

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Bradley, Chair
Senator Margolis, Vice Chair

MEETING DATE: Tuesday, March 24, 2015
TIME: 1:30 —3:30 p.m.
PLACE: *Toni Jennings Committee Room, 110 Senate Office Building*

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Consideration of proposed bill:			
1	SPB 7066	Low-THC Cannabis; Revising the illnesses and symptoms for which a physician may order a patient the medical use of low-THC cannabis in certain circumstances; providing that a physician who improperly orders low-THC cannabis is subject to specified disciplinary action; revising the duties of the Department of Health; requiring the department to allow specified persons engaged in research to access the compassionate use registry, etc.	Submitted as Committee Bill Yeas 11 Nays 1
(Preliminary Draft Available - final draft will be made available at least 24 hours prior to the meeting)			
2	SB 736 Stargel (Similar CS/H 611)	Residential Properties; Providing requirements relating to the request for an estoppel certificate by a unit or parcel owner; providing that the association waives the right to collect any moneys owed in excess of the amounts set forth in the estoppel certificate under certain conditions; providing that the association waives any claim against a person or entity who would have relied in good faith upon the estoppel certificate under certain conditions; providing and revising fee and supplemental fee requirements, etc. RI 03/24/2015 JU FP	Amendment Adopted - Temporarily Postponed

COMMITTEE MEETING EXPANDED AGENDA

Regulated Industries

Tuesday, March 24, 2015, 1:30 —3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 1032 Richter (Similar H 763, Compare S 120)	Point-of-sale Terminals; Authorizing the Department of the Lottery to create a program that authorizes certain persons to purchase a ticket or game at a point-of-sale terminal; authorizing the department, a retailer operating from one or more locations, or a vendor approved by the department to use a point-of-sale terminal to sell a lottery ticket or game; prohibiting a point-of-sale terminal from including video depictions of slot machine or casino game themes or titles for game play; prohibiting a point-of-sale terminal from being used to redeem a winning ticket, etc. RI 03/24/2015 Fav/CS AGG FP	Fav/CS Yeas 7 Nays 5

4	SB 1172 Latvala (Similar CS/H 643)	Condominiums; Providing and revising procedures and requirements for termination of a condominium property; revising requirements relating to the right to contest a plan of termination, etc. RI 03/24/2015 Fav/CS JU FP	Fav/CS Yeas 12 Nays 0
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TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.			
Secretary of the Department of the Lottery			
5	O'Connell, Cynthia F. (Tallahassee)	Pleasure of Governor	Recommend Confirm Yeas 12 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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 7066

INTRODUCER: Regulated Industries Committee

SUBJECT: Low-THC Cannabis

DATE: March 25, 2015

REVISED: _____

ANALYST
Kraemer/Oxamendi

STAFF DIRECTOR
Imhof

REFERENCE

ACTION
RI Submitted as Committee Bill

I. Summary:

SB 7066 revises the requirement for the licensing of dispensing organizations to permit the cultivation, processing, and dispensing of low-THC cannabis and low-THC cannabis products. The bill revises the conditions for which low-THC cannabis or low-THC cannabis products may be ordered for a qualified patient's medical use to include: human immunodeficiency virus, acquired immune deficiency syndrome, epilepsy, amyotrophic lateral sclerosis, multiple sclerosis, Crohn's disease, Parkinson's disease, paraplegia, quadriplegia, and terminal illness. The bill also permits the use of low-THC cannabis and low-THC cannabis products to alleviate symptoms caused by a treatment of these diseases, disorders, or conditions.

In addition to registration of the physician ordering the low-THC cannabis and of the qualified patient, the bill requires that the physician register the patient's legal representative upon the request of the patient, on the Compassionate Use Registry maintained by the Florida Department of Health (DOH). If the patient is a minor, the physician is required to register a legal representative on the compassionate use registry.

The bill provides the following time frame for the issuance of dispensing organization licenses:

- Seven days after the effective date of the act, the DOH must begin to accept applications for licensure and to review the applications to determine compliance with the license criteria;
- Within 10 days of receiving an application, the DOH must notify the applicant of any errors in the application;
- Applications for licensure must be filed with the DOH no later than 30 days after the effective date of this act; and
- All applications must be complete no later than 60 days after the effective date of this act.

The bill limits the number of dispensing organization licenses to 20 licenses. If more than 20 applicants meet the licensure criteria, licensure is determined by lottery.

Beginning March 15, 2016, if all 20 licenses are not issued during the initial licensing period, the bill requires the DOH to issue additional licenses to qualified applicants up to the 20-organization maximum. If there are more qualified applicants than available licenses to be issued, licensure is required by lottery.

