that the council considers to be
60 consistent with the objectives of this section.

61 4. Sue and be sued as a council without individual
62 liability of the members for acts of the council when acting
63 within the scope of the powers of this section and in the manner
64 prescribed by the laws of this state.

65 5. Maintain a financial reserve for emergency use, the
66 total of which must not exceed 50 percent of the council's
67 anticipated annual income.

68 6. Employ subordinate officers and employees of the
69 council, prescribe their duties, and fix their compensation and
70 terms of employment.



228936

71 7. Cooperate with any local, state, regional, or nationwide
72 organization or agency engaged in work or activities consistent
73 with the objectives of the program.

74 8. Do all other things necessary to further the intent of
75 this section which are not prohibited by law.

76 (d) The council and concrete masonry manufacturers may meet
77 and coordinate the collection of self-imposed voluntary
78 assessments for each concrete masonry unit that is produced and
79 sold by manufacturers in the state.

80 (e)1. The council may not participate or intervene in any
81 political campaign on behalf of or in opposition to any
82 candidate for public office or any state or local ballot
83 initiative. This restriction includes, but is not limited to, a
84 prohibition against publishing or distributing any statement.

85 2. The net receipts of the council may not in any part
86 inure to the benefit of or be distributable to its directors,
87 its officers, or other private persons, except that the council
88 may pay reasonable compensation for services rendered by staff
89 employees and may make payments and distributions in furtherance
90 of the purposes of this section.

91 3. Notwithstanding any other provision of law, the council
92 may not carry on any other activity not permitted to be carried
93 on by a corporation:

94 a. That is exempt from federal income tax under s.
95 501(c)(3) of the Internal Revenue Code; or

96 b. To which charitable contributions are deductible under
97 s. 170(c)(2) of the Internal Revenue Code.

98 (3) GOVERNING BOARD.—

99 (a) The Florida Concrete Masonry Council, Inc., shall be



228936

100 governed by a board of directors composed of 15 members as
101 follows:

102 1. Nine members representing concrete masonry
103 manufacturers. Of these board members, at least five must be a
104 representative of a manufacturer that is a member of the Masonry
105 Association of Florida. These members must be representatives of
106 concrete masonry manufacturers of various sizes. A manufacturer
107 may not be represented by more than one member of the board.

108 2. One member representing the Florida Building Commission.

109 3. One member representing the Florida Home Builders
110 Association.

111 4. One member having expertise in apprenticeship or
112 vocational training.

113 5. Two members who are masonry contractors and who are
114 members of the Masonry Association of Florida.

115 6. One member who is not a masonry contractor or
116 manufacturer or an employee of a masonry contractor or
117 manufacturer, but who is otherwise a stakeholder in the masonry
118 industry.

119 (b) The initial board of directors shall be appointed by
120 the chair of the commission based on recommendations from the
121 Masonry Association of Florida. Five of the initial board
122 members shall be appointed to a 1-year term. Five shall be
123 appointed for a 2-year term. The remaining board members shall
124 be appointed for a 3-year term. Thereafter, each member shall be
125 appointed to serve a 3-year term and may be reappointed to serve
126 an additional consecutive term. After the initial appointments
127 are made, each subsequent vacancy shall be filled in accordance
128 with the bylaws of the council. A member may not serve more than



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129 two consecutive terms. A member representing a manufacturer or a
130 contractor must be employed by a manufacturer or contractor
131 engaging in the trade of manufacture of concrete masonry
132 products for at least 5 years immediately preceding the first
133 day of his or her service on the board. All members of the board
134 shall serve without compensation. However, the board members are
135 entitled to reimbursement for per diem and travel expenses
136 incurred in carrying out the intents and purposes of this
137 section in accordance with s. 112.061, Florida Statutes.

138 (c) The council shall elect from its members a chair, vice
139 chair, and a secretary-treasurer to a 2-year term each. The
140 chair of the board must be a concrete masonry manufacturer.

141 (d) The initial board of directors shall adopt bylaws to
142 govern initial terms of directors, governance of board members
143 and meetings, term limits, and procedures for filling vacancies.

144 (4) ACCEPTANCE OF GRANTS AND GIFTS.—The council may accept
145 grants, donations, contributions, or gifts from any source if
146 the use of such resources is not restricted in any manner that
147 the council considers to be inconsistent with the objectives of
148 this section.

149 (5) PAYMENTS TO ORGANIZATIONS.—

150 (a) The council may make payments to other organizations
151 for work or services performed which are consistent with the
152 objectives of the program.

153 (b) Before making payments described in this subsection,
154 the council must secure a written agreement that the
155 organization receiving payment will furnish at least annually,
156 or more frequently on request of the council, written or printed
157 reports of program activities and reports of financial data that



228936

158 are relative to the council's funding of such activities.

159 (c) The council may require adequate proof of security
160 bonding on the payments to any individual, business, or other
161 organization.

162 (6) COLLECTION OF MONEYS AT TIME OF SALE.-

163 (a) If a self-imposed voluntary assessment is paid by a
164 manufacturer, each manufacturer shall list on its invoice to the
165 purchaser, at the time of sale by the manufacturer, such
166 assessment. The amount of the assessment must be separately
167 stated on all receipts, invoices, or other evidence of sale as
168 the "Florida Building Sustainability Assessment."

169 (b) Each manufacturer that elects to self-impose a
170 voluntary assessment shall commit to the assessment for a period
171 of not less than 1 year and shall annually be authorized to
172 renew or end the self-imposed voluntary assessment.

173 (c) The manufacturer shall collect all such moneys and
174 forward them quarterly to the council.

175 (d) The council shall maintain within its financial records
176 a separate accounting of all moneys received under this
177 subsection. The council shall provide for an annual financial
178 audit of its accounts and records to be conducted by an
179 independent certified public accountant licensed under chapter
180 473.

181 (7) BYLAWS.-The council shall, by September 30, 2013, adopt
182 bylaws to carry out the intents and purposes of this section.
183 These bylaws may be amended upon 30 days' notice to board
184 members at any regular or special meeting called for this
185 purpose. The bylaws must conform to the requirements of this
186 section but may also address any matter not in conflict with the



228936

187 general laws of this state.

188

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

190 And the title is amended as follows:

191 Delete line 67

192 and insert:

193 and certification program to certify raters; providing
194 a short title; creating the Florida Concrete Masonry
195 Council, Inc.; authorizing the council to levy an
196 assessment on the sale of concrete masonry units under
197 certain circumstances; providing the powers and duties
198 of the council and restrictions upon actions of the
199 council; providing for appointment of the governing
200 board of the council; authorizing the council to
201 submit a referendum to manufacturers of concrete
202 masonry units for authorization to levy an assessment
203 on the sale of concrete masonry units; providing
204 procedure for holding the referendum; authorizing the
205 council to accept grants, donations, contributions,
206 and gifts under certain circumstances; authorizing the
207 council to make payments to other organizations under
208 certain circumstances; providing requirements for the
209 manufacturer's collection of assessments; requiring
210 the council to adopt bylaws; providing



644614

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2013	.	
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The Committee on Regulated Industries (Flores) recommended the following:

Senate Amendment (with title amendment)

Between lines 268 and 269
insert:

Section 4. The amendments to s. 489.113(2), Florida Statutes, by section 11 of chapter 2012-13, Laws of Florida, are remedial in nature and intended to clarify existing law. This section applies retroactively to any action initiated or pending on or after March 23, 2012.

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

And the title is amended as follows:



644614

13 Between lines 14 and 15

14 insert:

15 providing that amendments to s. 489.113(2), F.S.,
16 enacted in s. 11, ch. 2012-13, Laws of Florida, are
17 remedial and intended to clarify existing law;
18 providing for retroactivity;



405576

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2013	.	
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The Committee on Regulated Industries (Detert) recommended the following:

Senate Amendment

Delete lines 734 - 746
and insert:
efficiency ratings of the Florida Building Code-Energy Conservation ~~Energy Efficiency Code for Building Construction~~.
These efficiency ratings must ~~shall~~ be minimums and may be updated in the Florida Building Code-Energy Conservation ~~Florida Energy Efficiency Code for Building Construction~~ by the department in accordance with s. 553.901, following its determination that more cost-effective energy-saving equipment and techniques are available. It is the intent of the



405576

13 Legislature that all replacement air-conditioning systems be
14 installed using energy-saving, quality installation procedures
15 in residential, including, but not limited to, equipment sizing
16 analysis and duct inspection. Notwithstanding this section,
17 existing heating and cooling equipment in residential
18 applications need not meet the minimum equipment efficiencies,
19 including system sizing and duct sealing,

By the Committee on Community Affairs; and Senator Simpson

578-02817-13

20131252c1

1 A bill to be entitled
 2 An act relating to building construction; amending s.
 3 162.12, F.S.; revising notice requirements in the
 4 Local Government Code Enforcement Boards Act; amending
 5 s. 381.0065, F.S.; specifying that certain actions
 6 relating to onsite sewage treatment and removal are
 7 not required if a bedroom is not added during a
 8 remodeling addition or modification to a single-family
 9 home; prohibiting a remodeling addition or
 10 modification from certain coverage or encroachment;
 11 authorizing a local health board to review specific
 12 plans; requiring a review to be completed within a
 13 specific time period after receipt of specific plans;
 14 amending s. 489.105, F.S.; revising a definition;
 15 amending s. 489.127, F.S.; revising civil penalties;
 16 authorizing a local building department to retain 75
 17 percent of certain fines collected if it transmits 25
 18 percent to the Department of Business and Professional
 19 Regulation; amending s. 489.131, F.S.; deleting
 20 legislative intent referring to a local agency's
 21 enforcement of regulatory laws; deleting the
 22 definitions of "minor violation" and "notice of
 23 noncompliance"; deleting provisions that provide for
 24 what a notice of noncompliance should or should not
 25 include; deleting a provision that provides for
 26 further disciplinary proceedings for certain
 27 licensees; amending s. 489.514, F.S.; extending the
 28 date by which an applicant must make application for a
 29 license to be grandfathered; amending s. 489.531,

Page 1 of 31

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

578-02817-13

20131252c1

30 F.S.; revising a maximum civil penalty; amending s.
 31 553.73, F.S.; prohibiting any provision of the
 32 International Residential Code relating to mandated
 33 fire sprinklers from incorporation into the Florida
 34 Building Code; amending s. 553.74, F.S.; revising
 35 membership of the Florida Building Commission;
 36 amending s. 553.79, F.S.; authorizing a site plan to
 37 be maintained at the worksite as an electronic copy;
 38 requiring the copy to be open to inspection by certain
 39 officials; amending s. 553.842, F.S.; requiring an
 40 application for state approval of a certain product to
 41 be approved by the department after the application
 42 and related documentation are complete; amending ss.
 43 553.901, 553.902, 553.903, 553.904, 553.905, and
 44 553.906, F.S.; requiring the Florida Building
 45 Commission to adopt the Florida Building Code-Energy
 46 Conservation; conforming subsequent sections of the
 47 thermal efficiency code; amending s. 553.912, F.S.;
 48 providing that certain existing heating and cooling
 49 equipment is not required to meet the minimum
 50 equipment efficiencies; amending s. 553.991, F.S.;
 51 revising the purpose of the Florida Building Energy-
 52 Efficiency Rating Act; amending s. 553.992, F.S.;
 53 requiring the department to administer statewide
 54 criteria for building energy-efficiency rating
 55 systems; requiring department rules to prohibit a sole
 56 provider from conducting functions relating to the
 57 building energy-efficiency rating system; amending s.
 58 553.993, F.S.; providing definitions; amending s.

Page 2 of 31

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

578-02817-13

20131252c1

59 553.995, F.S.; deleting a minimum requirement for the
60 building energy-efficiency rating system; revising
61 language; requiring the interest group to advise the
62 department in the adoption and administration of the
63 system; deleting a provision that requires the
64 interest group to assist in the implementation of the
65 system by performing certain acts; requiring the
66 department to approve, rather than develop, a training
67 and certification program to certify raters; providing
68 an effective date.

69
70 Be It Enacted by the Legislature of the State of Florida:

71
72 Section 1. Section 162.12, Florida Statutes, is amended to
73 read:

74 162.12 Notices.—

75 (1) All notices required by this part must be provided to
76 the alleged violator by:

77 (a) Certified mail, return receipt requested, to the
78 address listed in the tax collector's office for tax notices, ~~or~~
79 ~~to the address listed in the county property appraiser's~~
80 ~~database. The local government may also provide an additional~~
81 ~~notice to any other address it may find for provided by~~ the
82 ~~property owner in writing to the local government for the~~
83 ~~purpose of receiving notices.~~ For property owned by a
84 corporation, notices may be provided by certified mail to the
85 registered agent of the corporation. If any notice sent by
86 certified mail is not signed as received within 30 days after
87 the postmarked date of mailing, notice may be provided by

Page 3 of 31

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

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88 posting as described in subparagraphs (2) (b)1. and 2.;

89 (b) Hand delivery by the sheriff or other law enforcement
90 officer, code inspector, or other person designated by the local
91 governing body;

92 (c) Leaving the notice at the violator's usual place of
93 residence with any person residing therein who is above 15 years
94 of age and informing such person of the contents of the notice;
95 or

96 (d) In the case of commercial premises, leaving the notice
97 with the manager or other person in charge.

98 (2) In addition to providing notice as set forth in
99 subsection (1), at the option of the code enforcement board or
100 the local government, notice may ~~also~~ be served by publication
101 or posting, as follows:

102 (a)1. Such notice shall be published once during each week
103 for 4 consecutive weeks (four publications being sufficient) in
104 a newspaper of general circulation in the county where the code
105 enforcement board is located. The newspaper shall meet such
106 requirements as are prescribed under chapter 50 for legal and
107 official advertisements.

108 2. Proof of publication shall be made as provided in ss.
109 50.041 and 50.051.

110 (b)1. In lieu of publication as described in paragraph (a),
111 such notice may be posted at least 10 days prior to the hearing,
112 or prior to the expiration of any deadline contained in the
113 notice, in at least two locations, one of which shall be the
114 property upon which the violation is alleged to exist and the
115 other of which shall be, in the case of municipalities, at the
116 primary municipal government office, and in the case of

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117 counties, at the front door of the courthouse or the main county
118 governmental center in said county.

119 2. Proof of posting shall be by affidavit of the person
120 posting the notice, which affidavit shall include a copy of the
121 notice posted and the date and places of its posting.

122 (c) Notice by publication or posting may run concurrently
123 with, or may follow, an attempt or attempts to provide notice by
124 hand delivery or by mail as required under subsection (1).

125

126 Evidence that an attempt has been made to hand deliver or mail
127 notice as provided in subsection (1), together with proof of
128 publication or posting as provided in subsection (2), shall be
129 sufficient to show that the notice requirements of this part
130 have been met, without regard to whether or not the alleged
131 violator actually received such notice.

132 Section 2. Paragraph (aa) of subsection (4) of section
133 381.0065, Florida Statutes, is amended to read:

134 381.0065 Onsite sewage treatment and disposal systems;
135 regulation.—

136 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not
137 construct, repair, modify, abandon, or operate an onsite sewage
138 treatment and disposal system without first obtaining a permit
139 approved by the department. The department may issue permits to
140 carry out this section, but shall not make the issuance of such
141 permits contingent upon prior approval by the Department of
142 Environmental Protection, except that the issuance of a permit
143 for work seaward of the coastal construction control line
144 established under s. 161.053 shall be contingent upon receipt of
145 any required coastal construction control line permit from the

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146 Department of Environmental Protection. A construction permit is
147 valid for 18 months from the issuance date and may be extended
148 by the department for one 90-day period under rules adopted by
149 the department. A repair permit is valid for 90 days from the
150 date of issuance. An operating permit must be obtained prior to
151 the use of any aerobic treatment unit or if the establishment
152 generates commercial waste. Buildings or establishments that use
153 an aerobic treatment unit or generate commercial waste shall be
154 inspected by the department at least annually to assure
155 compliance with the terms of the operating permit. The operating
156 permit for a commercial wastewater system is valid for 1 year
157 from the date of issuance and must be renewed annually. The
158 operating permit for an aerobic treatment unit is valid for 2
159 years from the date of issuance and must be renewed every 2
160 years. If all information pertaining to the siting, location,
161 and installation conditions or repair of an onsite sewage
162 treatment and disposal system remains the same, a construction
163 or repair permit for the onsite sewage treatment and disposal
164 system may be transferred to another person, if the transferee
165 files, within 60 days after the transfer of ownership, an
166 amended application providing all corrected information and
167 proof of ownership of the property. There is no fee associated
168 with the processing of this supplemental information. A person
169 may not contract to construct, modify, alter, repair, service,
170 abandon, or maintain any portion of an onsite sewage treatment
171 and disposal system without being registered under part III of
172 chapter 489. A property owner who personally performs
173 construction, maintenance, or repairs to a system serving his or
174 her own owner-occupied single-family residence is exempt from

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175 registration requirements for performing such construction,
 176 maintenance, or repairs on that residence, but is subject to all
 177 permitting requirements. A municipality or political subdivision
 178 of the state may not issue a building or plumbing permit for any
 179 building that requires the use of an onsite sewage treatment and
 180 disposal system unless the owner or builder has received a
 181 construction permit for such system from the department. A
 182 building or structure may not be occupied and a municipality,
 183 political subdivision, or any state or federal agency may not
 184 authorize occupancy until the department approves the final
 185 installation of the onsite sewage treatment and disposal system.
 186 A municipality or political subdivision of the state may not
 187 approve any change in occupancy or tenancy of a building that
 188 uses an onsite sewage treatment and disposal system until the
 189 department has reviewed the use of the system with the proposed
 190 change, approved the change, and amended the operating permit.

191 (aa) An existing-system inspection or evaluation, a
 192 modification, replacement, or upgrade of an onsite sewage
 193 treatment and disposal system, or a pump-out of an existing tank
 194 is not required for a remodeling addition or modification to a
 195 single-family home if a bedroom is not added. However, a
 196 remodeling addition or modification may not cover any part of
 197 the system or encroach upon a required setback or the
 198 unobstructed area. The local health department may review a
 199 floor plan and site plan that show the distance of the
 200 remodeling addition or modification from the system to determine
 201 if a setback or unobstructed area is impacted. The review shall
 202 be completed within 5 business days after receipt of an adequate
 203 floor plan and site plan.

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204 Section 3. Paragraph (m) of subsection (3) of section
 205 489.105, Florida Statutes, is amended to read:
 206 489.105 Definitions.—As used in this part:
 207 (3) “Contractor” means the person who is qualified for, and
 208 is only responsible for, the project contracted for and means,
 209 except as exempted in this part, the person who, for
 210 compensation, undertakes to, submits a bid to, or does himself
 211 or herself or by others construct, repair, alter, remodel, add
 212 to, demolish, subtract from, or improve any building or
 213 structure, including related improvements to real estate, for
 214 others or for resale to others; and whose job scope is
 215 substantially similar to the job scope described in one of the
 216 paragraphs of this subsection. For the purposes of regulation
 217 under this part, the term “demolish” applies only to demolition
 218 of steel tanks more than 50 feet in height; towers more than 50
 219 feet in height; other structures more than 50 feet in height;
 220 and all buildings or residences. Contractors are subdivided into
 221 two divisions, Division I, consisting of those contractors
 222 defined in paragraphs (a)-(c), and Division II, consisting of
 223 those contractors defined in paragraphs (d)-(q):

224 (m) “Plumbing contractor” means a contractor whose services
 225 are unlimited in the plumbing trade and includes contracting
 226 business consisting of the execution of contracts requiring the
 227 experience, financial means, knowledge, and skill to install,
 228 maintain, repair, alter, extend, or, if not prohibited by law,
 229 design plumbing. A plumbing contractor may install, maintain,
 230 repair, alter, extend, or, if not prohibited by law, design the
 231 following without obtaining an additional local regulatory
 232 license, certificate, or registration: sanitary drainage or

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233 storm drainage facilities, water and sewer plants and
 234 substations, venting systems, public or private water supply
 235 systems, septic tanks, drainage and supply wells, swimming pool
 236 piping, irrigation systems, and solar heating water systems and
 237 all appurtenances, apparatus, or equipment used in connection
 238 therewith, including boilers and pressure process piping and
 239 including the installation of water, natural gas, liquefied
 240 petroleum gas and related venting, and storm and sanitary sewer
 241 lines. The scope of work of the plumbing contractor also
 242 includes the design, if not prohibited by law, and installation,
 243 maintenance, repair, alteration, or extension of air-piping,
 244 vacuum line piping, oxygen line piping, nitrous oxide piping,
 245 and all related medical gas systems; fire line standpipes and
 246 fire sprinklers if authorized by law; ink and chemical lines;
 247 fuel oil and gasoline piping and tank and pump installation,
 248 except bulk storage plants; and pneumatic control piping
 249 systems, all in a manner that complies with all plans,
 250 specifications, codes, laws, and regulations applicable. The
 251 scope of work of the plumbing contractor applies to private
 252 property and public property, including any excavation work
 253 incidental thereto, and includes the work of the specialty
 254 plumbing contractor. Such contractor shall subcontract, with a
 255 qualified contractor in the field concerned, all other work
 256 incidental to the work but which is specified as being the work
 257 of a trade other than that of a plumbing contractor. This
 258 definition does not limit the scope of work of any specialty
 259 contractor certified pursuant to s. 489.113(6), and does not
 260 require certification or registration under this part of a
 261 person licensed under chapter 527 or any authorized employee of

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262 a public natural gas utility or of a private natural gas utility
 263 regulated by the Public Service Commission when disconnecting
 264 and reconnecting water lines in the servicing or replacement of
 265 an existing water heater. A plumbing contractor may perform
 266 drain cleaning and clearing and install or repair rainwater
 267 catchment systems; however, a mandatory licensing requirement is
 268 not established for the performance of these specific services.

269 Section 4. Paragraphs (c) and (f) of subsection (5) and
 270 subsection (6) of section 489.127, Florida Statutes, are amended
 271 to read:

272 489.127 Prohibitions; penalties.—

273 (5) Each county or municipality may, at its option,
 274 designate one or more of its code enforcement officers, as
 275 defined in chapter 162, to enforce, as set out in this
 276 subsection, the provisions of subsection (1) and s. 489.132(1)
 277 against persons who engage in activity for which a county or
 278 municipal certificate of competency or license or state
 279 certification or registration is required.

280 (c) The local governing body of the county or municipality
 281 ~~may is authorized to~~ enforce codes and ordinances against
 282 unlicensed contractors under the provisions of this subsection
 283 and may enact an ordinance establishing procedures for
 284 implementing this subsection, including a schedule of penalties
 285 to be assessed by the code enforcement officer. The maximum
 286 civil penalty which may be levied ~~may shall~~ not exceed \$2,000
 287 ~~\$500~~. Moneys collected pursuant to this subsection shall be
 288 retained locally, as provided for by local ordinance, and may be
 289 set aside in a specific fund to support future enforcement
 290 activities against unlicensed contractors.

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291 (f) If the enforcement or licensing board or designated
 292 special magistrate finds that a violation exists, the
 293 enforcement or licensing board or designated special magistrate
 294 may order the violator to pay a civil penalty of not less than
 295 the amount set forth on the citation but not more than \$1,500
 296 ~~\$1,000~~ per day for each violation. In determining the amount of
 297 the penalty, the enforcement or licensing board or designated
 298 special magistrate shall consider the following factors:

- 299 1. The gravity of the violation.
- 300 2. Any actions taken by the violator to correct the
- 301 violation.

- 302 3. Any previous violations committed by the violator.

303 (6) Local building departments may collect outstanding
 304 fines against registered or certified contractors issued by the
 305 Construction Industry Licensing Board and may retain 75 ~~25~~
 306 percent of the fines they are able to collect, provided that
 307 they transmit 25 ~~75~~ percent of the fines they are able to
 308 collect to the department according to a procedure to be
 309 determined by the department.

310 Section 5. Paragraph (a) of subsection (7) of section
 311 489.131, Florida Statutes, is amended to read:

312 489.131 Applicability.—

313 (7) (a) It is the policy of the state that the purpose of
 314 regulation is to protect the public by attaining compliance with
 315 the policies established in law. Fines and other penalties are
 316 provided in order to ensure compliance; ~~however, the collection~~
 317 ~~of fines and the imposition of penalties are intended to be~~
 318 ~~secondary to the primary goal of attaining compliance with state~~
 319 ~~laws and local jurisdiction ordinances. It is the intent of the~~

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320 ~~Legislature that a local jurisdiction agency charged with~~
 321 ~~enforcing regulatory laws shall issue a notice of noncompliance~~
 322 ~~as its first response to a minor violation of a regulatory law~~
 323 ~~in any instance in which it is reasonable to assume that the~~
 324 ~~violator was unaware of such a law or unclear as to how to~~
 325 ~~comply with it. A violation of a regulatory law is a "minor~~
 326 ~~violation" if it does not result in economic or physical harm to~~
 327 ~~a person or adversely affect the public health, safety, or~~
 328 ~~welfare or create a significant threat of such harm. A "notice~~
 329 ~~of noncompliance" is a notification by the local jurisdiction~~
 330 ~~agency charged with enforcing the ordinance, which is issued to~~
 331 ~~the licensee that is subject to the ordinance. A notice of~~
 332 ~~noncompliance should not be accompanied with a fine or other~~
 333 ~~disciplinary penalty. It should identify the specific ordinance~~
 334 ~~that is being violated, provide information on how to comply~~
 335 ~~with the ordinance, and specify a reasonable time for the~~
 336 ~~violator to comply with the ordinance. Failure of a licensee to~~
 337 ~~take action correcting the violation within a set period of time~~
 338 ~~would then result in the institution of further disciplinary~~
 339 ~~proceedings.~~

340 Section 6. Section 489.514, Florida Statutes, is amended to
 341 read:

342 489.514 Certification for registered contractors;
 343 grandfathering provisions.—

344 (1) The board shall, upon receipt of a completed
 345 application, appropriate fee, and proof of compliance with the
 346 provisions of this section, issue:

347 (a) To an applying registered electrical contractor, a
 348 certificate as an electrical contractor, as defined in s.

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349 489.505(12); ~~or~~

350 (b) To an applying registered alarm system contractor, a
 351 certificate in the matching alarm system contractor category, as
 352 defined in s. 489.505(2)(a) or (b); or

353 (c) To an applying registered electrical specialty
 354 contractor, a certificate in the matching electrical specialty
 355 contractor category, as defined in s. 489.505(19).

356 (2) Any contractor registered under this part who makes
 357 application under this section to the board shall meet each of
 358 the following requirements for certification:

359 (a) Currently holds a valid registered local license in the
 360 category of electrical contractor, alarm system contractor, or
 361 electrical specialty contractor.

362 (b) Has, for that category, passed a written, proctored
 363 examination that the board finds to be substantially similar to
 364 the examination required to be licensed as a certified
 365 contractor under this part. For purposes of this subsection, a
 366 written, proctored examination such as that produced by the
 367 National Assessment Institute, Block and Associates, NAI/Block,
 368 Experior Assessments, Professional Testing, Inc., or Assessment
 369 Systems, Inc., shall be considered to be substantially similar
 370 to the examination required to be licensed as a certified
 371 contractor. The board may not impose or make any requirements
 372 regarding the nature or content of these cited examinations.

373 (c) Has at least 5 years of experience as a contractor in
 374 that contracting category, or as an inspector or building
 375 administrator with oversight over that category, at the time of
 376 application. For contractors, only time periods in which the
 377 contractor license is active and the contractor is not on

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378 probation ~~shall~~ count toward the 5 years required under this
 379 subsection.

380 (d) Has not had his or her contractor's license revoked at
 381 any time, had his or her contractor's license suspended in the
 382 last 5 years, or been assessed a fine in excess of \$500 in the
 383 last 5 years.

384 (e) Is in compliance with the insurance and financial
 385 responsibility requirements in s. 489.515(1)(b).

386 (3) An applicant must make application by November 1, 2015
 387 ~~2004~~, to be licensed pursuant to this section.

388 Section 7. Paragraph (c) of subsection (4) of section
 389 489.531, Florida Statutes, is amended to read:

390 489.531 Prohibitions; penalties.-

391 (4) Each county or municipality may, at its option,
 392 designate one or more of its code enforcement officers, as
 393 defined in chapter 162, to enforce, as set out in this
 394 subsection, the provisions of subsection (1) against persons who
 395 engage in activity for which county or municipal certification
 396 is required.

397 (c) The local governing body of the county or municipality
 398 may ~~is authorized to~~ enforce codes and ordinances against
 399 unlicensed contractors under the provisions of this section and
 400 may enact an ordinance establishing procedures for implementing
 401 this section, including a schedule of penalties to be assessed
 402 by the code enforcement officers. The maximum civil penalty
 403 which may be levied may ~~shall~~ not exceed \$2,000 ~~\$500~~. Moneys
 404 collected pursuant to this section shall be retained locally as
 405 provided for by local ordinance and may be set aside in a
 406 specific fund to support future enforcement activities against

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407 unlicensed contractors.

408 Section 8. Subsection (17) of section 553.73, Florida
409 Statutes, is amended to read:

410 553.73 Florida Building Code.—

411 (17) A provision ~~The provisions of section R313 of the most~~
412 ~~current version~~ of the International Residential Code relating
413 to mandated fire sprinklers may not be incorporated into the
414 Florida Building Code as adopted by the Florida Building
415 Commission and may not be adopted as a local amendment to the
416 Florida Building Code. This subsection does not prohibit the
417 application of cost-saving incentives for residential fire
418 sprinklers that are authorized in the International Residential
419 Code upon a mutual agreement between the builder and the code
420 official. This subsection does not apply to a local government
421 that has a lawfully adopted ordinance relating to fire
422 sprinklers which has been in effect since January 1, 2010.

423 Section 9. Subsection (1) of section 553.74, Florida
424 Statutes, is amended to read:

425 553.74 Florida Building Commission.—

426 (1) The Florida Building Commission is created and located
427 within the Department of Business and Professional Regulation
428 for administrative purposes. Members ~~are shall be~~ appointed by
429 the Governor subject to confirmation by the Senate. The
430 commission ~~is shall be~~ composed of 26 ~~25~~ members, consisting of
431 the following:

432 (a) One architect registered to practice in this state and
433 actively engaged in the profession. The American Institute of
434 Architects, Florida Section, is encouraged to recommend a list
435 of candidates for consideration.

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436 (b) One structural engineer registered to practice in this
437 state and actively engaged in the profession. The Florida
438 Engineering Society is encouraged to recommend a list of
439 candidates for consideration.

440 (c) One air-conditioning or mechanical contractor certified
441 to do business in this state and actively engaged in the
442 profession. The Florida Air Conditioning Contractors
443 Association, the Florida Refrigeration and Air Conditioning
444 Contractors Association, and the Mechanical Contractors
445 Association of Florida are encouraged to recommend a list of
446 candidates for consideration.

447 (d) One electrical contractor certified to do business in
448 this state and actively engaged in the profession. The Florida
449 Electrical Contractors Association and the National Electrical
450 Contractors Association, Florida Chapter, are encouraged to
451 recommend a list of candidates for consideration.

452 (e) One member from fire protection engineering or
453 technology who is actively engaged in the profession. The
454 Florida Chapter of the Society of Fire Protection Engineers and
455 the Florida Fire Marshals and Inspectors Association are
456 encouraged to recommend a list of candidates for consideration.

457 (f) One general contractor certified to do business in this
458 state and actively engaged in the profession. The Associated
459 Builders and Contractors of Florida, the Florida Associated
460 General Contractors Council, and the Union Contractors
461 Association are encouraged to recommend a list of candidates for
462 consideration.

463 (g) One plumbing contractor licensed to do business in this
464 state and actively engaged in the profession. The Florida

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465 Association of Plumbing, Heating, and Cooling Contractors is
 466 encouraged to recommend a list of candidates for consideration.

467 (h) One roofing or sheet metal contractor certified to do
 468 business in this state and actively engaged in the profession.
 469 The Florida Roofing, Sheet Metal, and Air Conditioning
 470 Contractors Association and the Sheet Metal and Air Conditioning
 471 Contractors National Association are encouraged to recommend a
 472 list of candidates for consideration.

473 (i) One residential contractor licensed to do business in
 474 this state and actively engaged in the profession. The Florida
 475 Home Builders Association is encouraged to recommend a list of
 476 candidates for consideration.

477 (j) Three members who are municipal or district codes
 478 enforcement officials, one of whom is also a fire official. The
 479 Building Officials Association of Florida and the Florida Fire
 480 Marshals and Inspectors Association are encouraged to recommend
 481 a list of candidates for consideration.

482 (k) One member who represents the Department of Financial
 483 Services.

484 (l) One member who is a county codes enforcement official.
 485 The Building Officials Association of Florida is encouraged to
 486 recommend a list of candidates for consideration.

487 (m) One member of a Florida-based organization of persons
 488 with disabilities or a nationally chartered organization of
 489 persons with disabilities with chapters in this state.

490 (n) One member of the manufactured buildings industry who
 491 is licensed to do business in this state and is actively engaged
 492 in the industry. The Florida Manufactured Housing Association is
 493 encouraged to recommend a list of candidates for consideration.

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494 (o) One mechanical or electrical engineer registered to
 495 practice in this state and actively engaged in the profession.
 496 The Florida Engineering Society is encouraged to recommend a
 497 list of candidates for consideration.

498 (p) One member who is a representative of a municipality or
 499 a charter county. The Florida League of Cities and the Florida
 500 Association of Counties are encouraged to recommend a list of
 501 candidates for consideration.

502 (q) One member of the building products manufacturing
 503 industry who is authorized to do business in this state and is
 504 actively engaged in the industry. The Florida Building Material
 505 Association, the Florida Concrete and Products Association, and
 506 the Fenestration Manufacturers Association are encouraged to
 507 recommend a list of candidates for consideration.

508 (r) One member who is a representative of the building
 509 owners and managers industry who is actively engaged in
 510 commercial building ownership or management. The Building Owners
 511 and Managers Association is encouraged to recommend a list of
 512 candidates for consideration.

513 (s) One member who is a representative of the insurance
 514 industry. The Florida Insurance Council is encouraged to
 515 recommend a list of candidates for consideration.

516 (t) One member who is a representative of public education.

517 (u) One member who is a swimming pool contractor licensed
 518 to do business in this state and actively engaged in the
 519 profession. The Florida Swimming Pool Association and the United
 520 Pool and Spa Association are encouraged to recommend a list of
 521 candidates for consideration.

522 (v) One member who is a representative of the green

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523 building industry and who is a third-party commission agent, a
 524 Florida board member of the United States Green Building Council
 525 or Green Building Initiative, a professional who is accredited
 526 under the International Green Construction Code (IGCC), or a
 527 professional who is accredited under Leadership in Energy and
 528 Environmental Design (LEED).

529 (w) One member who is a representative of a natural gas
 530 distribution system and who is actively engaged in the
 531 distribution of natural gas in this state. The Florida Natural
 532 Gas Association is encouraged to recommend a list of candidates
 533 for consideration.

534 (x) ~~(w)~~ One member who shall be the chair.

535
 536 Any person serving on the commission under paragraph (c) or
 537 paragraph (h) on October 1, 2003, and who has served less than
 538 two full terms is eligible for reappointment to the commission
 539 regardless of whether he or she meets the new qualification.

540 Section 10. Subsection (18) is added to section 553.79,
 541 Florida Statutes, to read:

542 553.79 Permits; applications; issuance; inspections.—

543 (18) For the purpose of inspection and record retention,
 544 site plans for a building may be maintained in the form of an
 545 electronic copy at the worksite. These plans must be open to
 546 inspection by the building official or a duly authorized
 547 representative, as required by the Florida Building Code.

548 Section 11. Paragraph (a) of subsection (5) of section
 549 553.842, Florida Statutes, is amended to read:

550 553.842 Product evaluation and approval.—

551 (5) Statewide approval of products, methods, or systems of

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552 construction may be achieved by one of the following methods.
 553 One of these methods must be used by the commission to approve
 554 the following categories of products: panel walls, exterior
 555 doors, roofing, skylights, windows, shutters, and structural
 556 components as established by the commission by rule. A product
 557 may not be advertised, sold, offered, provided, distributed, or
 558 marketed as hurricane, windstorm, or impact protection from
 559 wind-borne debris from a hurricane or windstorm unless it is
 560 approved pursuant to this section or s. 553.8425. Any person who
 561 advertises, sells, offers, provides, distributes, or markets a
 562 product as hurricane, windstorm, or impact protection from wind-
 563 borne debris without such approval is subject to the Florida
 564 Deceptive and Unfair Trade Practices Act under part II of
 565 chapter 501 brought by the enforcing authority as defined in s.
 566 501.203.

567 (a) Products for which the code establishes standardized
 568 testing or comparative or rational analysis methods shall be
 569 approved by submittal and validation of one of the following
 570 reports or listings indicating that the product or method or
 571 system of construction was in compliance with the Florida
 572 Building Code and that the product or method or system of
 573 construction is, for the purpose intended, at least equivalent
 574 to that required by the Florida Building Code:

- 575 1. A certification mark or listing of an approved
- 576 certification agency, which may be used only for products for
- 577 which the code designates standardized testing;
- 578 2. A test report from an approved testing laboratory;
- 579 3. A product evaluation report based upon testing or
- 580 comparative or rational analysis, or a combination thereof, from

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581 an approved product evaluation entity; or

582 4. A product evaluation report based upon testing or
583 comparative or rational analysis, or a combination thereof,
584 developed and signed and sealed by a professional engineer or
585 architect, licensed in this state.

586 A product evaluation report or a certification mark or listing
587 of an approved certification agency which demonstrates that the
588 product or method or system of construction complies with the
589 Florida Building Code for the purpose intended is equivalent to
590 a test report and test procedure referenced in the Florida
591 Building Code. An application for state approval of a product
592 under subparagraph 1. or 3. must be approved by the department
593 after the commission staff or a designee verifies that the
594 application and related documentation are complete. This
595 verification must be completed within 10 business days after
596 receipt of the application. Upon approval by the department, the
597 product shall be immediately added to the list of state-approved
598 products maintained under subsection (13). Approvals by the
599 department shall be reviewed and ratified by the commission's
600 program oversight committee except for a showing of good cause
601 that a review by the full commission is necessary. The
602 commission shall adopt rules providing means to cure
603 deficiencies identified within submittals for products approved
604 under this paragraph.

605 Section 12. Section 553.901, Florida Statutes, is amended
606 to read:

607 553.901 Purpose of thermal efficiency code.—The Department
608 of Business and Professional Regulation shall prepare a thermal
609

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610 efficiency code to provide for a statewide uniform standard for
611 energy efficiency in the thermal design and operation of all
612 buildings statewide, consistent with energy conservation goals,
613 and to best provide for public safety, health, and general
614 welfare. The Florida Building Commission shall adopt the Florida
615 Building Code-Energy Conservation ~~Florida Energy Efficiency Code~~
616 ~~for Building Construction within the Florida Building Code~~, and
617 shall modify, revise, update, and maintain the code to implement
618 the provisions of this thermal efficiency code and amendments
619 thereto, in accordance with the procedures of chapter 120. The
620 department shall, at least triennially, determine the most cost-
621 effective energy-saving equipment and techniques available and
622 report its determinations to the commission, which shall update
623 the code to incorporate such equipment and techniques. The
624 proposed changes shall be made available for public review and
625 comment no later than 6 months before ~~prior to~~ code
626 implementation. The term "cost-effective," as used in ~~for the~~
627 ~~purposes of~~ this part, means ~~shall be construed to mean~~ cost-
628 effective to the consumer.

629 Section 13. Section 553.902, Florida Statutes, is reordered
630 and amended to read:

631 553.902 Definitions.—As used in ~~For the purposes of~~ this
632 part, the term:

633 ~~(2)(1)~~ "Exempted building" means:

634 (a) A ~~Any~~ building or portion thereof whose peak design
635 rate of energy usage for all purposes is less than 1 watt (3.4
636 Btu per hour) per square foot of floor area for all purposes.

637 (b) A ~~Any~~ building that ~~which~~ is neither heated nor cooled
638 by a mechanical system designed to control or modify the indoor

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639 temperature and powered by electricity or fossil fuels.

640 (c) ~~A~~ Any building for which federal mandatory standards
641 preempt state energy codes.

642 (d) ~~A~~ Any historical building as described in s.
643 267.021(3).

644
645 The Florida Building Commission may recommend to the Legislature
646 additional types of buildings which should be exempted from
647 compliance with the Florida Building Code-Energy Conservation
648 ~~Florida Energy Efficiency Code for Building Construction~~.

649 ~~(4)(2)~~ "HVAC" means a system of heating, ventilating, and
650 air-conditioning.

651 ~~(6)(3)~~ "Renovated building" means a residential or
652 nonresidential building undergoing alteration that varies or
653 changes insulation, HVAC systems, water heating systems, or
654 exterior envelope conditions, ~~if provided~~ the estimated cost of
655 renovation exceeds 30 percent of the assessed value of the
656 structure.

657 ~~(5)(4)~~ "Local enforcement agency" means the agency of local
658 government which has the authority to make inspections of
659 buildings and to enforce the Florida Building Code. The term ~~it~~
660 includes any agency within the definition of s. 553.71(5).

661 ~~(3)(5)~~ "Exterior envelope physical characteristics" means
662 the physical nature of those elements of a building which
663 enclose conditioned spaces through which energy may be
664 transferred to or from the exterior.

665 ~~(1)(6)~~ "Energy performance level" means the indicator of
666 the energy-related performance of a building, including, but not
667 limited to, the levels of insulation, the amount and type of

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668 glass, and the HVAC and water heating system efficiencies.

669 Section 14. Section 553.903, Florida Statutes, is amended
670 to read:

671 553.903 Applicability.—This part applies ~~shall apply~~ to all
672 new and renovated buildings in the state, except exempted
673 buildings, for which building permits are obtained after March
674 15, 1979, and to the installation or replacement of building
675 systems and components with new products for which thermal
676 efficiency standards are set by the Florida Building Code-Energy
677 Conservation ~~Florida Energy Efficiency Code for Building~~
678 ~~Construction~~. The provisions of this part shall constitute a
679 statewide uniform code.

680 Section 15. Section 553.904, Florida Statutes, is amended
681 to read:

682 553.904 Thermal efficiency standards for new nonresidential
683 buildings.—Thermal designs and operations for new nonresidential
684 buildings for which building permits are obtained after March
685 15, 1979, must ~~shall~~ at a minimum take into account exterior
686 envelope physical characteristics, including thermal mass; HVAC,
687 service water heating, energy distribution, lighting, energy
688 managing, and auxiliary systems design and selection; and HVAC,
689 service water heating, energy distribution, lighting, energy
690 managing, and auxiliary equipment performance, and are ~~shall~~ not
691 ~~be~~ required to meet standards more stringent than the provisions
692 of the Florida Building Code-Energy Conservation ~~Florida Energy~~
693 ~~Efficiency Code for Building Construction~~.

694 Section 16. Section 553.905, Florida Statutes, is amended
695 to read:

696 553.905 Thermal efficiency standards for new residential

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697 buildings.—Thermal designs and operations for new residential
 698 buildings for which building permits are obtained after March
 699 15, 1979, ~~must shall~~ at a minimum take into account exterior
 700 envelope physical characteristics, HVAC system selection and
 701 configuration, HVAC equipment performance, and service water
 702 heating design and equipment selection and ~~are shall not be~~
 703 required to meet standards more stringent than the provisions of
 704 the Florida Building Code-Energy Conservation ~~Florida Energy~~
 705 ~~Efficiency Code for Building Construction~~. HVAC equipment
 706 mounted in an attic or a garage ~~is shall not be~~ required to have
 707 supplemental insulation in addition to that installed by the
 708 manufacturer. All new residential buildings, except those herein
 709 exempted, ~~must shall~~ have insulation in ceilings rated at R-19
 710 or more, space permitting. Thermal efficiency standards do not
 711 apply to a building of less than 1,000 square feet which is not
 712 primarily used as a principal residence and which is constructed
 713 and owned by a natural person for hunting or similar
 714 recreational purposes; however, ~~no~~ such person may not build
 715 more than one exempt building in any 12-month period.

716 Section 17. Section 553.906, Florida Statutes, is amended
 717 to read:

718 553.906 Thermal efficiency standards for renovated
 719 buildings.—Thermal designs and operations for renovated
 720 buildings for which building permits are obtained after March
 721 15, 1979, ~~must shall~~ take into account insulation; windows;
 722 infiltration; and HVAC, service water heating, energy
 723 distribution, lighting, energy managing, and auxiliary systems
 724 design and equipment selection and performance. Such buildings
 725 ~~are shall not be~~ required to meet standards more stringent than

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

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726 the provisions of the Florida Building Code-Energy Conservation
 727 ~~Florida Energy Efficiency Code for Building Construction~~. These
 728 standards apply only to those portions of the structure which
 729 are actually renovated.

730 Section 18. Section 553.912, Florida Statutes, is amended
 731 to read:

732 553.912 Air conditioners.—All air conditioners that are
 733 sold or installed in the state ~~must shall~~ meet the minimum
 734 efficiency ratings of the Florida Energy Efficiency Code for
 735 Building Construction. These efficiency ratings ~~must shall~~ be
 736 minimums and may be updated in the Florida Building Code-Energy
 737 Conservation ~~Florida Energy Efficiency Code for Building~~
 738 ~~Construction~~ by the department in accordance with s. 553.901,
 739 following its determination that more cost-effective energy-
 740 saving equipment and techniques are available. It is the intent
 741 of the Legislature that all replacement air-conditioning systems
 742 be installed using energy-saving, quality installation
 743 procedures, including, but not limited to, equipment sizing
 744 analysis and duct inspection. Notwithstanding this section,
 745 existing heating and cooling equipment in residential
 746 applications need not meet the minimum equipment efficiencies,
 747 except to preserve the original approval or listing of the
 748 equipment.

749 Section 19. Section 553.991, Florida Statutes, is amended
 750 to read:

751 553.991 Purpose.—The purpose of this part is to provide for
 752 ~~a~~ statewide oversight of uniform system for rating systems for
 753 the energy efficiency of buildings. It is in the interest of the
 754 state to encourage energy efficiency ~~the consideration of the~~

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

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755 ~~energy efficiency rating system~~ in the market so as to provide
756 market rewards for energy-efficient buildings and to those
757 persons or companies designing, building, or selling energy-
758 efficient buildings.

759 Section 20. Section 553.992, Florida Statutes, is amended
760 to read:

761 553.992 Adoption of rating system criteria.—The Department
762 of Business and Professional Regulation shall adopt, update, ~~and~~
763 maintain, and administer a statewide criteria for a uniform
764 building energy-efficiency rating system to implement the
765 provisions of this part and amendments thereto in accordance
766 with the procedures of chapter 120 and shall, upon the request
767 of any builder, designer, rater, or owner of a building, issue
768 nonbinding interpretations, clarifications, and opinions
769 concerning the application and use of the building energy-
770 efficiency ~~energy~~ rating system under rules that the department
771 adopts in accordance with chapter 120. Department rules must
772 prohibit a sole provider from conducting functions relating to
773 the building energy-efficiency rating system, including energy
774 rating, energy testing, certification of energy raters, and
775 training.

776 Section 21. Section 553.993, Florida Statutes, is amended
777 to read:

778 553.993 Definitions.—For purposes of this part:

779 (1) "Acquisition" means to gain the sole or partial use of
780 a building through a purchase agreement.

781 (2) "Builder" means the primary contractor who possesses
782 the requisite skill, knowledge, and experience, and has the
783 responsibility, to supervise, direct, manage, and control the

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784 contracting activities of the business organization with which
785 she or he is connected and who has the responsibility to
786 supervise, direct, manage, and control the construction work on
787 a job for which she or he has obtained the building permit.
788 Construction work includes, but is not limited to, foundation,
789 framing, wiring, plumbing, and finishing work.

790 (3) "Building energy-efficiency rating system" means a
791 whole building energy evaluation system established by the
792 Residential Energy Services Network, the Commercial Energy
793 Services Network, the Building Performance Institute, or the
794 Florida Solar Energy Center, or a nationally recognized rating
795 system approved by the department.

796 (4) ~~(3)~~ "Designer" means the architect, engineer, landscape
797 architect, builder, interior designer, or other person who
798 performs the actual design work or under whose direct
799 supervision and responsible charge the construction documents
800 are prepared.

801 (5) "Energy auditor" means a trained and certified
802 professional who conducts energy evaluations of an existing
803 building and uses tools to identify the building's current
804 energy usage and the condition of the building and equipment.

805 (6) "Energy-efficiency rating" means an unbiased indication
806 of a building's relative energy efficiency based on consistent
807 inspection procedures, operating assumptions, climate data, and
808 calculation methods.

809 (7) "Energy rater" means an individual certified by this
810 state to perform building energy-efficiency ratings for the
811 building type and in the rating class for which the rater is
812 certified.

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813 ~~(8)(4)~~ "New building" means commercial occupancy buildings
814 permitted for construction after January 1, 1995, and
815 residential occupancy buildings permitted for construction after
816 January 1, 1994.

817 ~~(9)(5)~~ "Public building" means a building comfort-
818 conditioned for occupancy that is owned or leased by the state,
819 a state agency, or a governmental subdivision, including, but
820 not limited to, a city, county, or school district.

821 Section 22. Section 553.995, Florida Statutes, is amended
822 to read:

823 553.995 Energy-efficiency ratings for buildings.-

824 (1) The building energy-efficiency rating system ~~must shall~~
825 at a minimum:

826 ~~(a) Provide a uniform rating scale of the efficiency of~~
827 ~~buildings based on annual energy usage.~~

828 ~~(a)(b)~~ Take into account local climate conditions,
829 construction practices, and building use.

830 ~~(b)(c)~~ Be compatible with standard federal rating systems
831 and state building codes and standards, where applicable, and
832 shall satisfy the requirements of s. 553.9085 with respect to
833 residential buildings and s. 255.256 with respect to state
834 buildings.

835 (2) ~~Building~~ The energy-efficiency rating ~~systems system~~
836 adopted by the department ~~must shall~~ provide a means of
837 analyzing ~~and comparing~~ the relative energy efficiency of
838 buildings upon the sale of new or existing residential, public,
839 or commercial buildings.

840 (3) The department shall establish a voluntary working
841 group of persons interested in the building energy-efficiency

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842 rating system or energy efficiency, including, but not limited
843 to, such persons as electrical engineers, mechanical engineers,
844 architects, public utilities, energy raters, and builders. The
845 interest group shall advise the department in the adoption,
846 administration, and oversight development of the building
847 energy-efficiency rating system ~~and shall assist the department~~
848 ~~in the implementation of the rating system by coordinating~~
849 ~~educational programs for designers, builders, businesses, and~~
850 ~~other interested persons to assist compliance and to facilitate~~
851 ~~incorporation of the rating system into existing practices.~~

852 (4) The department shall approve develop a training and
853 certification program to certify raters. In addition to the
854 department, ratings may be conducted by any local government or
855 private entity, provided that the appropriate persons have
856 completed the necessary training and have been certified by the
857 department. The Department of Management Services shall rate
858 state-owned or state-leased buildings, ~~if provided that~~ the
859 appropriate persons have completed the necessary training and
860 have been certified by the Department of Business and
861 Professional Regulation. A state agency ~~that which~~ has building
862 construction regulation authority may rate its own buildings and
863 those it is responsible for, if the appropriate persons have
864 completed the necessary training and have been certified by the
865 Department of Business and Professional Regulation. The
866 Department of Business and Professional Regulation may charge a
867 fee not to exceed the costs for the training and certification
868 of raters. The department shall by rule set the appropriate
869 charges for raters to charge for energy ratings, not to exceed
870 the actual costs.

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871

Section 23. This act shall take effect July 1, 2013.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Community Affairs, *Chair*
Appropriations Subcommittee on General
Government
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Commerce and Tourism
Communications, Energy, and Public Utilities
Environmental Preservation and Conservation

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR WILTON SIMPSON

18th District

March 21, 2013

Senator Kelli Stargel, Chairman
Committee on Regulated Industries
330 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Senator Stargel,

Please place Senate Bill 1252, relating to building construction, on the next Regulated Industries Committee agenda.

Please contact my office with any questions.

A handwritten signature in black ink, appearing to read "Wilton Simpson".

Senator Wilton Simpson, 18th District

REPLY TO:

- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
- Post Office Box 938, Brooksville, Florida 34605
- Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Building Construction

Bill Number 1252

Name Rocky Jenkins

Amendment Barcode 228936
(if applicable)

Job Title Director

Address 880 Maple Ridge Drive

Phone 321 543-1415

Street Meritt Island State FL Zip 32952

E-mail rockys.jenkins@Cemex.com

Speaking: For Against Information
Galvano's amendment

Representing CEMEX

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)

April 9th '13
Meeting Date

Topic Building Construction

Bill Number 1252
(if applicable)

Name Patrick McLaughlin

Amendment Barcode 228936
(if applicable)

Job Title Executive Director

Address 398 Camino Gardens

Phone 561-239-2462

Boca Raton, FL 33432
Street City State Zip

E-mail Pat@FloridaMasonry.com

Speaking: For Against Information

Representing Masonry Association of FL

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)

4/9/13
Meeting Date

Topic BUILDING CONSTRUCTION

Bill Number 1252
(if applicable)

Name DAVID RAMBA

Amendment Barcode 228936 Galvano
(if applicable)

Job Title _____

Address 120 S. MONROE ST
Street

Phone 850-727-7087

TALLAHASSEE FL 32301
City State Zip

E-mail _____

Speaking: ^{AMENDMENT} For Against Information

Representing FLORIDA INDEPENDENT CONCRETE PRODUCTS ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

22 8936

Meeting Date _____

Topic Building Code Bill Number 1252
(if applicable)

Name Jim Painter Amendment Barcode GALVANO AMDT.
(if applicable)

Job Title _____

Address 2425 NE 29th Phone 352-578-7511
Street

GALVANO AMDT FL E-mail _____
City State Zip

Speaking: For Against Information

Representing PAINTER MASONRY

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-9-13

Meeting Date

Topic

BUILDING CODES - CONSTRUCTION

Bill Number

SB 1252

(if applicable)

Name

KARI HEBRANK

Amendment Barcode

(if applicable)

Job Title

Address

113 EAST COLLEGE AVE. #200

Phone

850-566-9824

Street

Tallahassee FL 32301

City

State

Zip

E-mail

khebrank@wilsonmgmt.com

Speaking:

For

Against

Information

Representing

FLORIDA HOME BUILDERS ASSOC., SIMPSON STRONG TIE

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)

4/9/13
Meeting Date

Topic ~~Home~~ Construction

Bill Number SB 1252
(if applicable)

Name Bob HIMSCHOOT

Amendment Barcode _____
(if applicable)

Job Title _____

Address PO, Box 27

Phone 239-478-0759

FOOT MYERS, FL 33902
City State Zip

E-mail ROBERTHECREWS@ENVIRONMENTAL.COM

Speaking: For Against Information

Representing FLORIDA OUTSIDE WASTEWATER ASSOC (FOWA)

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

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4/9/13
Meeting Date

Topic Building Codes

Bill Number 1252
(if applicable)

Name Jennifer Hatfield

Amendment Barcode _____
(if applicable)

Job Title _____

Address 34 SE 7th Ave #9
Street

Phone 941-345-3263

Delray Beach FL 33483
City State Zip

E-mail jen@jhatfieldandassociates.com

Speaking: For Against Information

Representing FL Swimming Pool Assoc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

4/9/13

Meeting Date

Topic Building Construction

Bill Number JB 1252
(if applicable)

Name Deborah Lawson

Amendment Barcode _____
(if applicable)

Job Title _____

Address 4175 Pecan Branch
Street

Phone 850-570-0033

Tallahassee FL 32309
City State Zip

E-mail deborahlawson@comcast.net

Speaking: For Against Information

Representing NACM

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)

April 9, 2013

Meeting Date

Topic Building Codes

Bill Number CS/SB 1252
(if applicable)

Name Cam Fentriss

Amendment Barcode _____
(if applicable)

Job Title Legislative Counsel

Address 1400 Village Square Boulevard, Number 3-243

Phone 850-222-2772

Street

Tallahassee, Florida 32312

E-mail afentriss@aol.com

City

State

Zip

Speaking: For Against Information

Representing Florida Refrigeration and Air Conditioning Contractors Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1442

INTRODUCER: Regulated Industries Committee and Senator Lee

SUBJECT: Alarm System Contracting and Permitting

DATE: April 9, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	Fav/CS
2.	_____	_____	CJ	_____
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:

CS/SB 1442 creates s. 553.793, F.S., regarding Alarm System Contracting and Permitting. The bill adds an exemption from regulation and licensing for the sale of certain equipment when those sales are by employees, contractors, subcontractors, or affiliates of telecommunications companies certified under ch. 364, F.S., companies with a state-issued franchise for the provision of cable or video services under ch. 610, F.S., or under a local franchise or right-of-way agreement (certificate holders), if the items transmit data as part of a television, radio, communications or telecommunications system.