The bill specifies additional licensing criteria for dispensing organization, including having experience cultivating and introducing multiple varieties of plants in this state, including plants that are not native to Florida, propagating plants; and genetic modification or breeding of plants. The bill also requires that dispensing organizations have the capability to serve at least 15,000 patients with an assumed daily use of 1,000 mg per patient per day of low-THC cannabis or low-THC cannabis products. The bill also provides specific criteria for financial disclosures, security and safety systems, and diversion and tracking prevention procedures.

The bill provides an initial application fee of \$50,000, an initial license fee of \$125,000, and a biennial renewal fee of \$125,000.

The bill requires the inspection of each dispensing organization's properties, cultivation facilities, processing facilities, and retail facilities before they begin operations, inspections at least once every 2 years after licensure, and authorizes additional announced or unannounced inspections, including follow-up inspections, at reasonable hours in order to ensure compliance with all applicable requirements.

The bill provides the grounds for revoking, suspending, denying, or refusing to renew a license, and for imposing an administrative penalty not to exceed \$10,000, including a violation of any provision in s. 381.986, F.S., failure to maintain the qualifications for a license, and endangering the health, safety, and welfare of a qualified patient.

The bill requires that all vehicles used by dispensing organizations to transport low-THC cannabis and low-THC products have a permit. It also provides that acceptance of the license and the permit are consent to search the vehicle by the department and law enforcement.

The bill also requires that dispensing organizations verify the identity of the qualified patient or the legal representative before dispensing low-THC cannabis or low-THC products by requiring the person to produce a government issued identification.

The bill preempts to the state all matters regarding the location of cultivation facilities and processing facilities. It requires that cultivation facilities and processing facilities must be closed to the public, and low-THC cannabis may not be dispensed on the premises of such facilities. The bill requires that a county determine by ordinance the criteria for the number, location, and other permitting requirements for all retail facilities located within that county. A retail facility may only be established after a county has adopted such an ordinance.

The bill requires that all low-THC cannabis and low-THC cannabis products must be tested by an independent testing laboratory before being dispensed.

The bill requires the University of Florida College of Pharmacy establish and maintain a safety and efficacy research program for the use of low-THC cannabis or low-THC cannabis products to treat qualifying conditions and symptoms.

The bill exempts the rules of the DOH under this act from the rule ratification requirements of s. 120.541(3), F.S.

The bill revises the public records exemption relating to the compassionate use registry in s. 381.987, F.S., to permit employees of the University of Florida to have access to the compassionate use registry for the purpose of maintaining the registry and periodic reporting or disclosure of information that has been redacted to exclude personal identifying information, and for research.

The bill is effective upon becoming law.

II. Present Situation:

Compassionate Medical Cannabis Act of 2014

Pursuant to the Compassionate Medical Cannabis Act of 2014,¹ (the act), “low-THC cannabis,” may be dispensed by an authorized and licensed dispensing organization. The physical manifestation of low-THC cannabis” is the dried flowers of the plant *Cannabis* which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight, or the seeds, resin, or any compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.²

The act provides that a physician licensed under ch. 458, F.S., or ch. 459, F.S.,³ who has examined and is treating a patient suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms may order for the patient’s medical use⁴ low-THC cannabis to treat such disease, disorder, or condition or to alleviate its symptoms, if no other satisfactory alternative treatment options exist for that patient and all of the following conditions apply:⁵

- The patient is a permanent resident of Florida;

¹ See ch. 2014-157, L.O.F.

² See s. 381.986(1)(b), F.S. Eleven states allow limited access to marijuana products (low-THC and/or high CBD-cannabidiol): Alabama, Florida, Iowa, Kentucky, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, Utah, and Wisconsin. Twenty-three states, the District of Columbia, and Guam have laws that permit the use of marijuana for medicinal purposes. See note 28 infra. See <http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx> (Tables 1 and 2), (last visited on March 25, 2015).

³ Section 381.986(4), F.S., requires such physicians to successfully complete an 8-hour course and examination offered by the Florida Medical Association or the Florida Osteopathic Medical Association that encompasses the clinical indications for the appropriate use of low-THC cannabis, appropriate delivery mechanisms, contraindications for such use, and the state and federal laws governing its ordering, dispensing, and processing.

⁴ Pursuant to s.381.986(1)(c), F.S., “medical use” means administration of the ordered amount of low-THC cannabis; and the term does not include the possession, use, or administration by smoking, or the transfer of low-THC cannabis to a person other than the qualified patient for whom it was ordered or the qualified patient’s legal representative. Section 381.986(1)(e), F.S., defines “smoking” as burning or igniting a substance and inhaling the smoke; smoking does not include the use of a vaporizer.