The bill provides that employees, contractors, subcontractors or affiliates of certificate holders are not subject to any local ordinance or licensure for the performance of low-voltage electrical work. The bill deletes an exemption previously granted to telecommunications companies, which allowed certain limited low voltage electrical work by employees, but not to work by subcontractors.

The bill adds an exemption from regulation and licensing for employees and sales representatives of an alarm system contractor who do not work on end-user premises and are not granted access to passwords or codes to arm or disarm systems (disarming codes). The bill

exempts employees and sales representatives who have access to disarming codes, but only if they work at out-of-state locations and have had a satisfactory background check from a state or federal agency.

The bill defines a low-voltage alarm system project and states requirements for permitting by a local enforcement agency.

The bill requires a local enforcement agency to issue uniform basic permit labels available for purchase by contractors.

The bill regulates labels and the method of their issuance and use. Labels may be purchased in bulk for unspecified current or future projects and are valid for one year. The labels must be posted by a contractor in a conspicuous place on the premises of the project site before commencement of work on the project.

The bill provides that a contractor must submit a uniform notice within 21 days after completing the project.

The bill includes a format for a uniform notice of a low-voltage alarm system project and establishes a maximum cost for uniform basic permit labels of \$55 per label. The bill provides that local enforcement agencies that charged more than \$55 for such permits before January 1, 2013 may continue to charge the same amount until January 1, 2015, but that local enforcement agencies that charged more than \$175 before January 1, 2013 may charge a maximum of \$175 until January 1, 2015.

The bill prohibits a municipality, county, district, or other local government entity from adopting or maintaining an ordinance or rule regarding a low-voltage alarm system project that is inconsistent with the provisions of s. 553.793, F.S.

The bill provides an October 1, 2013 effective date.

The bill amends s. 489.503, Florida Statutes.

The bill creates section 553.793, Florida Statutes.

II. Present Situation:

Section 489.503, F.S., provides an exemption for the installation, repair, alteration, addition to or design of electrical wiring, fixtures, appliances, and appurtenant equipment when those items transmit data, voice, communications or commands as part of a cable television, community antenna television, radio distribution system, or telecommunications system. The exemption is limited to electrical circuits and equipment governed by provisions of the National Electrical Code and the Code of Federal Regulations.¹

¹ Section 489.503, F.S.

A company operating under a certificate issued by the Florida Public Service Commission under ch. 364, F.S., is not subject to any local ordinance that requires a permit for work performed by its employees² related to low voltage electrical work, including related technical codes and regulations. The exemption does not apply to subcontractors, and applies only if the work is requested by the company's customer, is required to complete phone service, is incidental to the provision of telecommunication service, and is not the subject of a competitive bid.³

Section 489.113(1), F.S., provides that any person desiring to engage in contracting on a statewide basis must first establish competency and qualifications to be certified. To establish competency, a person must pass an appropriate examination approved by the Electrical Contractors' Licensing Board (board) and be certified by the Department of Business and Professional Regulation (department).⁴

Any person desiring to engage in contracting on other than a statewide basis must first be registered, unless exempted.⁵ Section 489.105(10), F.S., defines registered contractor as any contractor who has registered with the department pursuant to fulfilling the competency requirements in the jurisdiction for which the registration is issued. Registered contractors may contract only in such jurisdictions.⁶ Those classes of persons exempted from certification or registration are described in s. 489.103, F.S.

Part II of ch. 489, F.S., regulates electrical and alarm system contracting. An alarm system is any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency.⁷ Licensure of electrical and alarm systems contractors is required, and applicants must have sufficient technical experience and be tested on technical and business matters.

Section 489.505, F.S., contains references to various types of contractors that may lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace or service (all alarm services) alarm systems. An alarm system contractor means a person whose business includes the execution of contracts requiring the ability, experience, science, knowledge, and skill to conduct all alarm services for compensation, for all types of alarm systems for all purposes.⁸ The term also means any person, firm, or corporation that engages in the business of alarm contracting under an expressed or implied contract or that undertakes, offers to undertake, or submits a bid to engage in the business of alarm contracting.⁹

An alarm system contractor I (contractor I) means an alarm system contractor whose business includes all types of alarm systems for all purposes, and an alarm system contractor II (contractor

² The definition of "employee" established in s. 489.501(1), F.S., applies to the exemption and does not include subcontractors.

³ Section 489.503(14)(b), F.S.

⁴ Section 489.113(1), F.S.

⁵ *Id.*

⁶ Section 489.105(10), F.S.

⁷ Section 489.505(1), F.S.

⁸ Section 489.505(2), F.S.

⁹ *Id.*

II) means an alarm system contractor whose business includes all types of alarm systems for all purposes, with the exception of fire alarm systems.¹⁰

Alarm system contractors may also hold certificates of competency from the Department of Business and Professional Regulation (department), which are geographically unlimited.¹¹ Holders of those certificates are certified alarm system contractors, and the scope of certification is limited to specific alarm circuits and equipment.¹² There is no mandatory licensure requirement created by the availability of certification.¹³

Section 489.505(12), F.S., defines the terms electrical contractor and unlimited electrical contractor as a person who, in part, conducts business in the electrical trade field with the experience, knowledge, and skill to undertake the installation, repair, alteration, or design of electrical wiring, fixtures or appliances, in compliance with applicable plans, specifications, codes, laws, and regulations.¹⁴ Section 489.505(8), F.S., defines certified electrical contractor as an electrical contractor who possesses a certificate of competency issued by the department.

Section 489.505(9), F.S., defines contracting as a person engaging in business as a contractor or performing electrical or alarm work for compensation, except if exempted.¹⁵ A contractor is a person who is qualified to engage in the business of electrical or alarm system contracting pursuant to a certificate or registration issued by the department.¹⁶

A registered alarm system contractor I is an alarm system contractor registered with the department whose business includes all types of alarm systems for all purposes, but who may only in the jurisdictions for which the registration is issued.¹⁷ A registered alarm system contractor II is an alarm system contractor registered with the department whose business includes all types of alarm systems for all purposes with the exception of fire alarm systems, but who may contract only in the jurisdiction for which his or her registration is issued.

Section 489.505(23), F.S., defines registered residential alarm system contractor as an alarm system contractor registered with the department whose business is limited to burglar alarm systems in single-family residential, quadruplex housing, and mobile homes of a residential occupancy class (as defined by rule of the board), but who may contract only in the jurisdiction for which his or her registration is issued.

¹⁰ *Id.*

¹¹ Sections 489.505(4) and 489.505(5), F.S.,

¹² Section 489.505(7), F.S., describes the limitations as those circuits originating in alarm control panels, equipment governed by the Articles 725, 760, 770, 800, and 810 of the National Electrical Code, Current Edition, and National Fire Protection Association Standard 72, Current Edition, as well as the installation, repair, fabrication, erection, alteration, addition, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, and conduit, or any part thereof not to exceed 98 volts (RMS), when those items are for the purpose of transmitting data or proprietary video (satellite systems that are not part of a community antenna television or radio distribution system) or providing central vacuum capability or electric locks.

¹³ *Id.*

¹⁴ See Section 489.505(12), F.S., for the complete definition.

¹⁵ See Section 489.103, F.S.

¹⁶ See Section 489.505(10), F.S.

¹⁷ See Section 489.505(21), F.S.

Alarm system agents are also defined. Section 489.505(25) provides that a burglar alarm system agent is a person:

- Who is employed by a licensed alarm system contractor or licensed electrical contractor;
- Who is performing duties which are an element of an activity which constitutes alarm system contracting requiring licensure under this part; and
- Whose specific duties include any of the following: altering, installing, maintaining, moving, repairing, replacing, servicing, selling, or monitoring¹⁸ an intrusion or burglar alarm system for compensation.

Section 489.505(28), F.S., defines fire alarm system agent as a person:

- Who is employed by a licensed fire alarm contractor or certified unlimited electrical contractor;
- Who is performing duties which are an element of an activity that constitutes fire alarm system contracting requiring certification under this part; and
- Whose specific duties include any of the following: altering, installing, maintaining, moving, repairing, replacing, servicing, selling, or monitoring a fire alarm system for compensation.

The provisions of s. 489.518, F.S., include the requirements for alarm system agents, who may not be employed unless the person is at least 18 years of age, provides proof of alarm system training, has not been convicted of a crime within the last 3 years (related to the business of alarms), has a background check, and has not been convicted of a crime for controlled substances within the last 3 years.

Persons who perform only monitoring are not required to complete the training required for burglar alarm system agents, and persons who perform only monitoring at an out-of-state location are not required to comply with background check requirements.¹⁹

Persons who perform proprietary burglar alarm system agent duties for only a single employer, and who do not offer alarm system contracting services to the public, are not required to comply with background check requirements.²⁰

A certified electrical contractor, a certified alarm system contractor, a registered alarm system contractor, a journeyman electrician licensed by any local jurisdiction, or an alarm technician licensed by a local jurisdiction that requires an examination and experience or training as licensure qualifications, is not required to complete the training required for burglar alarm

¹⁸ Section 489.505(27), F.S. defines monitoring as receiving electrical or electronic signals originating from any structure within or outside the state, whether or not those signals are relayed through a jurisdiction outside the state, where the signals are produced by any security, medical, fire, or burglar alarm, closed circuit television camera, access-control system, or related or similar protective system and are intended by design to initiate a response thereto. A person shall not have committed the act of monitoring if he or she is an occupant or employee working within the protected premises, is responding to hearing or seeing an alarm signal, is acting incidentally to his or her primary responsibilities, and is not employed in a monitoring facility as defined by the National Fire Protection Association.

¹⁹ Section 489.518(2), F.S.

²⁰ *Id.*

system agents, and a registered electrical contractor is not required to complete that training, provided he or she is only doing electrical work up to the alarm panel.²¹

Section 489.518(2)(d), F.S., provides that a nonsupervising employee working as a helper or apprentice under the direct, onsite, continuous supervision of a certified or registered electrical contractor, a certified or registered alarm system contractor, a journeyman electrician licensed by any local jurisdiction, an alarm technician licensed by a local jurisdiction that requires an examination and experience or training as licensure qualifications, or a qualified alarm system agent, is not required to complete the board training and is not required to be 18 years of age or older.

Each agent must receive 6 hours of continuing education on burglar alarm system installation and repair and false alarm prevention every 2 years from a board-approved sponsor of training and through a board-approved training course.²² Failure to comply with any of the provisions of s. 489.518, F.S., is grounds for disciplinary action against the contractor as set forth in s. 489.533, F.S.²³

The provisions of s. 489.5185, F.S., include the requirements for fire alarm system agents, who may not be employed unless the person is at least 18 years of age, provides proof of fire alarm system training, has not been convicted of a crime within the last 3 years (related to the business of fire alarms), has a background check, and has not been convicted of a crime for controlled substances within the last 3 years.

A certified electrical contractor, a certified fire alarm system contractor, a registered fire alarm system contractor, a journeyman electrician licensed by any local jurisdiction, or an alarm technician licensed by a local jurisdiction that requires an examination and experience or training as licensure qualifications, is not required to complete the training required for fire alarm system agents, and a registered electrical contractor is not required to complete that training, provided he or she is only doing electrical work up to the alarm panel.²⁴

Section 489.5185(2)(c), F.S., provides that a nonsupervising employee working as a helper or apprentice under the direct, onsite, continuous supervision of a certified or registered electrical contractor, a certified or registered fire alarm system contractor, a journeyman electrician licensed by any local jurisdiction, an alarm technician licensed by a local jurisdiction that requires an examination and experience or training as licensure qualifications, or a qualified fire alarm system agent, is not required to complete the board training and is not required to be 18 years of age or older.

Persons who perform only monitoring²⁵ are not required to complete the training required for fire alarm system agents.

²¹ *Id.*

²² See Section 489.518(5), F.S.

²³ See Section 489.518(6), F.S.

²⁴ See Section 489.5185(2), F.S.

²⁵ See *supra* note 15.

Each fire alarm system agent must receive 6 hours of continuing education on fire alarm system installation and repair and false alarm prevention every 2 years from a board-approved sponsor of training and through a board-approved training course.²⁶ Failure to comply with any of the provisions of s. 489.5185 is grounds for disciplinary action against the contractor as set forth in s. 489.533, F.S.²⁷

Section 489.5315, F.S., provides that businesses that obtain an electrical or burglar alarm system license to work only on their own equipment, and that do not offer electrical or alarm contracting services to the public, are not electrical or burglar alarm system contracting businesses and do not have to obtain a business tax receipt in addition to any they are otherwise required to have.

Part II of ch. 553, F.S., constitutes the Florida Building Codes Act (act). The act provides a mechanism for the uniform adoption, updating, amendment, interpretation, and enforcement of the Florida Building Code, consisting of a single set of documents that apply to the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities, and to the enforcement of such requirements, for effective and reasonable protection for public safety, health, and general welfare at the most reasonable cost to the consumer.²⁸

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

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

Section 553.71(5), F.S., provides that a local enforcement agency²⁹ is an agency with jurisdiction to make inspections of buildings and to enforce the codes which establish standards for design,

²⁶ See Section 489.5185(5), F.S.

²⁷ See Section 489.5185(6), F.S.

²⁸ See Section 553.72(1), F.S.

²⁹ Section 553.71(5), F.S., of the Florida Building Codes Act defines local enforcement agency as an agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the codes which establish standards for

construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities.

There are several local governments that require permitting of burglar alarm systems. According to an Internet search, the following local governments were identified as requiring permits for burglar alarm systems: Palm Beach County, City of Largo, City of Plantation, Martin County, Leon County, City of St. Petersburg Alachua County, City of Gainesville, St. Lucie County, City of Cape Coral, City of Sarasota, City of Hollywood, City of Boynton Beach, City of North Miami Beach, City of Palm Bay, City of Miami, City of Miami Gardens, City of Boca Raton, City of Clearwater, and Lee County. These governments have passed false alarm ordinances and the permitting is designed to reduce the instance of false alarms.

Many of these local governments require a permit to be submitted to the local law enforcement agency. For example, the County of Palm Beach requires a permit to be submitted to the Palm Beach County Sheriff's Office with a \$25 application fee. The permit must be renewed annually. Failure to submit an application for a permit results in a "no response" to the alarm system and a fine of \$260.00 per "incident."³⁰ The purpose of these types of permits is to:

In concert with the county sheriff's office commitment to problem solving policing, the purpose of this article is to prevent false alarm activations that require the sheriff's office to respond. Deputies responding to false alarms are more wisely utilized preventing crime and solving neighborhood crime problems. This article is a cooperative effort among the board of county commissioners, the Alarm Association of Florida and the county sheriff's office to prevent false alarm activations in the most effective manner.³¹

One industry company report on the length of time for permit processing and associated fees for a basic hardwire installation reflects that permits may be issued in as few as 1 or 2 days, or as many as 10 or 14 days, with permitting fees ranging from \$25 to fees of several thousand dollars.³²

III. Effect of Proposed Changes:

The bill adds an exemption from regulation and licensing for sales of certain television, radio, communications, or telecommunications equipment by employees, contractors, subcontractors, or affiliates of telecommunications companies operating under a certificate issued by the Public Service Commission, by a cable services company operating under a state franchise issued by the

design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities.

³⁰ See http://www.pbso.org/documents/Burglar_Alarm_Permit_Form.pdf (Last visited April 7, 2013) and Palm Beach County Ordinance 2008-038, codified at art. III, s. 16-51 et seq., code of Ordinances, Palm Beach County, available at <http://library.municode.com/index.aspx?clientId=10323> (Last visited April 7, 2013).

³¹ Section 16-52, Purpose, Code of Ordinances, Palm Beach County.

³² E-mail from Jorge Chamizo, Floridian Partners, LLC to B. Imhof, Staff Director (Apr. 7, 2013) (on file with the Senate Committee on Regulated Industries).

Florida Department of State, or by companies under a local franchise or right-of-way agreement (certificate holders).

The bill provides that employees, contractors, subcontractors, or affiliates of certificate holders are not subject to any local ordinance or licensure for the performance of low-voltage electrical work.

The bill deletes the current exemption in s. 489.503(14)(b), F.S., granted to companies holding certificates issued by the Public Service Commission, to allow certain limited low voltage electrical work by employees of the certificate holder. The exemption specifically does not apply to subcontractors of the certificate holder.

The bill adds an exemption from regulation and licensing for employees and sales representatives of an alarm system contractor who do not work on end-user premises and are not granted access to passwords or codes to arm or disarm systems (disarming codes). The bill exempts employees and sales representatives who have access to disarming codes, but only if they work at out-of-state locations and have had a satisfactory background check from a state or federal agency.

The bill defines a low-voltage alarm system project and states requirements for permitting by a local enforcement agency. The bill includes a format for a uniform notice of a low-voltage alarm system project and establishes a maximum cost for uniform basic permit labels of \$55 per label. The bill provides that local enforcement agencies that charged more than \$55 for such permits before January 1, 2013 may continue to charge the same amount until January 1, 2015, but that local enforcement agencies that charged more than \$175 before January 1, 2013 are limited to a maximum charge of \$175 until January 1, 2015. Thereafter, the maximum charge to be imposed for permit labels by any local enforcement agency is \$55.

The bill defines low-voltage alarm system project (project) as a project related to installation, maintenance, inspection, replacement, or service of an existing or new alarm system operating at low voltage as defined in the National Electrical Code Standard 70.³³

The bill defines contractor as a person qualified to engage in the business of electrical or alarm system contracting pursuant to a certificate or registration issued by the department under part II of ch. 489, F.S. (act). No reference is made to the categories of burglar alarm system agents or fire alarm system agents under the act.

The bill requires a local enforcement agency to issue uniform basic permit labels available for purchase by contractors for not more than \$60 per label. The bill does not include a definition for local enforcement agency or a reference to the Florida Building Code definition.³⁴ The bill does not define basic permit.

³³ See Section 553.88, F.S., for the adoption of minimum electrical and alarm standards, including the current edition of the National Electrical Code, No. 70, established by the National Fire Protection Association.

³⁴ See *supra* note 38.

The bill provides that a local enforcement agency may not request any information for issuance of labels for purchase by a contractor other than identification information and proof of registration or licensure as a contractor.

The bill regulates labels and the method of their issuance and use. Labels may be purchased in bulk for unspecified current or future projects. Labels are valid for one year from the date of purchase. Labels must be posted by a contractor in a conspicuous place on the premise of the project site before commencement of work on the project.

The bill provides that a contractor is not required to notify the local enforcement agency before commencing work on a project, but must submit a document titled Uniform Notice of Installation of Alarm System (Uniform Notice) within 21 days after completing the project. The bill sets forth the contents and format of the Uniform Notice, which contains a certification of accuracy and requires signature by the owner, contractor or agent. The terms owner and agent are not defined in the bill. The bill requires that the contractor's identifying information, license number and the scope of work be stated in the Uniform Notice.

The Uniform Notice requires disclosure of the owner's name, address, phone number and email address (and the name and address of the fee simple titleholder³⁵ (if the titleholder is a different person than the owner). The term titleholder is not defined in the bill.

The bill provides that failure to timely submit a Notice of Installation may subject a contractor to disciplinary action by a local enforcement agency, but the disciplinary action that may be imposed is not specified.

The bill provides that a local enforcement agency may inspect a project and that coordination of the inspection must be with the owner. The bill requires the contractor to take corrective action if a project fails an inspection, and that a new uniform basic permit label must be contest after each failed inspection until the project passes inspection.

The bill prohibits a municipality, county, district, or other entity of local government may not adopt or maintain in effect an ordinance or rule regarding a low-voltage alarm project which is inconsistent with the provisions of the bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The bill may subject the personal information required by the proposed Uniform Notice of Installation of Alarm System to disclosure under ch. 119, F.S., as public records.³⁶

³⁵ This distinction appears to be based upon the form of Notices of Commencement for improvements to property under s. 713.13, F.S., where a lessee who contracts for the improvements is an owner as defined under s. 713.01(23), F.S., and must be listed as the owner together with a statement that the ownership interest is a leasehold interest.

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Contractors may benefit from the uniformity of the label format, cost and procedures set forth in the bill.

C. Government Sector Impact:

Revenues of local enforcement agencies may be impacted by the maximum cost of \$55 per uniform basic permit label allowed to be charged after January 1, 2015. Local governments whose permit fees are greater than \$175 will be required to reduce that fee to \$175.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

Local governmental entities must evaluate and amend existing ordinances and rules that regulate low-voltage alarm system project to eliminate any inconsistency with the provisions of the bill. The requirement for the phone and email address of the owner or title holder may result in that information being public records pursuant to Florida law.³⁷

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 April 9, 2013:

The committee substitute adds an exemption from regulation and licensing for the sale of certain equipment when those sales are by employees, contractors, subcontractors, or affiliates of telecommunications companies certified under ch. 364, F.S., companies with a state-issued franchise for the provision of cable or video services under ch. 610, F.S., or

³⁶ Section 119.011(12), F.S., defines public records as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any [state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government].

³⁷ *Id.*

under a local franchise or right-of-way agreement (certificate holders), if the items transmit data as part of a television, radio, communications or telecommunications system.

The committee substitute provides that employees, contractors, subcontractors or affiliates of certificate holders are not subject to any local ordinance or licensure for the performance of low-voltage electrical work. The committee substitute deletes an exemption previously granted to companies holding certificates issued by the Public Service Commission, which allowed certain limited low voltage electrical work by employees, but not to work by subcontractors.

The committee substitute adds an exemption from regulation and licensing for employees and sales representatives of an alarm system contractor who do not work on end-user premises and are not granted access to passwords or codes to arm or disarm systems (disarming codes). The bill exempts employees and sales representatives who have access to disarming codes, but only if they work at out-of-state locations and have had a satisfactory background check from a state or federal agency.

The committee substitute provides that local enforcement agencies that charged more than \$55 for low-voltage alarm system permits before January 1, 2013 may continue to charge the same amount until January 1, 2015, but that local enforcement agencies that charged more than \$175 before January 1, 2013 may only charge a maximum of \$175 until January 1, 2015. Thereafter, the maximum charge that may be imposed for a low-voltage alarm system permit by any local enforcement agency is \$55.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (14) of section 489.503, Florida Statutes, is amended, and subsection (23) is added to that section, to read:

489.503 Exemptions.—This part does not apply to:

(14) ~~(a)~~ The sale of, installation of, repair of, alteration of, addition to, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, computers, customer premises equipment, customer premises wiring, and



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13 conduit, or any part thereof, by an employee, contractor,
14 subcontractor, or affiliate of a company operating under a
15 certificate issued under chapter 364 or chapter 610, or under a
16 local franchise or right-of-way agreement, if when those items
17 are for the purpose of transmitting data, voice, video, or other
18 communications, or commands as part of a cable television,
19 community antenna television, ~~or~~ radio distribution,
20 communications, or telecommunications system. ~~The scope of this~~
21 ~~exemption is limited to electrical circuits and equipment~~
22 ~~governed by the applicable provisions of Articles 725 (Classes 2~~
23 ~~and 3 circuits only), 770, 800, 810, and 820 of the National~~
24 ~~Electrical Code, current edition, or 47 C.F.R. part 68.~~

25 (b) ~~The installation of, repair of, alteration of, addition~~
26 ~~to, or design of electrical wiring, fixtures, appliances,~~
27 ~~thermostats, apparatus, raceways, and conduit, or any part~~
28 ~~thereof, when those items are for the purpose of transmitting~~
29 ~~data, voice communications, or commands as part of a system of~~
30 ~~telecommunications, including computers, telephone customer~~
31 ~~premises equipment, or premises wiring. The scope of this~~
32 ~~exemption is limited to electrical circuits and equipment~~
33 ~~governed by the applicable provisions of Articles 725 (Classes 2~~
34 ~~and 3 circuits only), 770, 800, 810, and 820 of the National~~
35 ~~Electrical Code, current edition, or 47 C.F.R. part 68. An~~
36 employee, subcontractor, contractor, or affiliate of a company
37 that operates under a certificate issued ~~certified~~ under chapter
38 364 or chapter 610, or under a local franchise or right-of-way
39 agreement is not subject to any local ordinance that requires a
40 permit for work ~~performed by its employees~~ related to low-
41 voltage ~~low voltage~~ electrical work, including related technical



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42 codes, and regulations, and licensure. The scope of this
43 exemption is limited to electrical circuits and equipment
44 governed by the applicable provisions of Articles 725 (Classes 2
45 and 3 circuits only), 770, 800, 810, and 820 of the National
46 Electrical Code, current edition, or 47 C.F.R. part 68. The
47 ~~exemption in this paragraph shall apply only if such work is~~
48 ~~requested by the company's customer, is required in order to~~
49 ~~complete phone service, is incidental to provision of~~
50 ~~telecommunication service as required by chapter 364, and is not~~
51 ~~the subject of a competitive bid. The definition of "employee"~~
52 ~~established in subsection (1) applies to this exemption and does~~
53 ~~not include subcontractors.~~

54 (23) An employee or sales representative of an alarm system
55 contractor, if the employee or sales representative:

56 (a) Does not alter, install, maintain, move, or repair
57 alarm systems on end-user premises; and

58 (b) Is not granted access to passwords or codes that can be
59 used to arm or disarm the system installed at specific end-user
60 premises or, if working at an out-of-state location, the
61 employee or sales representative with access to such passwords
62 or codes has received a satisfactory fingerprint and background
63 check from a state or federal agency.

64
65 This subsection may not be construed to limit the exemptions
66 provided under subsection (6) or relieve a person of his or her
67 obligation to comply with the applicable background check
68 provisions of ss. 489.518 and 489.5185 for any onsite alarm
69 sales.

70 Section 2. Section 553.793, Florida Statutes, is created to



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71 read:

72 553.793 Streamlined low-voltage alarm system installation
73 permitting.-

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

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

79 (b) "Low-voltage alarm system project" means a project
80 related to the installation, maintenance, inspection,
81 replacement, or service of a new or existing alarm system, as
82 defined in s. 489.505, operating at low voltage, as defined in
83 the National Electrical Code Standard 70, Current Edition, and
84 ancillary components or equipment attached to such a system,
85 including, but not limited to, home-automation equipment,
86 thermostats, and video cameras.

87 (2) Notwithstanding any provision of law, this section
88 applies to low-voltage alarm system projects for which a permit
89 is required by a local enforcement agency.

90 (3) This section does not apply to the installation or
91 replacement of a fire alarm if a plan review is required.

92 (4) A local enforcement agency shall make uniform basic
93 permit labels available for purchase by a contractor to be used
94 for the installation or replacement of a new or existing alarm
95 system at a cost of not more than \$55 per label per project. A
96 local enforcement agency that charges more than \$55 for such
97 permit before January 1, 2013, may continue to charge the same
98 amount for a uniform basic permit label until January 1, 2015,
99 if the fee does not exceed \$175. A local enforcement agency



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100 charging more than \$175 for such a permit before January 1,
101 2013, may charge a maximum of \$175 for a uniform basic permit
102 label until January 1, 2015.

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

108 (b) A label is valid for 1 year after the date of purchase
109 and may only be used within the jurisdiction of the local
110 enforcement agency that issued the label. A contractor may
111 purchase labels in bulk for one or more unspecified current or
112 future projects.

113 (5) A contractor shall post an unused uniform basic permit
114 label in a conspicuous place on the premises of the low-voltage
115 alarm system project site before commencing work on the project.

116 (6) A contractor is not required to notify the local
117 enforcement agency before commencing work on a low-voltage alarm
118 system project. However, a contractor must submit a Uniform
119 Notice of a Low-Voltage Alarm System Project, as provided under
120 subsection (7), to the local enforcement agency within 14 days
121 after completing the project. A local enforcement agency may
122 take disciplinary action against a contractor who fails to
123 timely submit a Uniform Notice of a Low-Voltage Alarm System
124 Project.

125 (7) The Uniform Notice of a Low-Voltage Alarm System
126 Project may be submitted electronically or by facsimile if all
127 submissions are signed by the owner, tenant, contractor, or
128 authorized representative of such persons. The Uniform Notice of



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129 a Low-Voltage Alarm System Project must contain the following
130 information:

132 UNIFORM NOTICE OF A LOW-VOLTAGE ALARM SYSTEM PROJECT

- 133 Owner's or Customer's Name.....
- 134 Owner's or Customer's Address.....
- 135 Fee Simple Titleholder's Name (If different from above).....
- 136 Fee Simple Titleholder's Address (If different from above).....
- 137 City.....
- 138 State..... Zip.....
- 139 Phone Number.....
- 140 E-mail Address.....
- 141 Contractor's Name.....
- 142 Contractor's Address.....
- 143 City.....
- 144 State..... Zip.....
- 145 Phone Number.....
- 146 Contractor's License Number.....
- 147 Date Project Completed.....
- 148 Scope of Work.....

149
150 Notice is hereby given that a low-voltage alarm system project
151 has been completed at the address specified above. I certify
152 that all of the foregoing information is true and accurate.
153 ...(Signature of Owner, Tenant, Contractor, or Authorized
154 Representative)...

155 (8) A low-voltage alarm system project may be inspected by
156 the local enforcement agency to ensure compliance with
157 applicable codes and standards. If a low-voltage alarm system



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158 project fails an inspection, the contractor must take corrective
159 action as necessary to pass inspection.

160 (9) A municipality, county, district, or other entity of
161 local government may not adopt or maintain in effect an
162 ordinance or rule regarding a low-voltage alarm system project
163 that is inconsistent with this section.

164 (10) A uniform basic permit label may not be required for
165 the subsequent maintenance, inspection, or service of an alarm
166 system that was permitted in accordance with this section.

167 (11) The provisions of this act are not intended to impose
168 new or additional licensure requirements on a person licensed in
169 accordance with the applicable provisions of Chapter 489.

170 Section 3. This act shall take effect October 1, 2013.

171
172 ===== T I T L E A M E N D M E N T =====

173 And the title is amended as follows:

174 Delete everything before the enacting clause
175 and insert:

176 A bill to be entitled
177 An act relating to alarm systems; amending s. 489.503,
178 F.S.; revising an exemption from licensure related to
179 low-voltage electrical work performed by certain
180 persons and entities; exempting from licensure certain
181 employees and sales representatives of alarm system
182 contractors; providing for construction; creating s.
183 553.793, F.S.; providing definitions; providing
184 applicability; requiring a local enforcement agency to
185 offer for sale uniform basic permit labels to
186 contractors; specifying a maximum price and providing



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187 exceptions; prohibiting a local enforcement agency
188 from applying a certain condition to the purchase of a
189 label; providing that permits expire after a specific
190 time period; requiring contractors to post an unused
191 label in a specified place before commencing work on a
192 low-voltage alarm system project; requiring
193 contractors to submit a Uniform Notice of a Low-
194 Voltage Alarm System Project within a specified
195 period; providing that failure to submit such notice
196 may result in disciplinary action; prescribing a form
197 for a Uniform Notice of a Low-Voltage Alarm System
198 Project; authorizing a local enforcement agency to
199 inspect; prohibiting municipalities, counties,
200 districts, or other entities of local government from
201 adopting or maintaining an ordinance or rule
202 inconsistent with this section; providing that a label
203 is not required for the subsequent maintenance,
204 inspection, or service of a permitted alarm system;
205 providing an effective date.

By Senator Lee

24-00777D-13

20131442__

A bill to be entitled

An act relating to alarm system contracting and permitting; creating s. 553.793, F.S.; providing definitions; providing applicability; requiring a local enforcement agency to offer for sale uniform basic permit labels to contractors; specifying a maximum price; prohibiting a local enforcement agency from applying a certain condition to the purchase of a label; providing that permits expire after a specific time period; requiring contractors to post an unused label in a specified place before commencing work on a low-voltage alarm system project; requiring contractors to submit a Uniform Notice of Installation of Alarm System within a specified period; providing that failure to submit such notice may result in disciplinary action; prescribing a form for a Uniform Notice of Installation of Alarm System; providing inspection procedures and requirements for low-voltage alarm system projects; prohibiting specified local governments from adopting or maintaining certain ordinances and rules; providing an effective date.

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

Section 1. Section 553.793, Florida Statutes, is created to read:

553.793 Streamlined Alarm and Life Safety Device Installation.—

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

Page 1 of 4

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

24-00777D-13

20131442__

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

(b) “Low-voltage alarm system project” means a project related to the installation, maintenance, inspection, replacement, or service of any new or existing alarm system, as defined in s. 489.505, operating at low voltage, as defined in the National Electrical Code Standard 70, Current Edition.

(2) Notwithstanding any provision of law, this section applies to low-voltage alarm system projects for which a permit is required by a local enforcement agency.

(3) A local enforcement agency shall make uniform basic permit labels available for purchase by a contractor at a cost of not more than \$60 per label. A contractor may purchase labels in bulk for one or more unspecified current or future projects.

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

(b) A label is valid for 1 year from the date of purchase.

(4) A contractor shall post an unused uniform basic permit label in a conspicuous place on the premises of the low-voltage alarm system project site before commencing work on the project.

(5) A contractor is not required to notify the local enforcement agency before commencing work on a low-voltage alarm system project. However, a contractor must submit a Uniform Notice of Installation of Alarm System, a notice form provided under subsection (6), to the local enforcement agency within 21

Page 2 of 4

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

24-00777D-13 20131442__

59 days after completing the project. A local enforcement agency
60 may take disciplinary action against a contractor who fails to
61 timely submit a Uniform Notice of Installation of Alarm System.

62 (6) The Uniform Notice of Installation of Alarm System must
63 be in substantially the following form:

64
65 Tax Folio No.....

66 UNIFORM NOTICE OF INSTALLATION OF ALARM SYSTEM

- 67
- 68 Owner's Name.....
- 69 Owner's Address.....
- 70 Fee Simple Titleholder's Name (If other than owner).....
- 71 Fee Simple Titleholder's Address (If other than owner).....
- 72 City.....
- 73 State..... Zip.....
- 74 Phone Number.....
- 75 Email Address.....
- 76 Alarm Contractor's Name.....
- 77 Alarm Contractor's Address.....
- 78 City.....
- 79 State..... Zip.....
- 80 Phone Number.....
- 81 Alarm Contractor's License Number.....
- 82 Scope of Work.....

83
84 Notice is hereby given that a low-voltage alarm system or life
85 safety device has been installed or serviced at the address
86 specified above. I certify that all of the foregoing information
87 is true and accurate.

24-00777D-13 20131442__

88
89 ...(Signature of Owner, Contractor, or Agent)...

90
91 (7) A low-voltage alarm system project may be inspected by
92 the local enforcement agency to ensure compliance with
93 applicable codes and standards. The local enforcement agency
94 shall contact the owner of the property where the project was
95 completed to coordinate an inspection. If a low-voltage alarm
96 system project fails an inspection, the contractor must take
97 corrective action, as necessary, to pass inspection. A new
98 uniform basic permit label shall be posted by the contractor
99 after each failed inspection until the project passes
100 inspection.

101 (8) A municipality, county, district, or other entity of
102 local government may not adopt or maintain in effect an
103 ordinance or rule regarding a low-voltage alarm system project
104 which is inconsistent with this section.

105 Section 2. This act shall take effect October 1, 2013.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Judiciary, *Chair*
Appropriations Subcommittee on Health
and Human Services
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Ethics and Elections
Gaming
Rules
Transportation

SENATOR TOM LEE

Deputy Majority Leader
24th District

March 11, 2013

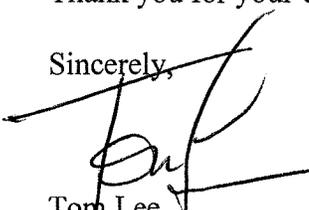
The Honorable Kelli Stargel
Senate Regulated Industries Committee, Chair
324 Senate Office Building
404 South Monroe St.
Tallahassee, FL 32399

Dear Chair Stargel,

I respectfully request that SB 1442 related to *Alarm System Contracting and Permitting*, be placed on the Senate Regulated Industries committee agenda at your earliest convenience.

Thank you for your consideration.

Sincerely,



Tom Lee
Senator, District 24

Cc: Booter Imhof, Staff Director

REPLY TO:

- 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 853-7061
- 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/2013
Meeting Date

Topic Streamlined Alarm Permitting

Bill Number 1442
(if applicable)

Name Jorge Chamizo

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 108 South Monroe Street
Street
Tallahassee, FL 3230
City State Zip

Phone (850) 681-0024

E-mail jorge@flapartners.com

Speaking: For Against Information

Representing ADT Alarm Systems

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)

4/9/13

Meeting Date

Topic Alarms

Bill Number SB 1442
(if applicable)

Name Ryan Padgett

Amendment Barcode _____
(if applicable)

Job Title Lobbyist

Address PO Box 1757

Phone _____

Street

Tallahassee FL 32302

City

State

Zip

E-mail rpadgett@fcities.com

Speaking: For Against Information

Representing Fla. League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13

Meeting Date

Topic Alarm System Contracting and Permitting

Bill Number 1442
(if applicable)

Name Brewster Bevis

Amendment Barcode _____
(if applicable)

Job Title Senior VP

Address 516 N. Adams St
Street

Phone 850-224-7173

Tallahassee FL 32301
City *State* *Zip*

E-mail bbevis@aif.com

Speaking: For Against Information

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13

Meeting Date

Topic Alarm Contracting

Bill Number 1442
(if applicable)

Name Charles Dudley

Amendment Barcode _____
(if applicable)

Job Title _____

Address 108 S. Monroe St.

Phone 681-0024

Street

Tallahassee FL 32301

City

State

Zip

E-mail CDudley@FlaPartners.com

Speaking: For Against Information

Representing FL Cable Telecomm. Assoc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/19/13

Meeting Date

Topic Alarm System Contracting + Permitting Bill Number 1442
(if applicable)

Name LAURA LENTHART Amendment Barcode _____
(if applicable)

Job Title _____

Address _____
Street

Phone _____

City _____ State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing Florida Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13

Meeting Date

Topic Alarm System Bill

Bill Number 1442
(if applicable)

Name J.C. Flores

Amendment Barcode _____
(if applicable)

Job Title Regional Director External Affairs

Address 156 W. FLAGLER ST.

Phone 305-347-5406

Street

MIAMI

E-mail JF323W@att.com

City

State

Zip

Speaking: For Against Information

Representing AT&T

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 156

INTRODUCER: Community Affairs Committee; and Senator Detert

SUBJECT: Swimming Pools and Spas

DATE: April 9, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	Fav/CS
2.	Kraemer	Imhof	RI	Fav/1 amendment
3.			AGG	
4.			AP	
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 156 would create a new mandatory licensing requirement for residential pool cleaning in Florida. The bill revises the definition for contractor, adding “maintenance for water treatment” to the overall definition of contracting, and includes cleaning, maintenance, and water treatment of swimming pools and spas within the licensure scope for commercial pool/spa contractor, residential pool/spa contractor, and swimming pool/spa servicing contractor. The bill removes current licensure exemptions for individuals and businesses that provide only pool and spa cleaning, maintenance and water treatment services. The bill also removes the one year of experience requirement for swimming pool/spa service contractors and instead requires 20 hours of in-field, hands-on instruction. The bill provides an exemption from licensure requirements for owners or operators, or their direct employees, who maintain a public swimming pool or spa for the purpose of water treatment.

This bill substantially amends sections 489.103, 489.105 and 489.111, Florida Statutes.

II. Present Situation:

Pool Cleaning in Florida

Currently, the practice of pool contracting is regulated by the Florida Department of Business and Professional Regulation (DBPR) under the auspices of the Construction Industry Licensing Board (CILB). Pursuant to sections 489.105(3)(j), (k) and (l), F.S., mandatory licensure is required for commercial pool/spa contractors, residential pool/spa contractors, and swimming pool/spa servicing contractors respectively to construct or repair pools. Contractors must maintain one of these licenses to contract for the installation, repair, or servicing of commercial or residential pools, spas and hot tubs. However, each of these categories specifically exempts persons who offer only cleaning, maintenance and water treatment of pools, spas and hot tubs from mandatory licensing, so long as the work contracted does not affect the structural integrity of the pool, spa or hot tub or require installation, modification or replacement of its permanently attached equipment. This exemption was added by the legislature in 1996.¹

While DBPR does not currently require licensure for persons offering only pool cleaning services, the Florida Department of Health (DOH) has responsibility under s. 514.075, F.S., to certify public pool service technicians. Public pool service technicians must demonstrate knowledge of pool maintenance and water treatment by passing a 16-hour course approved by DOH. Persons holding a current commercial pool/spa contractor, residential pool/spa contractor, and/or swimming pool/spa servicing contractor license from DBPR are exempt from certification under s. 514.075, F.S.

The Florida Department of Health estimates that there are approximately 37,000 public pools in Florida that use the services of 12,000 certified pool service technicians.² According to the DOH's estimate, there are currently 14,000 certified pool servicing technicians.³ Pool service technicians may or may not be direct employees of an owner or operator of a public pool.

Currently, applicants for commercial swimming pool/spa contractor and/or residential pool/spa contractor license are eligible to sit for the state certification examination if he or she has at least 4 years of experience in the required licensure category. Applicants may substitute up to three years of college credits in lieu of years of experience but must have at least one year of experience as a foreman in the license category sought. Pursuant to s. 489.111(2)(c)6.d., F.S., a person is qualified to sit for the swimming pool/spa servicing contractor's examination if they possess one year of experience in swimming pool service work and complete 60 hours of instruction in course work approved by the Construction Industry Licensing Board. All applicants must also establish that they are 18 years of age, of good moral character, and meet minimum financial stability requirements.

¹ Ch. 96-365, L.O.F.

² 2013 *Legislative Analysis for SB 156*, Department of Health, dated January 7, 2013.

³ 2013 *Legislative Analysis for CS/SB 156 as amended*, Department of Health, dated March 7, 2013.

III. Effect of Proposed Changes:

Section 1 exempts an owner or operator of public swimming pools⁴ and spas permitted by the Department of Health, or his or her direct employees, who undertake to maintain the swimming pool or spa for the purpose of water treatment from the licensing requirement of the bill. Pool service technicians for public swimming pools who are employed by or associated with subsidiary entities or third party contractors are not exempted from the licensing requirement.

Section 2 amends s. 489.105(3)(j)-(l), F.S., to add the phrase “maintain for purposes of water treatment” to the definition of contracting, specifically including such work within the mandatory licensure requirements of commercial pool/spa contractors, residential pool/spa contractors, and swimming pool/spa servicing contractors. The bill removes the current exemption for businesses and individuals who engage only in pool/spa cleaning, maintenance and water treatment services from s. 489.105(3)(j)-(l), F.S., requiring any businesses or individuals who provide such services to obtain either a commercial pool/spa contractor, residential pool/spa contractor, or swimming pool/spa servicing contractor license.

Section 3 reduces the experience requirements for the swimming pool/spa service contractor’s license under s. 489.111(2)(c)6.d., F.S., from one year of verifiable experience in swimming pool/spa service work to 20 hours of infield, hands-on instruction. However, all applicants for state certification would be required to pass the certification examination prior to licensure. In addition, all applicants for licensure would be required to meet all other licensure requirements, including the requirements to be at least 18 years old, be of good moral character, and meet biennial renewal requirements.

Section 4 provides an effective date of October 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁴ Section 514.011(2), F.S., defines a public swimming pool as a watertight structure . . . located either indoors or outdoors, used for bathing or swimming by humans, and filled with a filtered and disinfected water supply, together with buildings, appurtenances, and equipment . . . [including] a conventional pool, spa-type pool, wading pool, special purpose pool, or water recreation attraction, to which admission may be gained with or without payment of a fee and includes, but is not limited to, pools operated by or serving camps, churches, cities, counties, day care centers, group home facilities for eight or more clients, health spas, institutions, parks, state agencies, schools, subdivisions, or the cooperative living-type projects of five or more living units, such as apartments, boardinghouses, hotels, mobile home parks, motels, recreational vehicle parks, and townhouses.

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

The Florida Department of Health estimates that there are approximately 37,000 public pools in Florida that use the services of 12,000 certified pool service technicians.⁵ According to the DOH's estimate, there are currently 14,000 certified pool servicing technicians.⁶ All those pool service technicians that are not direct employees of an owner or operator of a public pool will not be exempt from the licensing requirement.

According to DBPR, it is estimated that the proposed legislation could generate 18,000 new licensees. The associated initial license fee, application fee, and exam fee would be approximately \$236 per licensee.

B. Private Sector Impact:

According to DBPR, the current licensure scope for commercial pool/spa contractor, residential pool/spa contractor, and swimming pool/spa servicing contractor includes many activities that exceed the normal work of a pool/spa cleaner, and those that have difficulty in passing the state examination due to the extensive nature of the subject matter will not be permitted to engage in the pool cleaning profession and will be placed out of business.⁷

C. Government Sector Impact:

The Department of Business and Professional Regulation will see an increase in examination requests and licensure applications resulting in additional fees for examination, initial licensure and biennial renewals. The number of new licensees is indeterminate, however, DBPR estimates that 18,000 new licensees who are not familiar with DBPR's licensure requirements could be generated. The increase in calls and additional tasks is estimated by DBPR to require a total of two additional Full Time Equivalent (FTE)⁸ and two Other Personal Services (OPS) positions in the Division of Service Operations. This includes one additional FTE and two OPS positions⁹ (Regulatory Specialist II) in the Bureau of Central Intake and Licensure to process new licensure and renewal applications, and one additional FTE (Regulatory Specialist II) position in the Customer Contact Center to handle increased call volume.

According to DBPR, and as reflected in the following Fiscal Analysis Chart prepared by DBPR¹⁰ the impact of the new mandatory licensing for water treatment services and the reduction in eligibility requirements for the swimming pool/spa servicing contractors' examination will be an estimated \$5,144,361 in net revenues for FY 2014-15, with

⁵ See *supra* note 2.

⁶ See *supra* note 3.

⁷ 2013 Legislative Analysis for CS/SB 156, Department of Business and Professional Regulation, dated March 20, 2013)

⁸ FTE, an acronym for full-time equivalent, is a unit that indicates the workload of an employee for comparison purposes.

⁹ The period of staffing the two OPS pos

¹⁰ *Id.*

estimated expenses payable by the department of \$47,957 in FY 2015-16, and estimated net revenue of \$3,697,363 in FY 2016-17.¹¹

REVENUE (PROFESSIONAL REGULATION TRUST FUND)			
	<u>FY 2014-15</u>	<u>FY 2015-16</u>	<u>FY 2016-17</u>
Exam Fees	1,503,000	83,500	83,500
Application Fees:	720,000	40,000	40,000
Initial License Fees:	3,600,000	100,000	200,000
License Renewal - Individual	0	0	3,800,000
Unlicensed Activity	90,000	5,000	5,000
Unlicensed Activity - Renewal	0	0	95,000
Building Commission Fee	72,000	4,000	4,000
Building Commission Fee -Renewal	0	0	76,000
TOTAL:	5,985,000	232,500	4,303,500

EXPENDITURES – FUNDING SOURCE (PROFESSIONAL REGULATION TRUST FUND)			
Recurring Budget	<u>FY 2014-15</u>	<u>FY 2015-16</u>	<u>FY 2016-17</u>
Salaries/Benefits # of FTE’s (5 FTE’s)	228,220	228,220	228,220
Salary Rate	157,173	157,173	157,173
Other Personal Services	0	0	0
Expenses	31,867	31,867	31,867
Contract Services	0	0	0
Transfer to DMS – HR Services	1,770	1,770	1,770
Subtotal	261,857	261,857	261,857

EXPENDITURES – FUNDING SOURCE (PROFESSIONAL REGULATION TRUST FUND)			
Non-Recurring Budget	<u>FY 2014-15</u>	<u>FY 2015-16</u>	<u>FY 2016-17</u>
Other Personal Services	29,694	0	0
Expense	36,052	0	0
Operating Capital Outlay	0	0	0
Examination and Testing Services (BET 100106)	34,000	0	0
Transfer to DMS – HR Services OPS	236		
Subtotal	99,982	0	0

Non-Operating Expenditures	<u>FY 2014-15</u>	<u>FY 2015-16</u>	<u>FY 2016-17</u>
Service Charge to GR (8% of revenue)	478,800	18,600	344,280
Indirect Costs (DBPR Administrative Overhead)	0	0	0
Other/Transfers	0	0	0
Subtotal	478,800	18,600	344,280

Net Revenue Over/(Under) Expenditures	\$5,144,361	(\$47,957)	\$3,697,363
--	--------------------	-------------------	--------------------

VI. Technical Deficiencies:

None.

¹¹ *Id.*

VII. Related Issues:

Consideration of the factors outlined in s. 11.62, F.S., (the Sunrise Act) may be appropriate for regulation of the occupation of pool maintenance and cleaning as currently exempted from all licensing requirements. A Sunrise Act review has not been conducted.

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 Community Affairs on March 7, 2013:

Exempts owner or operator of public swimming pools and spas, or his or her direct employees, from the licensing requirement of the bill. Provides the Department of Business and Professional Regulation with the authority to adopt rules, rather than the Construction Industry Licensing Board. Changed the effective date to October 1, 2013.

- B. **Amendments:**

Barcode 269142 by the Regulated Industries Committee on April 9, 2013:

The amendment deletes the requirement that persons engaged in water treatment, cleaning or maintenance of swimming pools and spas must be licensed as contractors under the provisions of s. 489.105(3)(j), (k), or (l), F.S. The amendment requires that in order to be eligible to take the swimming pool/spa servicing contractors' examination, an applicant may not have engaged in activities reserved to commercial pool/spa contractors, residential pool/spa contractors and swimming pool/spa servicing contractors, without being properly licensed. Section 489.1131 is created to provide that persons who clean a pool or spa in a way that affects the structural integrity of the pool or spa or its associated equipment without being properly licensed is subject to the provisions of s. 489.127, F.S. The effective date is changed from October 1, 2013 to October 1, 2014.



269142

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/10/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

489.111 Licensure by examination.—

(2) A person shall be eligible for licensure by examination
if the person:

(c) Meets eligibility requirements according to one of the
following criteria:

1. Has received a baccalaureate degree from an accredited



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13 4-year college in the appropriate field of engineering,
14 architecture, or building construction and has 1 year of proven
15 experience in the category in which the person seeks to qualify.
16 For the purpose of this part, a minimum of 2,000 person-hours
17 shall be used in determining full-time equivalency.

18 2. Has a total of at least 4 years of active experience as
19 a worker who has learned the trade by serving an apprenticeship
20 as a skilled worker who is able to command the rate of a
21 mechanic in the particular trade or as a foreman who is in
22 charge of a group of workers and usually is responsible to a
23 superintendent or a contractor or his or her equivalent,
24 provided, however, that at least 1 year of active experience
25 shall be as a foreman.

26 3. Has a combination of not less than 1 year of experience
27 as a foreman and not less than 3 years of credits for any
28 accredited college-level courses; has a combination of not less
29 than 1 year of experience as a skilled worker, 1 year of
30 experience as a foreman, and not less than 2 years of credits
31 for any accredited college-level courses; or has a combination
32 of not less than 2 years of experience as a skilled worker, 1
33 year of experience as a foreman, and not less than 1 year of
34 credits for any accredited college-level courses. All junior
35 college or community college-level courses shall be considered
36 accredited college-level courses.

37 4.a. An active certified residential contractor is eligible
38 to take the building contractors' examination if he or she
39 possesses a minimum of 3 years of proven experience in the
40 classification in which he or she is certified.

41 b. An active certified residential contractor is eligible



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42 to take the general contractors' examination if he or she
43 possesses a minimum of 4 years of proven experience in the
44 classification in which he or she is certified.

45 c. An active certified building contractor is eligible to
46 take the general contractors' examination if he or she possesses
47 a minimum of 4 years of proven experience in the classification
48 in which he or she is certified.

49 5.a. An active certified air-conditioning Class C
50 contractor is eligible to take the air-conditioning Class B
51 contractors' examination if he or she possesses a minimum of 3
52 years of proven experience in the classification in which he or
53 she is certified.

54 b. An active certified air-conditioning Class C contractor
55 is eligible to take the air-conditioning Class A contractors'
56 examination if he or she possesses a minimum of 4 years of
57 proven experience in the classification in which he or she is
58 certified.

59 c. An active certified air-conditioning Class B contractor
60 is eligible to take the air-conditioning Class A contractors'
61 examination if he or she possesses a minimum of 1 year of proven
62 experience in the classification in which he or she is
63 certified.

64 6.a. An active certified swimming pool servicing contractor
65 is eligible to take the residential swimming pool contractors'
66 examination if he or she possesses a minimum of 3 years of
67 proven experience in the classification in which he or she is
68 certified.

69 b. An active certified swimming pool servicing contractor
70 is eligible to take the swimming pool commercial contractors'



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71 examination if he or she possesses a minimum of 4 years of
72 proven experience in the classification in which he or she is
73 certified.

74 c. An active certified residential swimming pool contractor
75 is eligible to take the commercial swimming pool contractors'
76 examination if he or she possesses a minimum of 1 year of proven
77 experience in the classification in which he or she is
78 certified.

79 d. An applicant is eligible to take the swimming pool/spa
80 servicing contractors' examination if he or she has
81 satisfactorily completed 60 hours of instruction in courses and
82 20 hours of in-field, hands-on instruction related to the scope
83 of work covered by that license and approved by the Construction
84 Industry Licensing Board by rule, and has not previously engaged
85 in any scope of work described in ss. 489.105(3)(j), (k) or (l)
86 reserved to commercial pool/spa contractors, residential
87 pool/spa contractors and swimming pool/spa servicing
88 contractors, respectively without being properly licensed to
89 engage in same and has at least 1 year of proven experience
90 related to the scope of work of such a contractor.

91 Section 2. Section 489.1131, Florida Statutes, is created
92 to read:

93 489.1131 Pool/Spa Cleaning.- Any person who cleans a pool
94 or spa in a way that affects the structural integrity of the
95 pool or spa or its associated equipment without being properly
96 licensed as required by this part is subject to the provisions
97 of s. 489.127.

98 Section 3. This act shall take effect October 1, 2014.
99



269142

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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 everything before the enacting clause
and insert:

 A bill to be entitled
An act relating to swimming pool and spa contracting;
amending s. 489.111, F.S.; revising eligibility
requirements for taking the swimming pool/spa
servicing contractor's licensure examination; creating
s. 489.1131, F.S.; providing penalties for
unauthorized contracting by providers of cleaning
services; providing an effective date.



597538

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/10/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete line 25
and insert:
permitted under s. 514.031, an entity under common ownership or control with the owner or operator, or a direct employee of the owner, operator, or related entity, who

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

And the title is amended as follows:

Delete line 4



597538

13 and insert:
14 licensure requirements for an owner or operator or
15 related entity



599444

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/10/2013	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 477
and insert:

Section 4. This act shall take effect October 1, 2014.