⁵ See s. 381.986(2), F.S.

- The physician determines that the risks of ordering low-THC cannabis are reasonable in light of the potential benefit for that patient; if a patient is younger than 18 years of age, a second physician must concur with this determination, and such determination must be documented in the patient's medical record;
- The physician registers as the orderer of low-THC cannabis for the patient on the compassionate use registry maintained by DOH and updates the registry to reflect the contents of the order; the patient's registration must be deactivated by the physician when treatment is discontinued;
- The physician maintains a patient treatment plan that includes the dose, route of administration, planned duration, and monitoring of the patient's symptoms and other indicators of tolerance or reaction to the low-THC cannabis;
- The physician submits the patient treatment plan quarterly to the University of Florida College of Pharmacy for research on the safety and efficacy of low-THC cannabis on patients; and
- The physician obtains the voluntary informed consent of the patient or the patient's legal guardian to treatment with low-THC cannabis after sufficiently explaining the current state of knowledge in the medical community of the effectiveness of treatment of the patient's condition with low-THC cannabis, the medically acceptable alternatives, and the potential risks and side effects.
- Pursuant to s. 381.986(3), F.S., a physician commits a misdemeanor of the first degree,⁶ if the physician orders low-THC cannabis for a patient without a reasonable belief that the patient is suffering from:
 - Cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms that can be treated with low-THC cannabis; or
 - Symptoms of cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms that can be alleviated with low-THC cannabis.

Any person who fraudulently represents that he or she has cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms to a physician for the purpose of being ordered low-THC cannabis by such physician commits a misdemeanor of the first degree.⁷

A dispensing organization is required to employ a medical director, who must be a physician and have successfully completed a course and examination that encompasses appropriate safety procedures and knowledge of low-THC cannabis.⁸

The act authorizes one dispensing organization in each of the following regions: northwest Florida, northeast Florida, central Florida, southeast Florida and southwest Florida, for a total of five statewide.⁹ The criteria for approval as a dispensing organization include possessing a

⁶ A misdemeanor of the first degree is punishable as provided in s. 775.082, F.S. or s. 775.083, F.S.; a sentence of a term of imprisonment up to one year may be imposed, along with a fine not to exceed \$1,000.

⁷ See note 6 supra.

⁸ See s. 381.986(4) and (5), F.S.

⁹ See s. 381.986(5)(b), F.S.

certificate of registration issued by the Department of Agriculture and Consumer Services for the cultivation of more than 400,000 plants by a nurseryman, who has been operating as a registered nursery in this state for at least 30 continuous years, and provide certified financials.¹⁰ Upon approval, a dispensing organization must post a \$5 million performance bond.¹¹

The act requires the Department of Health (DOH) to accomplish the following by January 1, 2015:

- Create a secure, electronic, and online registry for the registration of physicians and patients and for the verification of patient orders by dispensing organizations, which is accessible to law enforcement. The registry must allow dispensing organizations to record the dispensation of low-THC cannabis, and must prevent an active registration of a patient by multiple physicians.
- Authorize at least one, but no more than four, dispensing organizations to ensure reasonable statewide accessibility and availability of low-THC cannabis as necessary.
- Develop an application form and impose initial and biennial renewal fees sufficient to cover the costs of administering its responsibilities.
- Require any applicant seeking licensure as a dispensing organization to demonstrate the:
 - Technical and technological ability to cultivate and produce low-THC cannabis;
 - Ability to secure the premises, resources, and personnel necessary to operate;
 - Ability to maintain accountability of all cannabis-related products and to prevent diversion of those substances;
 - Existence of infrastructure reasonably located to dispense low-THC cannabis statewide or regionally, as determined by the DOH;
 - Financial ability to maintain operations throughout the two-year licensure cycle;
 - Passage by all owners, managers, and employees of level 2 background screening; and
 - Necessary compliance with additional criteria determined by the DOH as necessary to safely function as a dispensary.
- Monitor physician registration and ordering of low-THC cannabis in order to take disciplinary action as needed.
- Implement a process for issuing identification cards to patients registered in the compassionate use registry which expire one year after the date issued; new identification cards may be issued to a patient who continues to be registered and is being treated with low-THC cannabis.
- Monitor and inspect the activities of each licensed dispensing organization for compliance with the requirements of this section of law; and
- Adopt rules necessary to implement the act.

As required by the act, the DOH established an Office of Compassionate Use under the direction of the deputy state health officer to administer the act. The Office of Compassionate Use is authorized to enhance access to investigational new drugs for Florida patients through approved clinical treatment plans or studies, by:

¹⁰ See s. 381.986(5)(b)1., F.S.