By the Committee on Community Affairs; and Senator Detert

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1 A bill to be entitled
 2 An act relating to swimming pools and spas; amending
 3 s. 489.103, F.S.; providing an exemption from
 4 licensure requirements for an owner or operator
 5 maintaining a swimming pool or spa for the purpose of
 6 water treatment; amending s. 489.105, F.S.; revising
 7 the definition of the terms "contractor," "commercial
 8 pool/spa contractor," "residential pool/spa
 9 contractor," and "swimming pool/spa servicing
 10 contractor" to include the cleaning, maintenance, and
 11 water treatment of swimming pools and spas; conforming
 12 provisions to changes made by the act; amending s.
 13 489.111, F.S.; revising eligibility requirements to
 14 take the swimming pool/spa servicing contractors'
 15 examination; providing the Department of Business and
 16 Professional Regulation with the authority to adopt
 17 rules; providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Subsection (23) is added to section 489.103,
 22 Florida Statutes, to read:

23 489.103 Exemptions.—This part does not apply to:

24 (23) An owner or operator of a public swimming pool or spa
 25 permitted under s. 514.031, or his or her direct employee, who
 26 undertakes to maintain the swimming pool or spa for the purpose
 27 of water treatment.

28 Section 2. Subsection (3) of section 489.105, Florida
 29 Statutes, is amended to read:

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30 489.105 Definitions.—As used in this part:
 31 (3) "Contractor" means the person who is qualified for, and
 32 is only responsible for, the project contracted for and means,
 33 except as exempted in this part, the person who, for
 34 compensation, undertakes to, submits a bid to, or does himself
 35 or herself or by others construct, repair, alter, remodel, add
 36 to, demolish, maintain for purposes of water treatment, subtract
 37 from, or improve any building or structure, including related
 38 improvements to real estate, for others or for resale to others;
 39 and whose job scope is substantially similar to the job scope
 40 described in one of the paragraphs of this subsection. For the
 41 purposes of regulation under this part, the term "demolish"
 42 applies only to demolition of steel tanks more than 50 feet in
 43 height; towers more than 50 feet in height; other structures
 44 more than 50 feet in height; and all buildings or residences.
 45 For purposes of regulation under this part, the phrase "maintain
 46 for purposes of water treatment" applies only to cleaning,
 47 maintenance, and water treatment of swimming pools and spas.
 48 Contractors are subdivided into two divisions, Division I,
 49 consisting of those contractors defined in paragraphs (a)-(c),
 50 and Division II, consisting of those contractors defined in
 51 paragraphs (d)-(q):
 52 (a) "General contractor" means a contractor whose services
 53 are unlimited as to the type of work which he or she may do, who
 54 may contract for any activity requiring licensure under this
 55 part, and who may perform any work requiring licensure under
 56 this part, except as otherwise expressly provided in s. 489.113.
 57 (b) "Building contractor" means a contractor whose services
 58 are limited to construction of commercial buildings and single-

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59 dwelling or multiple-dwelling residential buildings, which do
 60 not exceed three stories in height, and accessory use structures
 61 in connection therewith or a contractor whose services are
 62 limited to remodeling, repair, or improvement of any size
 63 building if the services do not affect the structural members of
 64 the building.

65 (c) "Residential contractor" means a contractor whose
 66 services are limited to construction, remodeling, repair, or
 67 improvement of one-family, two-family, or three-family
 68 residences not exceeding two habitable stories above no more
 69 than one uninhabitable story and accessory use structures in
 70 connection therewith.

71 (d) "Sheet metal contractor" means a contractor whose
 72 services are unlimited in the sheet metal trade and who has the
 73 experience, knowledge, and skill necessary for the manufacture,
 74 fabrication, assembling, handling, erection, installation,
 75 dismantling, conditioning, adjustment, insulation, alteration,
 76 repair, servicing, or design, if not prohibited by law, of
 77 ferrous or nonferrous metal work of U.S. No. 10 gauge or its
 78 equivalent or lighter gauge and of other materials, including,
 79 but not limited to, fiberglass, used in lieu thereof and of air-
 80 handling systems, including the setting of air-handling
 81 equipment and reinforcement of same, the balancing of air-
 82 handling systems, and any duct cleaning and equipment sanitizing
 83 that requires at least a partial disassembling of the system.

84 (e) "Roofing contractor" means a contractor whose services
 85 are unlimited in the roofing trade and who has the experience,
 86 knowledge, and skill to install, maintain, repair, alter,
 87 extend, or design, if not prohibited by law, and use materials

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88 and items used in the installation, maintenance, extension, and
 89 alteration of all kinds of roofing, waterproofing, and coating,
 90 except when coating is not represented to protect, repair,
 91 waterproof, stop leaks, or extend the life of the roof. The
 92 scope of work of a roofing contractor also includes skylights
 93 and any related work, required roof-deck attachments, and any
 94 repair or replacement of wood roof sheathing or fascia as needed
 95 during roof repair or replacement and any related work.

96 (f) "Class A air-conditioning contractor" means a
 97 contractor whose services are unlimited in the execution of
 98 contracts requiring the experience, knowledge, and skill to
 99 install, maintain, repair, fabricate, alter, extend, or design,
 100 if not prohibited by law, central air-conditioning,
 101 refrigeration, heating, and ventilating systems, including duct
 102 work in connection with a complete system if such duct work is
 103 performed by the contractor as necessary to complete an air-
 104 distribution system, boiler and unfired pressure vessel systems,
 105 and all appurtenances, apparatus, or equipment used in
 106 connection therewith, and any duct cleaning and equipment
 107 sanitizing that requires at least a partial disassembling of the
 108 system; to install, maintain, repair, fabricate, alter, extend,
 109 or design, if not prohibited by law, piping, insulation of
 110 pipes, vessels and ducts, pressure and process piping, and
 111 pneumatic control piping; to replace, disconnect, or reconnect
 112 power wiring on the load side of the dedicated existing
 113 electrical disconnect switch; to install, disconnect, and
 114 reconnect low voltage heating, ventilating, and air-conditioning
 115 control wiring; and to install a condensate drain from an air-
 116 conditioning unit to an existing safe waste or other approved

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117 disposal other than a direct connection to a sanitary system.
 118 The scope of work for such contractor also includes any
 119 excavation work incidental thereto, but does not include any
 120 work such as liquefied petroleum or natural gas fuel lines
 121 within buildings, except for disconnecting or reconnecting
 122 changeouts of liquefied petroleum or natural gas appliances
 123 within buildings; potable water lines or connections thereto;
 124 sanitary sewer lines; swimming pool piping and filters; or
 125 electrical power wiring. A Class A air-conditioning contractor
 126 may test and evaluate central air-conditioning, refrigeration,
 127 heating, and ventilating systems, including duct work; however,
 128 a mandatory licensing requirement is not established for the
 129 performance of these specific services.

130 (g) "Class B air-conditioning contractor" means a
 131 contractor whose services are limited to 25 tons of cooling and
 132 500,000 Btu of heating in any one system in the execution of
 133 contracts requiring the experience, knowledge, and skill to
 134 install, maintain, repair, fabricate, alter, extend, or design,
 135 if not prohibited by law, central air-conditioning,
 136 refrigeration, heating, and ventilating systems, including duct
 137 work in connection with a complete system only to the extent
 138 such duct work is performed by the contractor as necessary to
 139 complete an air-distribution system being installed under this
 140 classification, and any duct cleaning and equipment sanitizing
 141 that requires at least a partial disassembling of the system; to
 142 install, maintain, repair, fabricate, alter, extend, or design,
 143 if not prohibited by law, piping and insulation of pipes,
 144 vessels, and ducts; to replace, disconnect, or reconnect power
 145 wiring on the load side of the dedicated existing electrical

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146 disconnect switch; to install, disconnect, and reconnect low
 147 voltage heating, ventilating, and air-conditioning control
 148 wiring; and to install a condensate drain from an air-
 149 conditioning unit to an existing safe waste or other approved
 150 disposal other than a direct connection to a sanitary system.
 151 The scope of work for such contractor also includes any
 152 excavation work incidental thereto, but does not include any
 153 work such as liquefied petroleum or natural gas fuel lines
 154 within buildings, except for disconnecting or reconnecting
 155 changeouts of liquefied petroleum or natural gas appliances
 156 within buildings; potable water lines or connections thereto;
 157 sanitary sewer lines; swimming pool piping and filters; or
 158 electrical power wiring. A Class B air-conditioning contractor
 159 may test and evaluate central air-conditioning, refrigeration,
 160 heating, and ventilating systems, including duct work; however,
 161 a mandatory licensing requirement is not established for the
 162 performance of these specific services.

163 (h) "Class C air-conditioning contractor" means a
 164 contractor whose business is limited to the servicing of air-
 165 conditioning, heating, or refrigeration systems, including any
 166 duct cleaning and equipment sanitizing that requires at least a
 167 partial disassembling of the system, and whose certification or
 168 registration, issued pursuant to this part, was valid on October
 169 1, 1988. Only a person who was registered or certified as a
 170 Class C air-conditioning contractor as of October 1, 1988, shall
 171 be so registered or certified after October 1, 1988. However,
 172 the board shall continue to license and regulate those Class C
 173 air-conditioning contractors who held Class C licenses before
 174 October 1, 1988.

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175 (i) "Mechanical contractor" means a contractor whose
 176 services are unlimited in the execution of contracts requiring
 177 the experience, knowledge, and skill to install, maintain,
 178 repair, fabricate, alter, extend, or design, if not prohibited
 179 by law, central air-conditioning, refrigeration, heating, and
 180 ventilating systems, including duct work in connection with a
 181 complete system if such duct work is performed by the contractor
 182 as necessary to complete an air-distribution system, boiler and
 183 unfired pressure vessel systems, lift station equipment and
 184 piping, and all appurtenances, apparatus, or equipment used in
 185 connection therewith, and any duct cleaning and equipment
 186 sanitizing that requires at least a partial disassembling of the
 187 system; to install, maintain, repair, fabricate, alter, extend,
 188 or design, if not prohibited by law, piping, insulation of
 189 pipes, vessels and ducts, pressure and process piping, pneumatic
 190 control piping, gasoline tanks and pump installations and piping
 191 for same, standpipes, air piping, vacuum line piping, oxygen
 192 lines, nitrous oxide piping, ink and chemical lines, fuel
 193 transmission lines, liquefied petroleum gas lines within
 194 buildings, and natural gas fuel lines within buildings; to
 195 replace, disconnect, or reconnect power wiring on the load side
 196 of the dedicated existing electrical disconnect switch; to
 197 install, disconnect, and reconnect low voltage heating,
 198 ventilating, and air-conditioning control wiring; and to install
 199 a condensate drain from an air-conditioning unit to an existing
 200 safe waste or other approved disposal other than a direct
 201 connection to a sanitary system. The scope of work for such
 202 contractor also includes any excavation work incidental thereto,
 203 but does not include any work such as potable water lines or

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204 connections thereto, sanitary sewer lines, swimming pool piping
 205 and filters, or electrical power wiring. A mechanical contractor
 206 may test and evaluate central air-conditioning, refrigeration,
 207 heating, and ventilating systems, including duct work; however,
 208 a mandatory licensing requirement is not established for the
 209 performance of these specific services.

210 (j) "Commercial pool/spa contractor" means a contractor
 211 whose scope of work involves, but is not limited to, the
 212 construction, repair, water treatment, maintenance, and
 213 servicing of any swimming pool, or hot tub or spa, whether
 214 public, private, or otherwise, regardless of use. The scope of
 215 work includes the installation, repair, or replacement of
 216 existing equipment, ~~any cleaning or equipment sanitizing that~~
 217 ~~requires at least a partial disassembling, excluding filter~~
 218 ~~changes, and~~ the installation of new pool/spa equipment,
 219 interior finishes, the installation of package pool heaters, the
 220 installation of all perimeter piping and filter piping, and the
 221 construction of equipment rooms or housing for pool/spa
 222 equipment, and also includes the scope of work of a swimming
 223 pool/spa servicing contractor. The scope of such work does not
 224 include direct connections to a sanitary sewer system or to
 225 potable water lines. ~~The installation, construction,~~
 226 ~~modification, or replacement of equipment permanently attached~~
 227 ~~to and associated with the pool or spa for the purpose of water~~
 228 ~~treatment or cleaning of the pool or spa requires licensure,~~
 229 ~~however, the usage of such equipment for the purposes of water~~
 230 ~~treatment or cleaning does not require licensure unless the~~
 231 ~~usage involves construction, modification, or replacement of~~
 232 ~~such equipment. Water treatment that does not require such~~

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233 ~~equipment does not require a license. In addition, a license is~~
 234 ~~not required for the cleaning of the pool or spa in a way that~~
 235 ~~does not affect the structural integrity of the pool or spa or~~
 236 ~~its associated equipment.~~

237 (k) "Residential pool/spa contractor" means a contractor
 238 whose scope of work involves, but is not limited to, the
 239 construction, repair, water treatment, maintenance, and
 240 servicing of a residential swimming pool, or hot tub or spa,
 241 regardless of use. The scope of work includes the installation,
 242 repair, or replacement of existing equipment, ~~any cleaning or~~
 243 ~~equipment sanitizing that requires at least a partial~~
 244 ~~disassembling, excluding filter changes, and the installation of~~
 245 new pool/spa equipment, interior finishes, the installation of
 246 package pool heaters, the installation of all perimeter piping
 247 and filter piping, and the construction of equipment rooms or
 248 housing for pool/spa equipment, and also includes the scope of
 249 work of a swimming pool/spa servicing contractor. The scope of
 250 such work does not include direct connections to a sanitary
 251 sewer system or to potable water lines. ~~The installation,~~
 252 ~~construction, modification, or replacement of equipment~~
 253 ~~permanently attached to and associated with the pool or spa for~~
 254 ~~the purpose of water treatment or cleaning of the pool or spa~~
 255 ~~requires licensure; however, the usage of such equipment for the~~
 256 ~~purposes of water treatment or cleaning does not require~~
 257 ~~licensure unless the usage involves construction, modification,~~
 258 ~~or replacement of such equipment. Water treatment that does not~~
 259 ~~require such equipment does not require a license. In addition,~~
 260 ~~a license is not required for the cleaning of the pool or spa in~~
 261 ~~a way that does not affect the structural integrity of the pool~~

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262 ~~or spa or its associated equipment.~~

263 (l) "Swimming pool/spa servicing contractor" means a
 264 contractor whose scope of work involves, but is not limited to,
 265 the repair, water treatment, maintenance, and servicing of a
 266 swimming pool, or hot tub or spa, whether public or private, or
 267 otherwise, regardless of use. The scope of work includes the
 268 repair or replacement of existing equipment, any sanitation,
 269 chemical balancing, routine maintenance or cleaning, ~~cleaning or~~
 270 ~~equipment sanitizing that requires at least a partial~~
 271 ~~disassembling, excluding filter changes, and the installation of~~
 272 new pool/spa equipment, interior refinishing, the reinstallation
 273 or addition of pool heaters, the repair or replacement of all
 274 perimeter piping and filter piping, the repair of equipment
 275 rooms or housing for pool/spa equipment, and the substantial or
 276 complete draining of a swimming pool, or hot tub or spa, for the
 277 purpose of repair, ~~or~~ renovation, or water treatment. The scope
 278 of such work does not include direct connections to a sanitary
 279 sewer system or to potable water lines. ~~The installation,~~
 280 ~~construction, modification, substantial or complete disassembly,~~
 281 ~~or replacement of equipment permanently attached to and~~
 282 ~~associated with the pool or spa for the purpose of water~~
 283 ~~treatment or cleaning of the pool or spa requires licensure,~~
 284 ~~however, the usage of such equipment for the purposes of water~~
 285 ~~treatment or cleaning does not require licensure unless the~~
 286 ~~usage involves construction, modification, substantial or~~
 287 ~~complete disassembly, or replacement of such equipment. Water~~
 288 ~~treatment that does not require such equipment does not require~~
 289 ~~a license. In addition, a license is not required for the~~
 290 ~~cleaning of the pool or spa in a way that does not affect the~~

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291 ~~structural integrity of the pool or spa or its associated~~
 292 ~~equipment.~~

293 (m) "Plumbing contractor" means a contractor whose services
 294 are unlimited in the plumbing trade and includes contracting
 295 business consisting of the execution of contracts requiring the
 296 experience, financial means, knowledge, and skill to install,
 297 maintain, repair, alter, extend, or, if not prohibited by law,
 298 design plumbing. A plumbing contractor may install, maintain,
 299 repair, alter, extend, or, if not prohibited by law, design the
 300 following without obtaining an additional local regulatory
 301 license, certificate, or registration: sanitary drainage or
 302 storm drainage facilities, water and sewer plants and
 303 substations, venting systems, public or private water supply
 304 systems, septic tanks, drainage and supply wells, swimming pool
 305 piping, irrigation systems, and solar heating water systems and
 306 all appurtenances, apparatus, or equipment used in connection
 307 therewith, including boilers and pressure process piping and
 308 including the installation of water, natural gas, liquefied
 309 petroleum gas and related venting, and storm and sanitary sewer
 310 lines. The scope of work of the plumbing contractor also
 311 includes the design, if not prohibited by law, and installation,
 312 maintenance, repair, alteration, or extension of air-piping,
 313 vacuum line piping, oxygen line piping, nitrous oxide piping,
 314 and all related medical gas systems; fire line standpipes and
 315 fire sprinklers if authorized by law; ink and chemical lines;
 316 fuel oil and gasoline piping and tank and pump installation,
 317 except bulk storage plants; and pneumatic control piping
 318 systems, all in a manner that complies with all plans,
 319 specifications, codes, laws, and regulations applicable. The

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320 scope of work of the plumbing contractor applies to private
 321 property and public property, including any excavation work
 322 incidental thereto, and includes the work of the specialty
 323 plumbing contractor. Such contractor shall subcontract, with a
 324 qualified contractor in the field concerned, all other work
 325 incidental to the work but which is specified as being the work
 326 of a trade other than that of a plumbing contractor. This
 327 definition does not limit the scope of work of any specialty
 328 contractor certified pursuant to s. 489.113(6), and does not
 329 require certification or registration under this part of any
 330 authorized employee of a public natural gas utility or of a
 331 private natural gas utility regulated by the Public Service
 332 Commission when disconnecting and reconnecting water lines in
 333 the servicing or replacement of an existing water heater. A
 334 plumbing contractor may perform drain cleaning and clearing and
 335 install or repair rainwater catchment systems; however, a
 336 mandatory licensing requirement is not established for the
 337 performance of these specific services.

338 (n) "Underground utility and excavation contractor" means a
 339 contractor whose services are limited to the construction,
 340 installation, and repair, on public or private property, whether
 341 accomplished through open excavations or through other means,
 342 including, but not limited to, directional drilling, auger
 343 boring, jacking and boring, trenchless technologies, wet and dry
 344 taps, grouting, and slip lining, of main sanitary sewer
 345 collection systems, main water distribution systems, storm sewer
 346 collection systems, and the continuation of utility lines from
 347 the main systems to a point of termination up to and including
 348 the meter location for the individual occupancy, sewer

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349 collection systems at property line on residential or single-
 350 occupancy commercial properties, or on multioccupancy properties
 351 at manhole or wye lateral extended to an invert elevation as
 352 engineered to accommodate future building sewers, water
 353 distribution systems, or storm sewer collection systems at storm
 354 sewer structures. However, an underground utility and excavation
 355 contractor may install empty underground conduits in rights-of-
 356 way, easements, platted rights-of-way in new site development,
 357 and sleeves for parking lot crossings no smaller than 2 inches
 358 in diameter if each conduit system installed is designed by a
 359 licensed professional engineer or an authorized employee of a
 360 municipality, county, or public utility and the installation of
 361 such conduit does not include installation of any conductor
 362 wiring or connection to an energized electrical system. An
 363 underground utility and excavation contractor may not install
 364 piping that is an integral part of a fire protection system as
 365 defined in s. 633.021 beginning at the point where the piping is
 366 used exclusively for such system.

367 (o) "Solar contractor" means a contractor whose services
 368 consist of the installation, alteration, repair, maintenance,
 369 relocation, or replacement of solar panels for potable solar
 370 water heating systems, swimming pool solar heating systems, and
 371 photovoltaic systems and any appurtenances, apparatus, or
 372 equipment used in connection therewith, whether public, private,
 373 or otherwise, regardless of use. A contractor, certified or
 374 registered pursuant to this chapter, is not required to become a
 375 certified or registered solar contractor or to contract with a
 376 solar contractor in order to provide services enumerated in this
 377 paragraph that are within the scope of the services such

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378 contractors may render under this part.

379 (p) "Pollutant storage systems contractor" means a
 380 contractor whose services are limited to, and who has the
 381 experience, knowledge, and skill to install, maintain, repair,
 382 alter, extend, or design, if not prohibited by law, and use
 383 materials and items used in the installation, maintenance,
 384 extension, and alteration of, pollutant storage tanks. Any
 385 person installing a pollutant storage tank shall perform such
 386 installation in accordance with the standards adopted pursuant
 387 to s. 376.303.

388 (q) "Specialty contractor" means a contractor whose scope
 389 of work and responsibility is limited to a particular phase of
 390 construction established in a category adopted by board rule and
 391 whose scope is limited to a subset of the activities described
 392 in one of the paragraphs of this subsection.

393 Section 3. Subsection (2) of section 489.111, Florida
 394 Statutes, is amended to read:

395 489.111 Licensure by examination.—

396 (2) A person shall be eligible for licensure by examination
 397 if the person:

- 398 (a) Is 18 years of age;
- 399 (b) Is of good moral character; and
- 400 (c) Meets eligibility requirements according to one of the
 401 following criteria:

402 1. Has received a baccalaureate degree from an accredited
 403 4-year college in the appropriate field of engineering,
 404 architecture, or building construction and has 1 year of proven
 405 experience in the category in which the person seeks to qualify.
 406 For the purpose of this part, a minimum of 2,000 person-hours

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407 shall be used in determining full-time equivalency.

408 2. Has a total of at least 4 years of active experience as
 409 a worker who has learned the trade by serving an apprenticeship
 410 as a skilled worker who is able to command the rate of a
 411 mechanic in the particular trade or as a foreman who is in
 412 charge of a group of workers and usually is responsible to a
 413 superintendent or a contractor or his or her equivalent,
 414 provided, however, that at least 1 year of active experience
 415 shall be as a foreman.

416 3. Has a combination of not less than 1 year of experience
 417 as a foreman and not less than 3 years of credits for any
 418 accredited college-level courses; has a combination of not less
 419 than 1 year of experience as a skilled worker, 1 year of
 420 experience as a foreman, and not less than 2 years of credits
 421 for any accredited college-level courses; or has a combination
 422 of not less than 2 years of experience as a skilled worker, 1
 423 year of experience as a foreman, and not less than 1 year of
 424 credits for any accredited college-level courses. All junior
 425 college or community college-level courses shall be considered
 426 accredited college-level courses.

427 4.a. An active certified residential contractor is eligible
 428 to take the building contractors' examination if he or she
 429 possesses a minimum of 3 years of proven experience in the
 430 classification in which he or she is certified.

431 b. An active certified residential contractor is eligible
 432 to take the general contractors' examination if he or she
 433 possesses a minimum of 4 years of proven experience in the
 434 classification in which he or she is certified.

435 c. An active certified building contractor is eligible to

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436 take the general contractors' examination if he or she possesses
 437 a minimum of 4 years of proven experience in the classification
 438 in which he or she is certified.

439 5.a. An active certified air-conditioning Class C
 440 contractor is eligible to take the air-conditioning Class B
 441 contractors' examination if he or she possesses a minimum of 3
 442 years of proven experience in the classification in which he or
 443 she is certified.

444 b. An active certified air-conditioning Class C contractor
 445 is eligible to take the air-conditioning Class A contractors'
 446 examination if he or she possesses a minimum of 4 years of
 447 proven experience in the classification in which he or she is
 448 certified.

449 c. An active certified air-conditioning Class B contractor
 450 is eligible to take the air-conditioning Class A contractors'
 451 examination if he or she possesses a minimum of 1 year of proven
 452 experience in the classification in which he or she is
 453 certified.

454 6.a. An active certified swimming pool servicing contractor
 455 is eligible to take the residential swimming pool contractors'
 456 examination if he or she possesses a minimum of 3 years of
 457 proven experience in the classification in which he or she is
 458 certified.

459 b. An active certified swimming pool servicing contractor
 460 is eligible to take the swimming pool commercial contractors'
 461 examination if he or she possesses a minimum of 4 years of
 462 proven experience in the classification in which he or she is
 463 certified.

464 c. An active certified residential swimming pool contractor

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465 is eligible to take the commercial swimming pool contractors'
466 examination if he or she possesses a minimum of 1 year of proven
467 experience in the classification in which he or she is
468 certified.

469 d. An applicant is eligible to take the swimming pool/spa
470 servicing contractors' examination if he or she has
471 satisfactorily completed 60 hours of instruction in courses and
472 20 hours of field hands-on instruction related to the scope of
473 work covered by that license and approved by the department
474 Construction Industry Licensing Board by rule and ~~has at least 1~~
475 ~~year of proven experience related to the scope of work of such a~~
476 ~~contractor.~~

477 Section 4. This act shall take effect October 1, 2013.



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: March 19, 2013

I respectfully request that **Senate Bill #156**, relating to Swimming Pools and Spas, be placed on the:

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

A handwritten signature in cursive script, reading "Nancy C. Detert".

Senator Nancy C. Detert
Florida Senate, District 28

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-9-13

Meeting Date

Topic SWIMMING POOL LICENSURE

Bill Number OB 156
(if applicable)

Name KARI HERBRANK

Amendment Barcode _____
(if applicable)

Job Title _____

Address 118 EAST CONEYGE AVE. #200

Phone 566-7824

Street TALLAHASSEE FL 32301
City State Zip

E-mail Kherbrank@wilsonmgmt.com

Speaking: For Against Information

Representing FLORIDA HOME BUILDERS ASSOC.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13
Meeting Date

Topic Swimming Pools

Bill Number 156
(if applicable)

Name Jennifer Hatfield

Amendment Barcode _____
(if applicable)

Job Title _____

Address 34 SE 7th Ave #9

Phone 941-345-3263

Street

Delray Beach FL 33483

City

State

Zip

E-mail jennifer.hatfieldandassociates.com

Speaking: For Against Information

Representing FL Swimming Pool Assoc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 490

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

SUBJECT: Landlords and Tenants

DATE: April 9, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Cibula	JU	Fav/CS
2.	Oxamendi	Imhof	RI	Fav/CS
3.			RC	
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:

CS/CS/SB 490 makes numerous changes to the Florida Residential Landlord and Tenant Act. Specifically, the bill makes the following changes:

- Authorizes the eviction procedures under the Act, instead of foreclosure procedures, to apply to a person who occupies a dwelling pursuant to a lease-purchase agreement in some circumstances.
- Provides that the right of a prevailing party to attorney fees for enforcing a rental agreement may not be waived in the rental agreement.
- Provides that the right to the statutorily required notices before a landlord or tenant may terminate a lease may not be waived in the lease.
- Provides that attorney fees may not be awarded in a claim for personal injury damages based on a breach of duty to maintain the rental premises.
- Revises the notice that a landlord must provide a tenant which describes how advance rent and security deposits will be held and used by the landlord or returned to the tenant.
- Allows landlords to withdraw advance rents without notice to tenants.
- Creates a rebuttable presumption that a new owner of a rental property receives the security deposits paid by a tenant to the previous owner, but limit's the presumption to 1-months rent.

- Lessens the duty of landlords of single-family homes and duplexes to maintain screens on windows. A landlord must ensure that screens are installed in reasonable condition at the beginning of the tenancy and repaired once annually thereafter.
- Provides that a right or duty enforced by civil action under the Florida Landlord and Tenant Act does not preclude prosecution for a criminal offense related to a lease or leased property.
- Eliminates a landlord's obligation to make certain disclosures regarding fire safety to tenants.
- Provides that upon the re-occurrence within 12 months after the initial notice of tenant actions constituting noncompliance under a lease, the landlord is not required to provide an additional notice before initiating an eviction action.
- Provides that a lease must require a landlord to give advance notice of the intent to nonrenew the lease if the lease requires a tenant to give advance notice to a landlord of the intent to vacate the premises at the end of the lease.
- Revises procedures for restoration of possession of a rental property to a landlord to provide that Saturdays, Sundays, and holidays do not stay the applicable notice period.
- Specifies additional grounds for which a landlord may not retaliate against a tenant.

The bill conforms statutory cross-references and makes other editorial changes.

This bill creates one undesignated section of Florida law.

This bill substantially amends the following sections of the Florida Statutes: 83.42, 83.48, 83.49, 83.50, 83.51, 83.54, 83.56, 83.575, 83.58, 83.59, 83.60, 83.62, 83.63, and 83.64.

II. Present Situation:

Applicability of the Florida Residential Landlord and Tenant Act

Part II, ch. 83, F.S., known as the "Florida Residential Landlord and Tenant Act," governs the relationship between landlords and tenants under a residential rental agreement.¹

The Act does not apply to:

- Residency or detention in a facility, whether public or private, when residence or detention is incidental to the provision of medical, geriatric, educational, counseling, religious, or similar services.²
- Occupancy under a contract of sale of a dwelling unit or property of which it is a part.³
- Transient occupancy in a hotel, condominium, motel, roominghouse, or similar public lodging, or transient occupancy in a mobile home park.⁴
- Occupancy by a holder of a proprietary lease in a cooperative apartment.⁵
- Occupancy by an owner of a condominium unit.⁶

¹ Section 83.41, F.S., provides that part II, chapter 83, F.S., applies to the rental of a dwelling unit.

² Section 83.42(1), F.S.

³ Section 83.42(2), F.S.

⁴ Section 83.42(3), F.S.

⁵ Section 83.42(4), F.S.

⁶ Section 83.42(5), F.S.

Attorney Fees

Under s. 83.48, F.S., in any civil action brought to enforce the provisions of a rental agreement or the Florida Residential Landlord and Tenant Act, the party in whose favor a judgment or decree has been rendered may recover reasonable costs, including attorney fees from the prevailing party. In an interpretation of s. 83.48, F.S., by the Third District Court of Appeal, the court held that the statute did not allow for the award of attorney fees in an action for damages for personal injuries resulting from a landlord's failure to maintain the rental premises.⁷

Advance Rent Payments

Section 83.49, F.S., specifies requirements for the landlord's duty to a tenant for deposit money or advance rent. "[T]he purpose of [s. 83.49(3)(a), F.S.,] is to assure tenants that their security deposits will be returned expeditiously or they will be promptly notified otherwise."⁸

Section 83.49(3)(a), F.S., states:

[u]pon the vacating of the premises for termination of the lease, if the landlord does not intend to impose a claim on the security deposit, the landlord shall have 15 days to return the security deposit together with interest if otherwise required, or the landlord shall have 30 days to give the tenant written notice by certified mail to the tenant's last known mailing address of his or her intention to impose a claim on the deposit and the reason for imposing the claim. The notice shall contain a statement in substantially the following form:

This is a notice of my intention to impose a claim for damages in the amount of ____ upon your security deposit, due to _____. It is sent to you as required by s. 83.49 (3), Florida Statutes. You are hereby notified that you must object in writing to this deduction from your security deposit within 15 days from the time you receive this notice or I will be authorized to deduct my claim from your security deposit. Your objection must be sent to (landlord's address).

If the landlord fails to give the required notice within the 30-day period, he or she forfeits the right to impose a claim upon the security deposit.

Section 83.49(3)(b), F.S., provides that:

[u]nless the tenant objects to the imposition of the landlord's claim or the amount thereof within 15 days after receipt of the landlord's notice of intention to impose a claim, the landlord may then deduct the amount of his or her claim and shall remit the balance of the deposit to the tenant within 30 days after the date of the notice of intention to impose a claim for damages.

Disclosure of Fire Protection

The landlord or the landlord's authorized representative, upon completion of construction of a building exceeding three stories in height and containing dwelling units, must disclose to the

⁷ *Gilbert v. Jabour*, 527 So. 2d 951 (Fla. 3d DCA 1988).

⁸ *See Durene v. Alcime*, 448 So. 2d 1208, 1210 (Fla. 3d DCA 1984).

tenants initially moving into the building the availability or lack of availability of fire protection.⁹

Landlord's Obligation to Maintain Premises

At all times during a tenancy, the landlord must comply with the requirements of applicable building, housing, and health codes.¹⁰ Where there are no applicable building, housing, or health codes, the landlord must maintain the roofs, windows, screens, doors, floors, steps, porches, exterior walls, foundations, and all other structural components in good repair and the plumbing in reasonable working condition.¹¹

Unless otherwise agreed in writing, in addition to the requirements described above, the landlord of a dwelling unit other than a single-family home or duplex shall, at all times during the tenancy, make reasonable provisions for:

1. The extermination of rats, mice, roaches, ants, wood-destroying organisms, and bedbugs. When vacation of the premises is required for such extermination, the landlord shall not be liable for damages but shall abate the rent. The tenant shall be required to temporarily vacate the premises for a period of time not to exceed 4 days, on 7 days' written notice, if necessary, for extermination pursuant to this subparagraph.
2. Locks and keys.
3. The clean and safe condition of common areas.
4. Garbage removal and outside receptacles therefor.
5. Functioning facilities for heat during winter, running water, and hot water.¹²

Unless otherwise agreed in writing, at the commencement of the tenancy of a single-family home or duplex, the landlord shall install working smoke detection devices.¹³

Enforcement of Rights and Duties under the Landlord and Tenant Act

Any right or duty declared in the Florida Residential Landlord and Tenant Act is enforceable by civil action.¹⁴

Termination of Rental Agreement - Noncompliance

Section 83.56, F.S., establishes the circumstances under which the tenant or landlord may terminate a rental agreement. A tenant may be subject to eviction for monetary default or non-monetary default. Section 83.56, F.S., recognizes two different categories of non-monetary default: noncurable default and curable default.

Regarding noncurable defaults, s. 83.56(2)(a), F.S., provides:

⁹ Section 83.50(2), F.S.

¹⁰ Section 83.51(1)(a), F.S.

¹¹ Section 83.51(1)(b), F.S.

¹² Section 83.51(2)(a), F.S.

¹³ Section 83.51(2)(b), F.S.

¹⁴ Section 83.54, F.S.

If such noncompliance is of a nature that the *tenant should not be given an opportunity to cure* it or if the noncompliance constitutes a subsequent or continuing noncompliance within 12 months of a written warning by the landlord of a similar violation, deliver a written notice to the tenant specifying the noncompliance and the landlord's intent to terminate the rental agreement by reason thereof. Examples of noncompliance which are of a nature that the tenant should not be given an opportunity to cure include, but are not limited to, destruction, damage, or misuse of the landlord's or other tenants' property by intentional act or a subsequent or continued unreasonable disturbance. In such event, the landlord may terminate the rental agreement, and the tenant shall have 7 days from the date that the notice is delivered to vacate the premises. (Emphasis supplied)¹⁵

Regarding curable default, s. 83.56(2)(b), F.S., provides:

If such noncompliance is of a nature that the *tenant should be given an opportunity to cure* it, deliver a written notice to the tenant specifying the noncompliance, including a notice that, if the noncompliance is not corrected within 7 days from the date the written notice is delivered, the landlord shall terminate the rental agreement by reason thereof. Examples of such noncompliance include, but are not limited to, activities in contravention of the lease or this act such as having or permitting unauthorized pets, guests, or vehicles; parking in an unauthorized manner or permitting such parking; or failing to keep the premises clean and sanitary.¹⁶

Termination of Rental Agreement - Waiver of Rent

If the tenant fails to pay rent when due and the default continues for 3 days, excluding Saturday, Sunday, and legal holidays, after delivery of written demand by the landlord for payment of rent or possession of the premises, the landlord may terminate the rental agreement.¹⁷

If the landlord accepts rent with actual knowledge of a noncompliance by the tenant or accepts performance by the tenant of any other provision of the rental agreement that is at variance with its provisions, the landlord waives his or her right to terminate the rental agreement or to bring a civil action for a specific noncompliance.¹⁸ The landlord does not waive his or her right to terminate the rental agreement or to bring a civil action for any subsequent or continuing noncompliance. If a landlord accepts a partial payment of rent from a tenant with full knowledge that the payment is not for the full amount, the landlord waives the right to terminate the rental agreement or to bring a civil action.¹⁹

Termination of a Tenancy with a Specific Duration

A rental agreement with a specific duration may contain a provision requiring the tenant to notify

¹⁵ Section 83.56(2)(a), F.S.

¹⁶ Section 83.56(2)(b), F.S.

¹⁷ Section 83.56(3), F.S.

¹⁸ Section 83.56(5), F.S.

¹⁹ See *In re Sorrento's I, Inc.*, 195 B.R. 502, 504 (Bankruptcy. M.D. Fla. 1996).

the landlord before vacating the premises at the end of the rental agreement.²⁰ Such a provision may not require more than 60 days' notice before vacating the premises.²¹ A rental agreement having a specific duration may also provide that if a tenant fails to give the required notice before vacating the premises at the end of the rental agreement, the tenant may be liable for liquidated damages as specified in the rental agreement. To do so, the landlord must provide written notice to the tenant specifying his or her obligations under the notification provision contained in the lease and the date the rental agreement is terminated. The landlord must provide the written notice within 15 days before the start of the notification period contained in the lease and the written notice must list all fees, penalties, and other charges applicable to the tenant.

Restoration of Possession to Landlord Upon Eviction

In an action for possession, if the judgment is entered in the landlord's favor, the clerk must issue a writ to the sheriff commanding him or her to put the landlord in possession after 24 hours' notice is conspicuously posted on the premises.²²

Retaliatory Conduct

Section 83.64, F.S., prohibits a landlord from discriminatorily increasing a tenant's rent or decrease services to a tenant, or to bring or threaten to bring an action for possession or other civil action, primarily because the landlord is retaliating against the tenant. The tenant may raise the defense of retaliatory conduct if the tenant acts in good faith.

Rental Units or Parcels in Condominiums, Cooperatives, and Homeowners' Associations

If a unit or parcel is occupied by a tenant and the unit or parcel owner is delinquent in paying any monetary obligation due to the association, the association may demand that the tenant pay to the association the subsequent rental payments and continue to make such payments until all monetary obligations of the unit owner related to the unit have been paid in full to the association.²³ The tenant must pay the monetary obligations to the association until the association releases the tenant or the tenant discontinues the tenancy in the unit or parcel.

III. Effect of Proposed Changes:

Applicability of the Florida Residential Landlord and Tenant Act

The bill amends s. 83.42(2), F.S., to make the Florida Residential Landlord Tenant Act applicable to lease purchase agreements for residential properties if the buyer has not paid at least one month's rent and paid a deposit of at least 5 percent of the purchase price of the property or at least 12 month's rent.

Attorney Fees

The bill amends s. 83.48, F.S., to provide that a right to attorney fees may not be waived in a lease agreement. In addition, the bill provides that attorney fees may not be awarded in a claim for personal injury damages based on a breach of the landlord's duty to maintain the premises. The limitation on the award of attorney fees in a personal injury action that is based on the

²⁰ Section 83.575(1), F.S.

²¹ *Id.*

²² Section 83.62, F.S.

²³ Sections 718.116(11)(a) and (b), 719.108(10)(a) and (b), and 720.3085(8)(a) and (b), F.S.

failure of a landlord to maintain the leased premises appears to codify the interpretation of s. 83.56, F.S., by the Third District Court of Appeal in *Gilbert v. Jabour*.²⁴

Advance Rent Payments/Nonrefundable Deposits

The bill amends s. 83.49(2), F.S., to eliminate the requirement for a landlord to give tenants a copy of the law relating to security deposits and replaces it with another disclosure which, in part, states:

Your lease requires payment of certain deposits. The landlord may transfer advance rents to the landlord's account as they are due and without notice. When you move out, you must give the landlord your new address so that the landlord can send you notices regarding your deposit. The landlord must mail you notice, within 30 days after you move out, of the landlord's intent to impose a claim against the deposit. If you do not reply to the landlord stating your objection to the claim within 15 days after receipt of the landlord's notice, the landlord will collect the claim and must mail you the remaining deposit, if any.

The notice also provides, in part:

If you timely object, the landlord must hold the deposit, and either you or the landlord will have to file a lawsuit so that the court can resolve the dispute.

The bill allows the landlord or the landlord's agent to withdraw advance rents from the deposit account without notice and as the rents become due to the landlord.

The bill creates an unnumbered section of the Florida Statutes to provide that changes to the required disclosure regarding security deposits in this bill are conditional for leases entered into on or before December 31, 2013. The landlord may elect to give the notice required under the current disclosure or the disclosure required under the bill. On or after January 1, 2014, the notice of the disclosure regarding security deposits as required by this bill will be required for all leases.

Transfer of Deposits to New Owner or Manager (Owner's Agent)

The bill amends s. 83.49(7), F.S., to provide a rebuttable presumption that the previous owner or manager of the property has transferred any deposit to the new owner. However, this presumption is limited to 1 month's rent.²⁵

Disclosure of Fire Protection

The bill eliminates a disclosure requirement in s. 83.50(2), F.S., for landlords regarding the availability or lack of availability of fire protection in certain new construction. Current law requires the landlord or the landlord's authorized representative, upon completion of construction of a building exceeding three stories in height and containing dwelling units, to disclose to the

²⁴ *Gilbert v. Jabour*, *supra* note 7.

²⁵ The amount could be at variance with the amount actually received from the previous owner or agent.

tenants initially moving into the building the availability or lack of availability of fire protection.²⁶

Maintenance of Screens on Windows

The bill amends s. 83.51(1)(b), F.S., to require that landlords, at the commencement of the tenancy, must ensure that screens are installed in a reasonable condition. The landlord must repair damage to the screens at least once annually, when necessary, until the termination of the rental agreement.

Enforcement of Rights and Duties under the Landlord and Tenant Act

Under current law, any right or duty declared in the Florida Residential Landlord and Tenant Act is enforceable by civil action.²⁷ The bill amends s. 53.54, F.S., to provide that a right or duty enforced by civil action under the Florida Residential Landlord and Tenant Act does not preclude prosecution for a criminal offense related to the lease or leased property.

Termination of Rental Agreement- Noncompliance

In the event a notice of noncompliance has been previously delivered to a tenant giving the tenant an opportunity to cure a curable lease violation, the bill amends s. 83.56(2)(b), F.S., to provide that upon re-occurrence of a violation within 12 months after the initial notice of the noncompliance, the landlord is not required to provide an additional notice before instituting an eviction action.

Termination of Rental Agreement- Rent Waiver

The bill amends s. 83.56(4), F.S., to provide that the right to the statutorily required notices before a landlord or tenant may terminate a lease may not be waived in the lease. The bill provides that a landlord does not waive the right to terminate a rental agreement or to bring a civil action for noncompliance by accepting partial rent.

The bill amends s. 83.56(5)(c), F.S., to revise the calculation of the time period within which a landlord with a tenant who receives rent subsidies waives the right to enforce a rental agreement if action is not timely instituted within 45 days of a noncompliance. Under the bill, a landlord must enforce the rental agreement within 45 days after obtaining actual knowledge of a noncompliance.

Termination of a Tenancy with a Specific Duration

The bill amends s. 83.575(1), F.S., to provide that, if a rental agreement has a requirement for a tenant to provide notice within a specified period to the landlord regarding nonrenewal, the rental agreement must also provide a reciprocal requirement for the landlord to notify the tenant within the same specified period of an intent not to renew. However, a rental agreement may not require more than 60 days' notice from either the tenant or the landlord.

Landlord's Action for Rent or Possession

The bill amends s. 83.60(1), F.S., to provide that, before an action for possession based on

²⁶ Section 83.50(2), F.S.

²⁷ Section 83.54, F.S.

nonpayment of rent or seeking recovery of unpaid rent may be dismissed by a court, the court may allow the landlord²⁸ an opportunity to cure a deficiency in a notice or pleadings.

The bill amends s. 83.60(2), F.S., to require a tenant in any action for possession of a dwelling unit by the landlord, if the tenant interposes any defense other than payment, including the defense of a defective 3-day notice, to pay the accrued rent under dispute into a court registry during the pendency of the proceeding.

Restoration of Possession to Landlord

The bill amends the requirement in s. 83.62(1), F.S., for the posting of an eviction notice on rental property at least 24 hours before a sheriff may restore possession of the property to the landlord. The bill revises procedures for the restoration of possession of a rental unit to a landlord to provide that weekends and legal holidays do not stay the 24-hour notice period.

Retaliatory Conduct

The bill amends s. 83.64, F.S., to specify the following two additional grounds for which a landlord may not retaliate against a tenant:

- The tenant has paid the rent to a condominium, cooperative, or homeowners' association after demand from the association.
- The tenant has exercised his or her rights under local, state, or federal fair housing laws.

Effective Date

The bill provides an effective date of July 1, 2013.

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.

²⁸ Under ss. 83.60, F.S., a tenant may raise various defenses in opposition to a landlord's action for possession or nonpayment of rent.

B. Private Sector Impact:

The bill may make evictions or actions for possession of a residential dwelling unit faster and less costly in some circumstances.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The amendment to s. 83.54, F.S., provides that “[a] right or duty enforced by civil action under *this section* does not preclude prosecution for a criminal offense relating to a lease or leased property.” (emphasis added). The reference to “this section” should be changed to “this part.”

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 Committee on April 9, 2013:

The Committee Substitute (CS) deletes the requirement in s. 83.56(2)(b), F.S., that the complaint in the eviction action must specify the date, time, place, and specific facts of the alleged subsequent non-compliance so as to allow the tenant to be aware of the allegations and to prepare a defense.

The CS does not amend s. 83.60(1), F.S., to provide the landlord an opportunity to correct a minor procedural deficiency in a notice or in the pleadings before the dismissal of an action based on nonpayment of rent. Instead, the CS amends this provision to provide that the court may allow the landlord an opportunity to cure a deficiency in a notice or pleadings before the dismissal of the action.

CS by Judiciary on April 1, 2013:

The committee substitute (CS) makes the following changes:

- Requires the landlord, at the beginning of the tenancy, to ensure that window screens are installed in a reasonable condition. The landlord must repair damage once annually until the termination of the rental agreement.
- Provides that the Landlord Tenant Act does not preclude prosecution for a criminal offense related to the lease or leased property.
- Requires an eviction complaint which is based on a reoccurring noncompliance with a lease to contain specific information so that the tenant is aware of the allegations and may prepare a defense.

- Authorizes a court to allow a landlord to correct a minor procedural deficiency in a notice or pleading in an action by the landlord for possession of a dwelling.

The CS deletes the provision in original bill that requires a court to give a mobile home owner the opportunity to cure deficiencies in a notice or pleading in an action by the mobile home owner for possession of a dwelling.

B. Amendments:

None.



884422

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (2) of section 83.42, Florida
Statutes, is amended to read:

83.42 Exclusions from application of part.—This part does
not apply to:

(2) Occupancy under a contract of sale of a dwelling unit
or the property of which it is a part in which the buyer has
paid at least 12 months' rent or in which the buyer has paid at
least 1 month's rent and a deposit of at least 5 percent of the



884422

13 purchase price of the property.

14 Section 2. Section 83.48, Florida Statutes, is amended to
15 read:

16 83.48 Attorney ~~Attorney's~~ fees.—In any civil action brought
17 to enforce the provisions of the rental agreement or this part,
18 the party in whose favor a judgment or decree has been rendered
19 may recover reasonable attorney fees and court costs, ~~including~~
20 ~~attorney's fees,~~ from the nonprevailing party. The right to
21 attorney fees in this section may not be waived in a lease
22 agreement. However, attorney fees may not be awarded under this
23 section in a claim for personal injury damages based on a breach
24 of duty under s. 83.51.

25 Section 3. Subsections (2), (3), and (7) of section 83.49,
26 Florida Statutes, are amended to read:

27 83.49 Deposit money or advance rent; duty of landlord and
28 tenant.—

29 (2) The landlord shall, in the lease agreement or within 30
30 days after ~~of~~ receipt of advance rent or a security deposit,
31 give written notice to notify the tenant which includes
32 disclosure of in writing of the manner in which the landlord is
33 ~~holding the advance rent or security deposit and the rate of~~
34 ~~interest, if any, which the tenant is to receive and the time of~~
35 ~~interest payments to the tenant. Such written notice shall:~~

36 ~~(a) Be given in person or by mail to the tenant.~~

37 ~~(b) State the name and address of the depository where the~~
38 ~~advance rent or security deposit is being held, whether the~~
39 ~~advance rent or security deposit is being held in a separate~~
40 ~~account for the benefit of the tenant or is commingled with~~
41 ~~other funds of the landlord, and, if commingled, whether such~~



884422

42 ~~funds are deposited in an interest bearing account in a Florida~~
43 ~~banking institution.~~

44 ~~(c) Include a copy of the provisions of subsection (3).~~
45 Subsequent to providing such written notice, if the landlord
46 changes the manner or location in which he or she is holding the
47 advance rent or security deposit, he or she must ~~shall~~ notify
48 the tenant within 30 days after ~~of~~ the change as provided in
49 paragraphs (a)-(d). The landlord is not required to give new or
50 additional notice solely because the depository has merged with
51 another financial institution, changed its name, or transferred
52 ownership to a different financial institution according to the
53 ~~provisions herein set forth.~~ This subsection does not apply to
54 any landlord who rents fewer than five individual dwelling
55 units. Failure to give ~~provide~~ this notice is ~~shall~~ not be a
56 defense to the payment of rent when due. The written notice
57 must:

58 (a) Be given in person or by mail to the tenant.

59 (b) State the name and address of the depository where the
60 advance rent or security deposit is being held or state that the
61 landlord has posted a surety bond as provided by law.

62 (c) State whether the tenant is entitled to interest on the
63 deposit.

64 (d) Contain the following disclosure:

65
66 YOUR LEASE REQUIRES PAYMENT OF CERTAIN DEPOSITS. THE
67 LANDLORD MAY TRANSFER ADVANCE RENTS TO THE LANDLORD'S
68 ACCOUNT AS THEY ARE DUE AND WITHOUT NOTICE. WHEN YOU
69 MOVE OUT, YOU MUST GIVE THE LANDLORD YOUR NEW ADDRESS
70 SO THAT THE LANDLORD CAN SEND YOU NOTICES REGARDING



884422

71 YOUR DEPOSIT. THE LANDLORD MUST MAIL YOU NOTICE,
72 WITHIN 30 DAYS AFTER YOU MOVE OUT, OF THE LANDLORD'S
73 INTENT TO IMPOSE A CLAIM AGAINST THE DEPOSIT. IF YOU
74 DO NOT REPLY TO THE LANDLORD STATING YOUR OBJECTION TO
75 THE CLAIM WITHIN 15 DAYS AFTER RECEIPT OF THE
76 LANDLORD'S NOTICE, THE LANDLORD WILL COLLECT THE CLAIM
77 AND MUST MAIL YOU THE REMAINING DEPOSIT, IF ANY.

78
79 IF THE LANDLORD FAILS TO TIMELY MAIL YOU NOTICE, THE
80 LANDLORD MUST RETURN THE DEPOSIT BUT MAY LATER FILE A
81 LAWSUIT AGAINST YOU FOR DAMAGES. IF YOU FAIL TO TIMELY
82 OBJECT TO A CLAIM, THE LANDLORD MAY COLLECT FROM THE
83 DEPOSIT, BUT YOU MAY LATER FILE A LAWSUIT CLAIMING A
84 REFUND.

85
86 YOU SHOULD ATTEMPT TO INFORMALLY RESOLVE ANY DISPUTE
87 BEFORE FILING A LAWSUIT. GENERALLY, THE PARTY IN WHOSE
88 FAVOR A JUDGMENT IS RENDERED WILL BE AWARDED COSTS AND
89 ATTORNEY FEES PAYABLE BY THE LOSING PARTY.

90
91 THIS DISCLOSURE IS BASIC. PLEASE REFER TO PART II OF
92 CHAPTER 83, FLORIDA STATUTES, TO DETERMINE YOUR LEGAL
93 RIGHTS AND OBLIGATIONS.

94
95 (3) The landlord or the landlord's agent may disburse
96 advance rents from the deposit account to the landlord's benefit
97 when the advance rental period commences and without notice to
98 the tenant. For all other deposits:

99 (a) Upon the vacating of the premises for termination of



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100 the lease, if the landlord does not intend to impose a claim on
101 the security deposit, the landlord shall have 15 days to return
102 the security deposit together with interest if otherwise
103 required, or the landlord shall have 30 days to give the tenant
104 written notice by certified mail to the tenant's last known
105 mailing address of his or her intention to impose a claim on the
106 deposit and the reason for imposing the claim. The notice shall
107 contain a statement in substantially the following form:

108
109 This is a notice of my intention to impose a claim for
110 damages in the amount of upon your security deposit, due to
111 It is sent to you as required by s. 83.49(3), Florida
112 Statutes. You are hereby notified that you must object in
113 writing to this deduction from your security deposit within 15
114 days from the time you receive this notice or I will be
115 authorized to deduct my claim from your security deposit. Your
116 objection must be sent to ...(landlord's address).....

117
118 If the landlord fails to give the required notice within the 30-
119 day period, he or she forfeits the right to impose a claim upon
120 the security deposit and may not seek a setoff against the
121 deposit but may file an action for damages after return of the
122 deposit.

123 (b) Unless the tenant objects to the imposition of the
124 landlord's claim or the amount thereof within 15 days after
125 receipt of the landlord's notice of intention to impose a claim,
126 the landlord may then deduct the amount of his or her claim and
127 shall remit the balance of the deposit to the tenant within 30
128 days after the date of the notice of intention to impose a claim



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129 for damages. The failure of the tenant to make a timely
130 objection does not waive any rights of the tenant to seek
131 damages in a separate action.

132 (c) If either party institutes an action in a court of
133 competent jurisdiction to adjudicate the party's right to the
134 security deposit, the prevailing party is entitled to receive
135 his or her court costs plus a reasonable fee for his or her
136 attorney. The court shall advance the cause on the calendar.

137 (d) Compliance with this section by an individual or
138 business entity authorized to conduct business in this state,
139 including Florida-licensed real estate brokers and sales
140 associates, constitutes ~~shall constitute~~ compliance with all
141 other relevant Florida Statutes pertaining to security deposits
142 held pursuant to a rental agreement or other landlord-tenant
143 relationship. Enforcement personnel shall look solely to this
144 section to determine compliance. This section prevails over any
145 conflicting provisions in chapter 475 and in other sections of
146 the Florida Statutes, and shall operate to permit licensed real
147 estate brokers to disburse security deposits and deposit money
148 without having to comply with the notice and settlement
149 procedures contained in s. 475.25(1)(d).

150 (7) Upon the sale or transfer of title of the rental
151 property from one owner to another, or upon a change in the
152 designated rental agent, any and all security deposits or
153 advance rents being held for the benefit of the tenants shall be
154 transferred to the new owner or agent, together with any earned
155 interest and with an accurate accounting showing the amounts to
156 be credited to each tenant account. Upon the transfer of such
157 funds and records to the new owner or agent ~~as stated herein,~~



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158 and upon transmittal of a written receipt therefor, the
159 transferor is ~~shall be~~ free from the obligation imposed in
160 subsection (1) to hold such moneys on behalf of the tenant.
161 There is a rebuttable presumption that any new owner or agent
162 received the security deposit from the previous owner or agent;
163 however, this presumption is limited to 1 month's rent. This
164 subsection does not ~~However, nothing herein shall~~ excuse the
165 landlord or agent for a violation of other ~~the~~ provisions of
166 this section while in possession of such deposits.

167 Section 4. The Legislature recognizes that landlords may
168 have stocks of preprinted lease forms that comply with the
169 notice requirements of current law. Accordingly, for leases
170 entered into on or before December 31, 2013, a landlord may give
171 notice that contains the disclosure required in the changes made
172 by this act to s. 83.49, Florida Statutes, or the former notice
173 required in s. 83.49, Florida Statutes 2012. In any event, the
174 disclosure required by this act is only required for all leases
175 entered into under this part on or after January 1, 2014.

176 Section 5. Section 83.50, Florida Statutes, is amended to
177 read:

178 83.50 Disclosure of landlord's address.—

179 ~~(1)~~ In addition to any other disclosure required by law,
180 the landlord, or a person authorized to enter into a rental
181 agreement on the landlord's behalf, shall disclose in writing to
182 the tenant, at or before the commencement of the tenancy, the
183 name and address of the landlord or a person authorized to
184 receive notices and demands in the landlord's behalf. The person
185 so authorized to receive notices and demands retains authority
186 until the tenant is notified otherwise. All notices of such



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187 names and addresses or changes thereto shall be delivered to the
188 tenant's residence or, if specified in writing by the tenant, to
189 any other address.

190 ~~(2) The landlord or the landlord's authorized~~
191 ~~representative, upon completion of construction of a building~~
192 ~~exceeding three stories in height and containing dwelling units,~~
193 ~~shall disclose to the tenants initially moving into the building~~
194 ~~the availability or lack of availability of fire protection.~~

195 Section 6. Subsection (1) and paragraph (a) of subsection
196 (2) of section 83.51, Florida Statutes, are amended to read:

197 83.51 Landlord's obligation to maintain premises.-

198 (1) The landlord at all times during the tenancy shall:

199 (a) Comply with the requirements of applicable building,
200 housing, and health codes; or

201 (b) Where there are no applicable building, housing, or
202 health codes, maintain the roofs, windows, ~~screens,~~ doors,
203 floors, steps, porches, exterior walls, foundations, and all
204 other structural components in good repair and capable of
205 resisting normal forces and loads and the plumbing in reasonable
206 working condition. The landlord, at commencement of the tenancy,
207 must ensure that screens are installed in a reasonable
208 condition. Thereafter, the landlord must repair damage to
209 screens once annually, when necessary, until termination of the
210 rental agreement. However,

211
212 The landlord is ~~shall~~ not be required to maintain a mobile home
213 or other structure owned by the tenant. The landlord's
214 obligations under this subsection may be altered or modified in
215 writing with respect to a single-family home or duplex.



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216 (2) (a) Unless otherwise agreed in writing, in addition to
217 the requirements of subsection (1), the landlord of a dwelling
218 unit other than a single-family home or duplex shall, at all
219 times during the tenancy, make reasonable provisions for:

220 1. The extermination of rats, mice, roaches, ants, wood-
221 destroying organisms, and bedbugs. When vacation of the premises
222 is required for such extermination, the landlord is shall not be
223 liable for damages but shall abate the rent. The tenant must
224 ~~shall be required to~~ temporarily vacate the premises for a
225 period of time not to exceed 4 days, on 7 days' written notice,
226 if necessary, for extermination pursuant to this subparagraph.

227 2. Locks and keys.

228 3. The clean and safe condition of common areas.

229 4. Garbage removal and outside receptacles therefor.

230 5. Functioning facilities for heat during winter, running
231 water, and hot water.

232 Section 7. Section 83.54, Florida Statutes, is amended to
233 read:

234 83.54 Enforcement of rights and duties; civil action;
235 criminal offenses.—Any right or duty declared in this part is
236 enforceable by civil action. A right or duty enforced by civil
237 action under this section does not preclude prosecution for a
238 criminal offense related to the lease or leased property.

239 Section 8. Subsections (2) through (5) of section 83.56,
240 Florida Statutes, are amended to read:

241 83.56 Termination of rental agreement.—

242 (2) If the tenant materially fails to comply with s. 83.52
243 or material provisions of the rental agreement, other than a
244 failure to pay rent, or reasonable rules or regulations, the



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245 landlord may:

246 (a) If such noncompliance is of a nature that the tenant
247 should not be given an opportunity to cure it or if the
248 noncompliance constitutes a subsequent or continuing
249 noncompliance within 12 months of a written warning by the
250 landlord of a similar violation, deliver a written notice to the
251 tenant specifying the noncompliance and the landlord's intent to
252 terminate the rental agreement by reason thereof. Examples of
253 noncompliance which are of a nature that the tenant should not
254 be given an opportunity to cure include, but are not limited to,
255 destruction, damage, or misuse of the landlord's or other
256 tenants' property by intentional act or a subsequent or
257 continued unreasonable disturbance. In such event, the landlord
258 may terminate the rental agreement, and the tenant shall have 7
259 days from the date that the notice is delivered to vacate the
260 premises. The notice shall be ~~adequate if it is~~ in substantially
261 the following form:

262
263 You are advised that your lease is terminated effective
264 immediately. You shall have 7 days from the delivery of this
265 letter to vacate the premises. This action is taken because
266 ...(cite the noncompliance)....

267
268 (b) If such noncompliance is of a nature that the tenant
269 should be given an opportunity to cure it, deliver a written
270 notice to the tenant specifying the noncompliance, including a
271 notice that, if the noncompliance is not corrected within 7 days
272 from the date that the written notice is delivered, the landlord
273 shall terminate the rental agreement by reason thereof. Examples



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274 of such noncompliance include, but are not limited to,
275 activities in contravention of the lease or this part ~~act~~ such
276 as having or permitting unauthorized pets, guests, or vehicles;
277 parking in an unauthorized manner or permitting such parking; or
278 failing to keep the premises clean and sanitary. If such
279 noncompliance recurs within 12 months after notice, an eviction
280 action may commence without delivering a subsequent notice
281 pursuant to paragraph (a) or this paragraph. The notice shall be
282 ~~adequate if it is~~ in substantially the following form:
283

284 You are hereby notified that ...(cite the
285 noncompliance).... Demand is hereby made that you remedy the
286 noncompliance within 7 days of receipt of this notice or your
287 lease shall be deemed terminated and you shall vacate the
288 premises upon such termination. If this same conduct or conduct
289 of a similar nature is repeated within 12 months, your tenancy
290 is subject to termination without further warning and without
291 your being given an opportunity to cure the noncompliance.

292 (3) If the tenant fails to pay rent when due and the
293 default continues for 3 days, excluding Saturday, Sunday, and
294 legal holidays, after delivery of written demand by the landlord
295 for payment of the rent or possession of the premises, the
296 landlord may terminate the rental agreement. Legal holidays for
297 the purpose of this section shall be court-observed holidays
298 only. The 3-day notice shall contain a statement in
299 substantially the following form:
300

301 You are hereby notified that you are indebted to me in the
302 sum of dollars for the rent and use of the premises



303 ... (address of leased premises, including county) ..., Florida,
304 now occupied by you and that I demand payment of the rent or
305 possession of the premises within 3 days (excluding Saturday,
306 Sunday, and legal holidays) from the date of delivery of this
307 notice, to wit: on or before the day of, ... (year)....
308 ... (landlord's name, address and phone number)...

310 (4) The delivery of the written notices required by
311 subsections (1), (2), and (3) shall be by mailing or delivery of
312 a true copy thereof or, if the tenant is absent from the
313 premises, by leaving a copy thereof at the residence. The notice
314 requirements of subsections (1), (2), and (3) may not be waived
315 in the lease.

316 (5) (a) If the landlord accepts rent with actual knowledge
317 of a noncompliance by the tenant or accepts performance by the
318 tenant of any other provision of the rental agreement that is at
319 variance with its provisions, or if the tenant pays rent with
320 actual knowledge of a noncompliance by the landlord or accepts
321 performance by the landlord of any other provision of the rental
322 agreement that is at variance with its provisions, the landlord
323 or tenant waives his or her right to terminate the rental
324 agreement or to bring a civil action for that noncompliance, but
325 not for any subsequent or continuing noncompliance. However, a
326 landlord does not waive the right to terminate the rental
327 agreement or to bring a civil action for that noncompliance by
328 accepting partial rent for the period.

329 (b) Any tenant who wishes to defend against an action by
330 the landlord for possession of the unit for noncompliance of the
331 rental agreement or of relevant statutes must ~~shall~~ comply with



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332 ~~the provisions in~~ s. 83.60(2). The court may not set a date for
333 mediation or trial unless the provisions of s. 83.60(2) have
334 been met, but must ~~shall~~ enter a default judgment for removal of
335 the tenant with a writ of possession to issue immediately if the
336 tenant fails to comply with s. 83.60(2).

337 (c) This subsection does not apply to that portion of rent
338 subsidies received from a local, state, or national government
339 or an agency of local, state, or national government; however,
340 waiver will occur if an action has not been instituted within 45
341 days after the landlord obtains actual knowledge of the
342 noncompliance.

343 Section 9. Subsection (1) of section 83.575, Florida
344 Statutes, is amended to read:

345 83.575 Termination of tenancy with specific duration.—

346 (1) A rental agreement with a specific duration may contain
347 a provision requiring the tenant to notify the landlord within a
348 specified period before vacating the premises at the end of the
349 rental agreement, if such provision requires the landlord to
350 notify the tenant within such notice period if the rental
351 agreement will not be renewed; however, a rental agreement may
352 not require more than 60 days' notice from either the tenant or
353 the landlord ~~before vacating the premises~~.

354 Section 10. Section 83.58, Florida Statutes, is amended to
355 read:

356 83.58 Remedies; tenant holding over.—If the tenant holds
357 over and continues in possession of the dwelling unit or any
358 part thereof after the expiration of the rental agreement
359 without the permission of the landlord, the landlord may recover
360 possession of the dwelling unit in the manner provided for in s.



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361 83.59 ~~{F.S. 1973}~~. The landlord may also recover double the
362 amount of rent due on the dwelling unit, or any part thereof,
363 for the period during which the tenant refuses to surrender
364 possession.

365 Section 11. Subsection (2) of section 83.59, Florida
366 Statutes, is amended to read:

367 83.59 Right of action for possession.—

368 (2) A landlord, the landlord's attorney, or the landlord's
369 agent, applying for the removal of a tenant, shall file in the
370 county court of the county where the premises are situated a
371 complaint describing the dwelling unit and stating the facts
372 that authorize its recovery. A landlord's agent is not permitted
373 to take any action other than the initial filing of the
374 complaint, unless the landlord's agent is an attorney. The
375 landlord is entitled to the summary procedure provided in s.
376 51.011 ~~{F.S. 1971}~~, and the court shall advance the cause on the
377 calendar.

378 Section 12. Section 83.60, Florida Statutes, is amended to
379 read:

380 83.60 Defenses to action for rent or possession;
381 procedure.—

382 (1) (a) In an action by the landlord for possession of a
383 dwelling unit based upon nonpayment of rent or in an action by
384 the landlord under s. 83.55 seeking to recover unpaid rent, the
385 tenant may defend upon the ground of a material noncompliance
386 with s. 83.51(1) ~~{F.S. 1973}~~, or may raise any other defense,
387 whether legal or equitable, that he or she may have, including
388 the defense of retaliatory conduct in accordance with s. 83.64.
389 The landlord must be given an opportunity to cure a deficiency



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390 in a notice or in the pleadings before dismissal of the action.

391 **(b)** The defense of a material noncompliance with s.
392 83.51(1) ~~{F.S. 1973}~~ may be raised by the tenant if 7 days have
393 elapsed after the delivery of written notice by the tenant to
394 the landlord, specifying the noncompliance and indicating the
395 intention of the tenant not to pay rent by reason thereof. Such
396 notice by the tenant may be given to the landlord, the
397 landlord's representative as designated pursuant to s. 83.50~~(1)~~,
398 a resident manager, or the person or entity who collects the
399 rent on behalf of the landlord. A material noncompliance with s.
400 83.51(1) ~~{F.S. 1973}~~ by the landlord is a complete defense to an
401 action for possession based upon nonpayment of rent, and, upon
402 hearing, the court or the jury, as the case may be, shall
403 determine the amount, if any, by which the rent is to be reduced
404 to reflect the diminution in value of the dwelling unit during
405 the period of noncompliance with s. 83.51(1) ~~{F.S. 1973}~~. After
406 consideration of all other relevant issues, the court shall
407 enter appropriate judgment.

408 (2) In an action by the landlord for possession of a
409 dwelling unit, if the tenant interposes any defense other than
410 payment, including, but not limited to, the defense of a
411 defective 3-day notice, the tenant shall pay into the registry
412 of the court the accrued rent as alleged in the complaint or as
413 determined by the court and the rent that ~~which~~ accrues during
414 the pendency of the proceeding, when due. The clerk shall notify
415 the tenant of such requirement in the summons. Failure of the
416 tenant to pay the rent into the registry of the court or to file
417 a motion to determine the amount of rent to be paid into the
418 registry within 5 days, excluding Saturdays, Sundays, and legal



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419 holidays, after the date of service of process constitutes an
420 absolute waiver of the tenant's defenses other than payment, and
421 the landlord is entitled to an immediate default judgment for
422 removal of the tenant with a writ of possession to issue without
423 further notice or hearing thereon. If ~~In the event~~ a motion to
424 determine rent is filed, documentation in support of the
425 allegation that the rent as alleged in the complaint is in error
426 is required. Public housing tenants or tenants receiving rent
427 subsidies are ~~shall be~~ required to deposit only that portion of
428 the full rent for which they are ~~the tenant is~~ responsible
429 pursuant to the federal, state, or local program in which they
430 are participating.

431 Section 13. Subsection (1) of section 83.62, Florida
432 Statutes, is amended to read:

433 83.62 Restoration of possession to landlord.—

434 (1) In an action for possession, after entry of judgment in
435 favor of the landlord, the clerk shall issue a writ to the
436 sheriff describing the premises and commanding the sheriff to
437 put the landlord in possession after 24 hours' notice
438 conspicuously posted on the premises. Saturdays, Sundays, and
439 legal holidays do not stay the 24-hour notice period.

440 Section 14. Section 83.63, Florida Statutes, is amended to
441 read:

442 83.63 Casualty damage.—If the premises are damaged or
443 destroyed other than by the wrongful or negligent acts of the
444 tenant so that the enjoyment of the premises is substantially
445 impaired, the tenant may terminate the rental agreement and
446 immediately vacate the premises. The tenant may vacate the part
447 of the premises rendered unusable by the casualty, in which case



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448 the tenant's liability for rent shall be reduced by the fair
449 rental value of that part of the premises damaged or destroyed.
450 If the rental agreement is terminated, the landlord shall comply
451 with s. 83.49(3) ~~{F.S. 1973}~~.

452 Section 15. Subsection (1) of section 83.64, Florida
453 Statutes, is amended to read:

454 83.64 Retaliatory conduct.—

455 (1) It is unlawful for a landlord to discriminatorily
456 increase a tenant's rent or decrease services to a tenant, or to
457 bring or threaten to bring an action for possession or other
458 civil action, primarily because the landlord is retaliating
459 against the tenant. In order for the tenant to raise the defense
460 of retaliatory conduct, the tenant must have acted in good
461 faith. Examples of conduct for which the landlord may not
462 retaliate include, but are not limited to, situations where:

463 (a) The tenant has complained to a governmental agency
464 charged with responsibility for enforcement of a building,
465 housing, or health code of a suspected violation applicable to
466 the premises;

467 (b) The tenant has organized, encouraged, or participated
468 in a tenants' organization;

469 (c) The tenant has complained to the landlord pursuant to
470 s. 83.56(1); ~~or~~

471 (d) The tenant is a servicemember who has terminated a
472 rental agreement pursuant to s. 83.682;

473 (e) The tenant has paid rent to a condominium, cooperative,
474 or homeowners' association after demand from the association in
475 order to pay the landlord's obligation to the association; or

476 (f) The tenant has exercised his or her rights under local,



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477 state, or federal fair housing laws.

478 Section 16. This act shall take effect July 1, 2013.

479
480 ===== T I T L E A M E N D M E N T =====

481 And the title is amended as follows:

482 Delete everything before the enacting clause
483 and insert:

484 A bill to be entitled
485 An act relating to landlords and tenants; amending s.
486 83.42, F.S.; revising exclusions from applicability of
487 the Florida Residential Landlord and Tenant Act;
488 amending s. 83.48, F.S.; providing that the right to
489 attorney fees may not be waived in a lease agreement;
490 providing that attorney fees may not be awarded in a
491 claim for personal injury damages based on a breach of
492 duty of premises maintenance; amending s. 83.49, F.S.;
493 revising and providing landlord disclosure
494 requirements with respect to security deposits and
495 advance rent; providing requirements for the
496 disbursement of advance rents; providing a limited
497 rebuttable presumption of receipt of security
498 deposits; providing for applicability of changes made
499 by the act to certain disclosure requirements;
500 amending s. 83.50, F.S.; removing certain landlord
501 disclosure requirements relating to fire protection;
502 amending s. 83.51, F.S.; revising a landlord's
503 obligation to maintain a premises with respect to
504 screens; amending s. 83.54, F.S.; providing that
505 enforcement of a right or duty under the Florida



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506 Residential Landlord and Tenant Act by civil action
507 does not preclude prosecution of a criminal offense;
508 amending s. 83.56, F.S.; revising procedures for the
509 termination of a rental agreement by a landlord;
510 revising notice procedures; providing that a landlord
511 does not waive the right to terminate the rental
512 agreement or to bring a civil action for noncompliance
513 by accepting partial rent, subject to certain notice;
514 providing that the period to institute an action
515 before an exemption involving rent subsidies is waived
516 begins upon actual knowledge; amending s. 83.575,
517 F.S.; revising requirements for the termination of a
518 tenancy having a specific duration to provide for
519 reciprocal notice provisions in rental agreements;
520 amending ss. 83.58 and 83.59, F.S.; conforming cross-
521 references; amending s. 83.60, F.S.; providing that a
522 landlord must be given an opportunity to cure a
523 deficiency in any notice or pleadings before dismissal
524 of an eviction action; making technical changes;
525 amending s. 83.62, F.S.; revising procedures for the
526 restoration of possession to a landlord to provide
527 that weekends and holidays do not stay the applicable
528 notice period; amending s. 83.63, F.S.; conforming a
529 cross-reference; amending s. 83.64, F.S.; providing
530 examples of conduct for which the landlord may not
531 retaliate; providing an effective date.



953078

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/11/2013	.	
	.	
	.	
	.	

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

Senate Amendment to Amendment (884422)

Delete line 328
and insert:
accepting partial rent for the rental period if the nature of the noncompliance is nonpayment of rent, the landlord gives the tenant a written receipt of payment, and the complaint in the eviction action acknowledges the partial payment by the tenant.



497380

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/11/2013	.	
	.	
	.	
	.	

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

1 **Senate Amendment to Amendment (884422) (with title**
2 **amendment)**

3
4 Delete lines 343 - 353

5 and insert:

6 Section 9. Section 83.57, Florida Statutes, is amended to
7 read:

8 83.57 Termination of tenancy without specific duration
9 ~~term~~.—A tenancy without a specific duration, as defined in s.
10 83.46(2) or (3), may be terminated by either party giving
11 written notice in the manner provided in s. 83.56(4), as
12 follows:



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13 (1) When the tenancy is from year to year, by giving not
14 less than 60 days' notice prior to the end of any annual
15 period.~~†~~

16 (2) When the tenancy is from quarter to quarter, by giving
17 not less than 30 days' notice prior to the end of any quarterly
18 period.~~†~~

19 (3) When the tenancy is from month to month, by giving not
20 less than 30 ~~15~~ days' notice prior to the end of any monthly
21 period. However, if the tenancy is subject to tenant-based
22 rental assistance pursuant to s. 8 of the United States Housing
23 Act of 1937, 42 U.S.C. s. 1437f(o), as amended, the tenancy may
24 be terminated by giving not less than 60 days' notice prior to
25 the end of any monthly period.~~†~~ ~~and~~

26 (4) When the tenancy is from week to week, by giving not
27 less than 7 days' notice prior to the end of any weekly period.

28 Section 10. Section 83.575, Florida Statutes, is amended to
29 read:

30 83.575 Termination of tenancy with specific duration.—

31 (1) A rental agreement with a specific duration may contain
32 a provision requiring the tenant to notify the landlord before
33 vacating the premises at the end of the rental agreement and
34 requiring the landlord to notify the tenant in writing if the
35 rental agreement will not be renewed; however, a rental
36 agreement may not require more than 60 days' notice from the
37 tenant or the landlord ~~before vacating the premises.~~

38 (2) A rental agreement with a specific duration may provide
39 that if a tenant fails to give the landlord the required notice
40 before vacating the premises at the end of the rental agreement,
41 the tenant may be liable for liquidated damages as specified in



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42 the rental agreement if the landlord provides written notice to
43 the tenant specifying the tenant's obligations under the
44 notification provision contained in the lease and the date the
45 rental agreement is terminated. The landlord must provide such
46 written notice to the tenant within 15 days before the start of
47 the notification period contained in the lease. The written
48 notice shall list all fees, penalties, and other charges
49 applicable to the tenant under this subsection. The rental
50 agreement must provide a reciprocal requirement that if the
51 landlord fails to give the tenant the required notice that the
52 rental agreement will not be renewed, the rental agreement will
53 not terminate and the tenant will be entitled to continue
54 occupying the premises until the landlord gives the tenant the
55 required written notice of nonrenewal of the rental agreement
56 and the agreement expires.

57 ~~(3) If the tenant remains on the premises with the~~
58 ~~permission of the landlord after the rental agreement has~~
59 ~~terminated and fails to give notice required under s. 83.57(3),~~
60 ~~the tenant is liable to the landlord for an additional 1 month's~~
61 ~~rent.~~

62
63
64 ===== T I T L E A M E N D M E N T =====

65 And the title is amended as follows:

66 Delete lines 516 - 519

67 and insert:

68 begins upon actual knowledge; amending s. 83.57, F.S.;

69 revising notice of termination requirements for

70 certain tenancies without a specific duration;



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71 amending s. 83.575, F.S.; revising notice of
72 termination requirements for certain tenancies with a
73 specific duration; providing rental agreement
74 requirements; deleting a provision relating to the
75 liability of certain tenants;

By the Committee on Judiciary; and Senator Stargel

590-03330-13

2013490c1

1 A bill to be entitled
 2 An act relating to landlords and tenants; amending s.
 3 83.42, F.S.; revising exclusions from applicability of
 4 the Florida Residential Landlord and Tenant Act;
 5 amending s. 83.48, F.S.; providing that the right to
 6 attorney fees may not be waived in a lease agreement;
 7 providing that attorney fees may not be awarded in a
 8 claim for personal injury damages based on a breach of
 9 duty of premises maintenance; amending s. 83.49, F.S.;
 10 revising and providing landlord disclosure
 11 requirements with respect to security deposits and
 12 advance rent; providing requirements for the
 13 disbursement of advance rents; providing a limited
 14 rebuttable presumption of receipt of security
 15 deposits; providing for applicability of changes made
 16 by the act to certain disclosure requirements;
 17 amending s. 83.50, F.S.; removing certain landlord
 18 disclosure requirements relating to fire protection;
 19 amending s. 83.51, F.S.; revising a landlord's
 20 obligation to maintain a premises with respect to
 21 screens; amending s. 83.54, F.S.; providing that
 22 enforcement of a right or duty under the Florida
 23 Residential Landlord and Tenant Act by civil action
 24 does not preclude prosecution of a criminal offense;
 25 amending s. 83.56, F.S.; revising procedures for the
 26 termination of a rental agreement by a landlord;
 27 revising notice procedures; providing that a landlord
 28 does not waive the right to terminate the rental
 29 agreement or to bring a civil action for noncompliance

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30 by accepting partial rent, subject to certain notice;
 31 providing that the period to institute an action
 32 before an exemption involving rent subsidies is waived
 33 begins upon actual knowledge; amending s. 83.575,
 34 F.S.; revising requirements for the termination of a
 35 tenancy having a specific duration to provide for
 36 reciprocal notice provisions in rental agreements;
 37 amending ss. 83.58 and 83.59, F.S.; conforming cross-
 38 references; amending s. 83.60, F.S.; providing that a
 39 court may allow the landlord the opportunity to
 40 correct a deficiency in any notice or pleadings before
 41 dismissal of an eviction action; making technical
 42 changes; amending s. 83.62, F.S.; revising procedures
 43 for the restoration of possession to a landlord to
 44 provide that weekends and holidays do not stay the
 45 applicable notice period; amending s. 83.63, F.S.;
 46 conforming a cross-reference; amending s. 83.64, F.S.;
 47 providing examples of conduct for which the landlord
 48 may not retaliate; providing an effective date.
 49

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

51
 52 Section 1. Subsection (2) of section 83.42, Florida
 53 Statutes, is amended to read:

54 83.42 Exclusions from application of part.—This part does
 55 not apply to:

56 (2) Occupancy under a contract of sale of a dwelling unit
 57 or the property of which it is a part in which the buyer has
 58 paid at least 12 months' rent or in which the buyer has paid at

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59 least 1 month's rent and a deposit of at least 5 percent of the
 60 purchase price of the property.

61 Section 2. Section 83.48, Florida Statutes, is amended to
 62 read:

63 83.48 Attorney ~~Attorney's~~ fees.—In any civil action brought
 64 to enforce the provisions of the rental agreement or this part,
 65 the party in whose favor a judgment or decree has been rendered
 66 may recover reasonable attorney fees and court costs, ~~including~~
 67 ~~attorney's fees,~~ from the nonprevailing party. The right to
 68 attorney fees in this section may not be waived in a lease
 69 agreement. However, attorney fees may not be awarded under this
 70 section in a claim for personal injury damages based on a breach
 71 of duty under s. 83.51.

72 Section 3. Subsections (2), (3), and (7) of section 83.49,
 73 Florida Statutes, are amended to read:

74 83.49 Deposit money or advance rent; duty of landlord and
 75 tenant.—

76 (2) The landlord shall, in the lease agreement or within 30
 77 days ~~after~~ of receipt of advance rent or a security deposit,
 78 give written notice to ~~notify~~ the tenant which includes
 79 disclosure of in writing of the manner in which the landlord is
 80 holding the advance rent or security deposit and the rate of
 81 interest, if any, which the tenant is to receive and the time of
 82 interest payments to the tenant. Such written notice shall:

83 ~~(a) Be given in person or by mail to the tenant.~~

84 ~~(b) State the name and address of the depository where the~~
 85 ~~advance rent or security deposit is being held, whether the~~
 86 ~~advance rent or security deposit is being held in a separate~~
 87 ~~account for the benefit of the tenant or is commingled with~~

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88 ~~other funds of the landlord, and, if commingled, whether such~~
 89 ~~funds are deposited in an interest bearing account in a Florida~~
 90 ~~banking institution.~~

91 ~~(c) Include a copy of the provisions of subsection (3).~~

92 Subsequent to providing such written notice, if the landlord
 93 changes the manner or location in which he or she is holding the
 94 advance rent or security deposit, he or she must ~~shall~~ notify
 95 the tenant within 30 days after ~~of~~ the change as provided in
 96 paragraphs (a)-(d). The landlord is not required to give new or
 97 additional notice solely because the depository has merged with
 98 another financial institution, changed its name, or transferred
 99 ownership to a different financial institution ~~according to the~~
 100 ~~provisions herein set forth.~~ This subsection does not apply to
 101 any landlord who rents fewer than five individual dwelling
 102 units. Failure to give ~~provide~~ this notice is ~~shall~~ not ~~be~~ a
 103 defense to the payment of rent when due. The written notice
 104 must:

105 (a) Be given in person or by mail to the tenant.

106 (b) State the name and address of the depository where the
 107 advance rent or security deposit is being held or state that the
 108 landlord has posted a surety bond as provided by law.

109 (c) State whether the tenant is entitled to interest on the
 110 deposit.

111 (d) Contain the following disclosure:

112
 113 YOUR LEASE REQUIRES PAYMENT OF CERTAIN DEPOSITS. THE
 114 LANDLORD MAY TRANSFER ADVANCE RENTS TO THE LANDLORD'S ACCOUNT AS
 115 THEY ARE DUE AND WITHOUT NOTICE. WHEN YOU MOVE OUT, YOU MUST
 116 GIVE THE LANDLORD YOUR NEW ADDRESS SO THAT THE LANDLORD CAN SEND

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117 YOU NOTICES REGARDING YOUR DEPOSIT. THE LANDLORD MUST MAIL YOU
 118 NOTICE, WITHIN 30 DAYS AFTER YOU MOVE OUT, OF THE LANDLORD'S
 119 INTENT TO IMPOSE A CLAIM AGAINST THE DEPOSIT. IF YOU DO NOT
 120 REPLY TO THE LANDLORD STATING YOUR OBJECTION TO THE CLAIM WITHIN
 121 15 DAYS AFTER RECEIPT OF THE LANDLORD'S NOTICE, THE LANDLORD
 122 WILL COLLECT THE CLAIM AND MUST MAIL YOU THE REMAINING DEPOSIT,
 123 IF ANY.

124
 125 IF THE LANDLORD FAILS TO TIMELY MAIL YOU NOTICE, THE
 126 LANDLORD MUST RETURN THE DEPOSIT BUT MAY LATER FILE A LAWSUIT
 127 AGAINST YOU FOR DAMAGES. IF YOU FAIL TO TIMELY OBJECT TO A
 128 CLAIM, THE LANDLORD MAY COLLECT FROM THE DEPOSIT, BUT YOU MAY
 129 LATER FILE A LAWSUIT CLAIMING A REFUND.

130
 131 YOU SHOULD ATTEMPT TO INFORMALLY RESOLVE ANY DISPUTE BEFORE
 132 FILING A LAWSUIT. GENERALLY, THE PARTY IN WHOSE FAVOR A JUDGMENT
 133 IS RENDERED WILL BE AWARDED COSTS AND ATTORNEY FEES PAYABLE BY
 134 THE LOSING PARTY.

135
 136 THIS DISCLOSURE IS BASIC. PLEASE REFER TO PART II OF
 137 CHAPTER 83, FLORIDA STATUTES, TO DETERMINE YOUR LEGAL RIGHTS AND
 138 OBLIGATIONS.

139
 140 (3) The landlord or the landlord's agent may disburse
 141 advance rents from the deposit account to the landlord's benefit
 142 when the advance rental period commences and without notice to
 143 the tenant. For all other deposits:

144 (a) Upon the vacating of the premises for termination of
 145 the lease, if the landlord does not intend to impose a claim on

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146 the security deposit, the landlord shall have 15 days to return
 147 the security deposit together with interest if otherwise
 148 required, or the landlord shall have 30 days to give the tenant
 149 written notice by certified mail to the tenant's last known
 150 mailing address of his or her intention to impose a claim on the
 151 deposit and the reason for imposing the claim. The notice shall
 152 contain a statement in substantially the following form:

153
 154 This is a notice of my intention to impose a claim for
 155 damages in the amount of ...upon your security deposit, due to
 156 It is sent to you as required by s. 83.49(3), Florida
 157 Statutes. You are hereby notified that you must object in
 158 writing to this deduction from your security deposit within 15
 159 days from the time you receive this notice or I will be
 160 authorized to deduct my claim from your security deposit. Your
 161 objection must be sent to ...(landlord's address)....

162
 163 If the landlord fails to give the required notice within
 164 the 30-day period, he or she forfeits the right to impose a
 165 claim upon the security deposit and may not seek a setoff
 166 against the deposit but may file an action for damages after
 167 return of the deposit.

168 (b) Unless the tenant objects to the imposition of the
 169 landlord's claim or the amount thereof within 15 days after
 170 receipt of the landlord's notice of intention to impose a claim,
 171 the landlord may then deduct the amount of his or her claim and
 172 shall remit the balance of the deposit to the tenant within 30
 173 days after the date of the notice of intention to impose a claim
 174 for damages. The failure of the tenant to make a timely

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175 objection does not waive any rights of the tenant to seek
 176 damages in a separate action.

177 (c) If either party institutes an action in a court of
 178 competent jurisdiction to adjudicate the party's right to the
 179 security deposit, the prevailing party is entitled to receive
 180 his or her court costs plus a reasonable fee for his or her
 181 attorney. The court shall advance the cause on the calendar.

182 (d) Compliance with this section by an individual or
 183 business entity authorized to conduct business in this state,
 184 including Florida-licensed real estate brokers and sales
 185 associates, constitutes ~~shall constitute~~ compliance with all
 186 other relevant Florida Statutes pertaining to security deposits
 187 held pursuant to a rental agreement or other landlord-tenant
 188 relationship. Enforcement personnel shall look solely to this
 189 section to determine compliance. This section prevails over any
 190 conflicting provisions in chapter 475 and in other sections of
 191 the Florida Statutes, and shall operate to permit licensed real
 192 estate brokers to disburse security deposits and deposit money
 193 without having to comply with the notice and settlement
 194 procedures contained in s. 475.25(1)(d).

195 (7) Upon the sale or transfer of title of the rental
 196 property from one owner to another, or upon a change in the
 197 designated rental agent, any and all security deposits or
 198 advance rents being held for the benefit of the tenants shall be
 199 transferred to the new owner or agent, together with any earned
 200 interest and with an accurate accounting showing the amounts to
 201 be credited to each tenant account. Upon the transfer of such
 202 funds and records to the new owner or agent ~~as stated herein~~,
 203 and upon transmittal of a written receipt therefor, the

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204 transferor is ~~shall be~~ free from the obligation imposed in
 205 subsection (1) to hold such moneys on behalf of the tenant.
 206 There is a rebuttable presumption that any new owner or agent
 207 received the security deposit from the previous owner or agent;
 208 however, this presumption is limited to 1 month's rent. This
 209 subsection does not ~~However, nothing herein shall~~ excuse the
 210 landlord or agent for a violation of other ~~the~~ provisions of
 211 this section while in possession of such deposits.

212 Section 4. The Legislature recognizes that landlords may
 213 have stocks of preprinted lease forms that comply with the
 214 notice requirements of current law. Accordingly, for leases
 215 entered into on or before December 31, 2013, a landlord may give
 216 notice that contains the disclosure required in the changes made
 217 by this act to s. 83.49, Florida Statutes, or the former notice
 218 required in s. 83.49, Florida Statutes 2012. In any event, the
 219 disclosure required by this act is only required for all leases
 220 entered into under this part on or after January 1, 2014.

221 Section 5. Section 83.50, Florida Statutes, is amended to
 222 read:

223 83.50 Disclosure of landlord's address.-

224 ~~(1)~~ In addition to any other disclosure required by law,
 225 the landlord, or a person authorized to enter into a rental
 226 agreement on the landlord's behalf, shall disclose in writing to
 227 the tenant, at or before the commencement of the tenancy, the
 228 name and address of the landlord or a person authorized to
 229 receive notices and demands in the landlord's behalf. The person
 230 so authorized to receive notices and demands retains authority
 231 until the tenant is notified otherwise. All notices of such
 232 names and addresses or changes thereto shall be delivered to the

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233 tenant's residence or, if specified in writing by the tenant, to
234 any other address.

235 ~~(2) The landlord or the landlord's authorized~~
236 ~~representative, upon completion of construction of a building~~
237 ~~exceeding three stories in height and containing dwelling units,~~
238 ~~shall disclose to the tenants initially moving into the building~~
239 ~~the availability or lack of availability of fire protection.~~

240 Section 6. Subsection (1) and paragraph (a) of subsection
241 (2) of section 83.51, Florida Statutes, are amended to read:

242 83.51 Landlord's obligation to maintain premises.—

243 (1) The landlord at all times during the tenancy shall:

244 (a) Comply with the requirements of applicable building,
245 housing, and health codes; or

246 (b) Where there are no applicable building, housing, or
247 health codes, maintain the roofs, windows, ~~screens,~~ doors,
248 floors, steps, porches, exterior walls, foundations, and all
249 other structural components in good repair and capable of
250 resisting normal forces and loads and the plumbing in reasonable
251 working condition. The landlord, at commencement of the tenancy,
252 must ensure that screens are installed in a reasonable
253 condition. Thereafter, the landlord must repair damage to
254 screens once annually, when necessary, until termination of the
255 rental agreement. However,

256
257 The landlord ~~is shall~~ not ~~be~~ required to maintain a mobile
258 home or other structure owned by the tenant. The landlord's
259 obligations under this subsection may be altered or modified in
260 writing with respect to a single-family home or duplex.

261 (2) (a) Unless otherwise agreed in writing, in addition to

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262 the requirements of subsection (1), the landlord of a dwelling
263 unit other than a single-family home or duplex shall, at all
264 times during the tenancy, make reasonable provisions for:

265 1. The extermination of rats, mice, roaches, ants, wood-
266 destroying organisms, and bedbugs. When vacation of the premises
267 is required for such extermination, the landlord ~~is shall~~ not ~~be~~
268 liable for damages but shall abate the rent. The tenant must
269 ~~shall be required to~~ temporarily vacate the premises for a
270 period of time not to exceed 4 days, on 7 days' written notice,
271 if necessary, for extermination pursuant to this subparagraph.

272 2. Locks and keys.

273 3. The clean and safe condition of common areas.

274 4. Garbage removal and outside receptacles therefor.

275 5. Functioning facilities for heat during winter, running
276 water, and hot water.

277 Section 7. Section 83.54, Florida Statutes, is amended to
278 read:

279 83.54 Enforcement of rights and duties; civil action;
280 criminal offenses.—Any right or duty declared in this part is
281 enforceable by civil action. A right or duty enforced by civil
282 action under this section does not preclude prosecution for a
283 criminal offense related to the lease or leased property.

284 Section 8. Subsections (2) through (5) of section 83.56,
285 Florida Statutes, are amended to read:

286 83.56 Termination of rental agreement.—

287 (2) If the tenant materially fails to comply with s. 83.52
288 or material provisions of the rental agreement, other than a
289 failure to pay rent, or reasonable rules or regulations, the
290 landlord may:

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291 (a) If such noncompliance is of a nature that the tenant
 292 should not be given an opportunity to cure it or if the
 293 noncompliance constitutes a subsequent or continuing
 294 noncompliance within 12 months of a written warning by the
 295 landlord of a similar violation, deliver a written notice to the
 296 tenant specifying the noncompliance and the landlord's intent to
 297 terminate the rental agreement by reason thereof. Examples of
 298 noncompliance which are of a nature that the tenant should not
 299 be given an opportunity to cure include, but are not limited to,
 300 destruction, damage, or misuse of the landlord's or other
 301 tenants' property by intentional act or a subsequent or
 302 continued unreasonable disturbance. In such event, the landlord
 303 may terminate the rental agreement, and the tenant shall have 7
 304 days from the date that the notice is delivered to vacate the
 305 premises. The notice shall be ~~adequate if it is~~ in substantially
 306 the following form:

307
 308 You are advised that your lease is terminated effective
 309 immediately. You shall have 7 days from the delivery of this
 310 letter to vacate the premises. This action is taken because
 311 ... (cite the noncompliance)....
 312

313 (b) If such noncompliance is of a nature that the tenant
 314 should be given an opportunity to cure it, deliver a written
 315 notice to the tenant specifying the noncompliance, including a
 316 notice that, if the noncompliance is not corrected within 7 days
 317 from the date that the written notice is delivered, the landlord
 318 shall terminate the rental agreement by reason thereof. Examples
 319 of such noncompliance include, but are not limited to,

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320 activities in contravention of the lease or this ~~part~~ act such
 321 as having or permitting unauthorized pets, guests, or vehicles;
 322 parking in an unauthorized manner or permitting such parking; or
 323 failing to keep the premises clean and sanitary. If such
 324 noncompliance recurs within 12 months after notice, an eviction
 325 action may commence without delivering a subsequent notice
 326 pursuant to paragraph (a) or this paragraph, so long as the
 327 complaint in the eviction action specifies the date, time,
 328 place, and specific facts of the alleged subsequent non-
 329 compliance so as to allow the tenant to be able to be aware of
 330 the allegations against the tenant and to prepare a defense. The
 331 notice shall be ~~adequate if it is~~ in substantially the following
 332 form:

333
 334 You are hereby notified that ...(cite the
 335 noncompliance)... Demand is hereby made that you remedy the
 336 noncompliance within 7 days of receipt of this notice or your
 337 lease shall be deemed terminated and you shall vacate the
 338 premises upon such termination. If this same conduct or conduct
 339 of a similar nature is repeated within 12 months, your tenancy
 340 is subject to termination without further warning and without
 341 your being given an opportunity to cure the noncompliance.
 342

343 (3) If the tenant fails to pay rent when due and the
 344 default continues for 3 days, excluding Saturday, Sunday, and
 345 legal holidays, after delivery of written demand by the landlord
 346 for payment of the rent or possession of the premises, the
 347 landlord may terminate the rental agreement. Legal holidays for
 348 the purpose of this section shall be court-observed holidays

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349 only. The 3-day notice shall contain a statement in
350 substantially the following form:

351
352 You are hereby notified that you are indebted to me in the
353 sum of dollars for the rent and use of the premises
354 ...(address of leased premises, including county)..., Florida,
355 now occupied by you and that I demand payment of the rent or
356 possession of the premises within 3 days (excluding Saturday,
357 Sunday, and legal holidays) from the date of delivery of this
358 notice, to wit: on or before the day of, ...(year)....
359 ...(landlord's name, address and phone number)...

360
361 (4) The delivery of the written notices required by
362 subsections (1), (2), and (3) shall be by mailing or delivery of
363 a true copy thereof or, if the tenant is absent from the
364 premises, by leaving a copy thereof at the residence. The notice
365 requirements of subsections (1), (2), and (3) may not be waived
366 in the lease.

367 (5) (a) If the landlord accepts rent with actual knowledge
368 of a noncompliance by the tenant or accepts performance by the
369 tenant of any other provision of the rental agreement that is at
370 variance with its provisions, or if the tenant pays rent with
371 actual knowledge of a noncompliance by the landlord or accepts
372 performance by the landlord of any other provision of the rental
373 agreement that is at variance with its provisions, the landlord
374 or tenant waives his or her right to terminate the rental
375 agreement or to bring a civil action for that noncompliance, but
376 not for any subsequent or continuing noncompliance. However, a
377 landlord does not waive the right to terminate the rental

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378 agreement or to bring a civil action for that noncompliance by
379 accepting partial rent for the period.

380 (b) Any tenant who wishes to defend against an action by
381 the landlord for possession of the unit for noncompliance of the
382 rental agreement or of relevant statutes ~~must shall~~ comply with
383 ~~the provisions in~~ s. 83.60(2). The court may not set a date for
384 mediation or trial unless the provisions of s. 83.60(2) have
385 been met, but ~~must shall~~ enter a default judgment for removal of
386 the tenant with a writ of possession to issue immediately if the
387 tenant fails to comply with s. 83.60(2).

388 (c) This subsection does not apply to that portion of rent
389 subsidies received from a local, state, or national government
390 or an agency of local, state, or national government; however,
391 waiver will occur if an action has not been instituted within 45
392 days after the landlord obtains actual knowledge of the
393 noncompliance.

394 Section 9. Subsection (1) of section 83.575, Florida
395 Statutes, is amended to read:

396 83.575 Termination of tenancy with specific duration.—

397 (1) A rental agreement with a specific duration may contain
398 a provision requiring the tenant to notify the landlord within a
399 specified period before vacating the premises at the end of the
400 rental agreement, if such provision requires the landlord to
401 notify the tenant within such notice period if the rental
402 agreement will not be renewed; however, a rental agreement may
403 not require more than 60 days' notice from either the tenant or
404 the landlord before vacating the premises.

405 Section 10. Section 83.58, Florida Statutes, is amended to
406 read:

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407 83.58 Remedies; tenant holding over.—If the tenant holds
 408 over and continues in possession of the dwelling unit or any
 409 part thereof after the expiration of the rental agreement
 410 without the permission of the landlord, the landlord may recover
 411 possession of the dwelling unit in the manner provided for in s.
 412 83.59 ~~{F.S. 1973}~~. The landlord may also recover double the
 413 amount of rent due on the dwelling unit, or any part thereof,
 414 for the period during which the tenant refuses to surrender
 415 possession.

416 Section 11. Subsection (2) of section 83.59, Florida
 417 Statutes, is amended to read:

418 83.59 Right of action for possession.—

419 (2) A landlord, the landlord's attorney, or the landlord's
 420 agent, applying for the removal of a tenant, shall file in the
 421 county court of the county where the premises are situated a
 422 complaint describing the dwelling unit and stating the facts
 423 that authorize its recovery. A landlord's agent is not permitted
 424 to take any action other than the initial filing of the
 425 complaint, unless the landlord's agent is an attorney. The
 426 landlord is entitled to the summary procedure provided in s.
 427 51.011 ~~{F.S. 1971}~~, and the court shall advance the cause on the
 428 calendar.

429 Section 12. Section 83.60, Florida Statutes, is amended to
 430 read:

431 83.60 Defenses to action for rent or possession;
 432 procedure.—

433 (1) (a) In an action by the landlord for possession of a
 434 dwelling unit based upon nonpayment of rent or in an action by
 435 the landlord under s. 83.55 seeking to recover unpaid rent, the

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436 tenant may defend upon the ground of a material noncompliance
 437 with s. 83.51(1) ~~{F.S. 1973}~~, or may raise any other defense,
 438 whether legal or equitable, that he or she may have, including
 439 the defense of retaliatory conduct in accordance with s. 83.64.
 440 The court may allow the landlord the opportunity to correct a
 441 minor procedural deficiency in a notice or pleading before
 442 dismissal of the action.

443 (b) The defense of a material noncompliance with s.
 444 83.51(1) ~~{F.S. 1973}~~ may be raised by the tenant if 7 days have
 445 elapsed after the delivery of written notice by the tenant to
 446 the landlord, specifying the noncompliance and indicating the
 447 intention of the tenant not to pay rent by reason thereof. Such
 448 notice by the tenant may be given to the landlord, the
 449 landlord's representative as designated pursuant to s. 83.50~~(1)~~,
 450 a resident manager, or the person or entity who collects the
 451 rent on behalf of the landlord. A material noncompliance with s.
 452 83.51(1) ~~{F.S. 1973}~~ by the landlord is a complete defense to an
 453 action for possession based upon nonpayment of rent, and, upon
 454 hearing, the court or the jury, as the case may be, shall
 455 determine the amount, if any, by which the rent is to be reduced
 456 to reflect the diminution in value of the dwelling unit during
 457 the period of noncompliance with s. 83.51(1) ~~{F.S. 1973}~~. After
 458 consideration of all other relevant issues, the court shall
 459 enter appropriate judgment.

460 (2) In an action by the landlord for possession of a
 461 dwelling unit, if the tenant interposes any defense other than
 462 payment, including, but not limited to, the defense of a
 463 defective 3-day notice, the tenant shall pay into the registry
 464 of the court the accrued rent as alleged in the complaint or as

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465 determined by the court and the rent that ~~which~~ accrues during
 466 the pendency of the proceeding, when due. The clerk shall notify
 467 the tenant of such requirement in the summons. Failure of the
 468 tenant to pay the rent into the registry of the court or to file
 469 a motion to determine the amount of rent to be paid into the
 470 registry within 5 days, excluding Saturdays, Sundays, and legal
 471 holidays, after the date of service of process constitutes an
 472 absolute waiver of the tenant's defenses other than payment, and
 473 the landlord is entitled to an immediate default judgment for
 474 removal of the tenant with a writ of possession to issue without
 475 further notice or hearing thereon. If ~~In the event~~ a motion to
 476 determine rent is filed, documentation in support of the
 477 allegation that the rent as alleged in the complaint is in error
 478 is required. Public housing tenants or tenants receiving rent
 479 subsidies are ~~shall be~~ required to deposit only that portion of
 480 the full rent for which they are ~~the tenant is~~ responsible
 481 pursuant to the federal, state, or local program in which they
 482 are participating.

483 Section 13. Subsection (1) of section 83.62, Florida
 484 Statutes, is amended to read:

485 83.62 Restoration of possession to landlord.—

486 (1) In an action for possession, after entry of judgment in
 487 favor of the landlord, the clerk shall issue a writ to the
 488 sheriff describing the premises and commanding the sheriff to
 489 put the landlord in possession after 24 hours' notice
 490 conspicuously posted on the premises. Saturdays, Sundays, and
 491 legal holidays do not stay the 24-hour notice period.

492 Section 14. Section 83.63, Florida Statutes, is amended to
 493 read:

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494 83.63 Casualty damage.—If the premises are damaged or
 495 destroyed other than by the wrongful or negligent acts of the
 496 tenant so that the enjoyment of the premises is substantially
 497 impaired, the tenant may terminate the rental agreement and
 498 immediately vacate the premises. The tenant may vacate the part
 499 of the premises rendered unusable by the casualty, in which case
 500 the tenant's liability for rent shall be reduced by the fair
 501 rental value of that part of the premises damaged or destroyed.
 502 If the rental agreement is terminated, the landlord shall comply
 503 with s. 83.49(3) ~~{F.S. 1973}~~.

504 Section 15. Subsection (1) of section 83.64, Florida
 505 Statutes, is amended to read:

506 83.64 Retaliatory conduct.—

507 (1) It is unlawful for a landlord to discriminatorily
 508 increase a tenant's rent or decrease services to a tenant, or to
 509 bring or threaten to bring an action for possession or other
 510 civil action, primarily because the landlord is retaliating
 511 against the tenant. In order for the tenant to raise the defense
 512 of retaliatory conduct, the tenant must have acted in good
 513 faith. Examples of conduct for which the landlord may not
 514 retaliate include, but are not limited to, situations where:

515 (a) The tenant has complained to a governmental agency
 516 charged with responsibility for enforcement of a building,
 517 housing, or health code of a suspected violation applicable to
 518 the premises;

519 (b) The tenant has organized, encouraged, or participated
 520 in a tenants' organization;

521 (c) The tenant has complained to the landlord pursuant to
 522 s. 83.56(1); ~~or~~

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523 (d) The tenant is a servicemember who has terminated a
524 rental agreement pursuant to s. 83.682;

525 (e) The tenant has paid rent to a condominium, cooperative,
526 or homeowners' association after demand from the association in
527 order to pay the landlord's obligation to the association; or

528 (f) The tenant has exercised his or her rights under local,
529 state, or federal fair housing laws.

530 Section 16. This act shall take effect July 1, 2013.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13

Meeting Date

Topic Landlord-Tenant Bill Number 490
Name Arthur Rosenberg Amendment Barcode _____
Job Title Attorney (if applicable)
Address 3000 Biscayne Blvd, #102 Phone 850-509-2085
Miami, FL E-mail arthur@floridalegal.org
City State Zip

Speaking: For Against Information

Representing Florida Legal Services

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13

Meeting Date

Topic Landlord Tenant Bill Number 490
Name Alice Vickers Amendment Barcode _____
Job Title Attorney (if applicable)
Address 623 Beard St. Phone 850 556-3121
Tallahassee, FL 32303 E-mail alice@fcam.org
City State Zip

Speaking: For Against Information

Representing FL Consumer Action Network

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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4-9-13

Meeting Date

Topic Landlord / Tenant Bill Number 490
Name Jen Allen Amendment Barcode 8844 22 (if applicable)
Job Title Asset Manager & Vice President of CCAA (if applicable)
Address 614 W. Madison St 301 Phone (850) 577-1101
Street
Tallahassee FL 32304 E-mail ~~jen@~~ jallen@achliving.com
City State Zip

Speaking: For Against Information

Representing Capital City Apartment Association

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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4-9-13

Meeting Date

Topic Landlord/Tenant

Bill Number 490
(if applicable)

Name HARRY HEIST

Amendment Barcode 884422
(if applicable)

Job Title Attorney

Address 17264 SAN CARLOS BLVD #308

Phone 800 253 8428

Street
FT Myers Bch FL 33931
City State Zip

E-mail Harry@evict.com

Speaking: For Against Information

Representing LAW OFFICES OF HEIST, WEISSE & WOLK, P.A.

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

Tallahassee, Florida 32399-1100

SENATOR JOHN LEGG
17th District

The Honorable Senator Kelli Stargel
324 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

April 9, 2013

Chair Stargel,

Please excuse my absence for the Regulated Industries Committee scheduled for April 9, 2013. I will be tending to a personal matter. If there is an issue where you need to speak with me directly, please contact me on my personal cell phone at 727-514-3313. Thank you for your kind consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "John Legg".

John Legg
State Senate, District 17

cc: Patrick L. Imhof
Staff Director

A handwritten signature in black ink, appearing to read "Kelli Stargel".

REPLY TO:

- 214 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017
- 262 Crystal Grove Boulevard, Lutz, Florida 33548

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: SB 301
Caption: Senate Regulated Industries Committee

Case:

Type:
Judge:

Started: 4/9/2013 4:05:25 PM
Ends: 4/9/2013 4:55:45 PM **Length:** 00:50:21

4:05:40 PM Meeting called to order
4:05:45 PM Roll call
4:06:17 PM SB 1174 - Senator Ring
4:06:30 PM Senator Ring to explain the bill
4:07:04 PM Amendment #417994 Senator Gibson
4:07:59 PM Robert Francis, FL Self-Storage Association
4:08:26 PM Jeanette Yaeger, FL Self-Storage Association
4:09:24 PM Jeff Kottkamp, Kopp the Public Noticed
4:10:54 PM Senator Stargel questioning
4:11:49 PM Dean Ridings, Florida Press Association
4:12:42 PM Jack Cory, Daily Business Review
4:12:57 PM Jon Costello, AIF
4:13:23 PM Senator Ring commenting
4:14:18 PM Senator Gibson to close on the amendment
4:15:41 PM Amendment - Adopted
4:16:38 PM SB 1174 - Passes with one amendment
4:17:05 PM CS/SB 1252 - Senator Simpson
4:17:22 PM Senator Simpson to explain the bill
4:17:38 PM Amendment # 901732
4:18:06 PM Amendment - Adopted
4:18:25 PM Amendment #191520 Withdrawn
4:18:40 PM Amendment 438124 Adopted
4:18:58 PM Amendment 816802 - Adopted
4:20:41 PM Late filed #228936 -
4:21:06 PM Senator Gibson questioning
4:21:20 PM Amendment - Adopted
4:21:44 PM Amendment #574916 - Adopted
4:22:21 PM Late Filed #644614 - Adopted
4:22:55 PM Late Filed #405576 - Adopted
4:23:59 PM Bob Himschoot, Florida Onsite Wastewater Association
4:24:50 PM Senator Braynon moves CS/SB 1252 as a CS
4:25:08 PM CS/CS/SB 1252 - Passes
4:25:24 PM SB 1442 - Senator Lee
4:25:39 PM Corrie Cutler, Legislative Aide to explain the bill
4:27:09 PM Amendment #341124 - Adopted
4:28:08 PM SB 1442 moved as a CS
4:28:26 PM CS/SB 1442 - Passes
4:28:43 PM Senator Braynon takes the Chair
4:29:00 PM CS/SB 156 - Senator Detert
4:29:10 PM Senator Detert to explain the bill
4:30:10 PM Amendment #599444 WD
4:30:36 PM Amendment #597538 - WD
4:31:00 PM Amendment # 269142 - Senator Stargel
4:31:10 PM Senator Detert questioning
4:31:54 PM Senator Stargel to close
4:32:20 PM Senator Detert commenting
4:32:46 PM Senator Gibson questioning
4:33:33 PM Jennifer Hatfield, FL Swimming Pool Association
4:34:09 PM Senator Stargel commenting on amendment
4:34:22 PM Amendment - Adopted
4:35:27 PM CS/SB 156 - Passes favorably with one amendment
4:35:46 PM CS/SB 490 - Senator Stargel

4:36:01 PM Senator Stargel to explain amendment
4:36:20 PM Amendment # 884422
4:38:16 PM Amendment - Late Filed #953078
4:38:41 PM Senator Gibson to explain the amendment
4:38:52 PM Amendment WD
4:39:12 PM Late Filed Amendment #497380
4:39:27 PM Senator Gibson to explain the amendment
4:40:22 PM Amendment WD
4:41:15 PM Harry Heist, Law Offices of Heist, Weisse and Woolk, P.A.
4:42:11 PM Jen Allen, Capital City Apartment Association
4:43:11 PM Amendment 884422 - Adopted
4:43:41 PM Alice Vickers, Florida Consumer Action Network
4:49:37 PM Arthur Rosenberg, Florida Legal Services
4:51:35 PM Senator Detert commenting
4:53:23 PM Senator Stargel moves a CS /CS/SB 490
4:53:38 PM Senator Stargel closing on the bill
4:55:27 PM CS/CS/SB 490 - Passes
4:55:36 PM Meeting adjourned