¹¹ See s. 381.986(5)(b)5., F.S.

- Creating a network of state universities and medical centers recognized for demonstrating excellence in patient-centered coordinated care for persons undergoing cancer treatment and therapy in this state.¹²
- Making any necessary application to the United States Food and Drug Administration or a pharmaceutical manufacturer to facilitate enhanced access to compassionate use for Florida patients; and
- Enter into agreements necessary to facilitate enhanced access to compassionate use for Florida patients.¹³

A dispensing organization must comply with all listed criteria for approval at all times and must verify before dispensing any low-THC cannabis that a patient has an active registration, and that the patient's order matches the one recorded on the registry and has not yet been filled.¹⁴ When a dispensing organization dispenses low-THC cannabis, the date, time, quantity, and form of the cannabis dispensed must be recorded.¹⁵

The act creates exceptions to existing law to allow qualified patients¹⁶ and their legal representatives to purchase, acquire, and possess low-THC cannabis (up to the amount ordered) for that patient's medical use, and to allow dispensing organizations, and their owners, managers, and employees, to acquire, possess, cultivate, and dispose of excess product in reasonable quantities to produce low-THC cannabis and to possess, process, and dispense low-THC cannabis. Dispensing organizations and their owners, managers, and employees are not subject to licensure and regulation under ch. 465, F.S., relating to pharmacies.¹⁷

The act addresses refractory and intractable epilepsy treatment and research, and provides funding for research of cannabidiol and its effect on intractable childhood epilepsy.¹⁸ The administrative rules proposed by DOH were challenged, and a hearing was held before the Division of Administrative Hearings; a Final Order was issued,¹⁹ finding that various rules were invalid exercises of delegated legislative authority. Subsequently, negotiated rulemaking was undertaken in February 2015; a rule challenge has been filed but is not scheduled to be heard until April 14, 2015.²⁰

Section 120.541, F.S., requires legislative ratification of rules that are likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. The DOH has estimated a 5-year regulatory cost totaling \$750,000 on the five dispensing organization. The Joint Administrative Procedures Committee has raised several questions

¹² See s. 381.925, F.S.

¹³ See s. 385.212, F.S.

¹⁴ See s. 381.986(6), F.S.

¹⁵ *Id.*

¹⁶ See s. 381.986(1)(d), F.S., which provides that a "qualified patient" is a Florida resident who has been added by a physician licensed under ch. 458, F.S., or ch. 459, F.S., to the compassionate use registry to receive low-THC cannabis from a dispensing organization.

¹⁷ See s. 381.986(7)(c), F.S.

¹⁸ See s. 385.211, F.S., and s. 1004.441, F.S.

¹⁹ See <https://www.doah.state.fl.us/ROS/2014/14004296.pdf> (last accessed March 25, 2015).

²⁰ Email from Marjorie Holladay, Chief Attorney of the Joint Administrative Procedures Committee, to Patrick Imhof (March 19, 2015) (on file with the Senate Committee on Regulated Industries).

regarding the DOH's estimate, including additional impacts for nurseries that are approved for more than one region, and the cost of the biennial renewal. If a rule exceeds the threshold amount, the rule may not take effect until it is ratified by the Legislature.

Treatment of Marijuana in Florida

Florida law defines cannabis as “all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin,”²¹ and places it, along with other sources of THC, on the list of Schedule I controlled substances.²² Schedule I controlled substances are substances that have a high potential for abuse and no currently accepted medical use in the United States. As a Schedule I controlled substance, possession and trafficking in cannabis carry criminal penalties that vary from a first degree misdemeanor²³ up to a first degree felony with a mandatory minimum sentence of 15 years in state prison and a \$200,000 fine.²⁴ Paraphernalia²⁵ that is sold, manufactured, used, or possessed with the intent to be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance, is also prohibited and carries criminal penalties ranging from a first degree misdemeanor to a third degree felony.²⁶

Medical Marijuana in Florida: The Necessity Defense

Despite the fact that the use, possession, and sale of marijuana are prohibited by state law, Florida courts have found that circumstances can necessitate medical use of marijuana and circumvent the application of criminal penalties. The necessity defense was successfully applied in a marijuana possession case in *Jenks v. State*²⁷ where the First District Court of Appeal found that “section 893.03 does not preclude the defense of medical necessity” for the use of marijuana if the defendant:

- Did not intentionally bring about the circumstance which precipitated the unlawful act;
- Could not accomplish the same objective using a less offensive alternative available; and
- The evil sought to be avoided was more heinous than the unlawful act.

In the cited case, the defendants, a married couple, were suffering from uncontrollable nausea due to AIDS treatment and had testimony from their physician that he could find no effective alternative treatment. Under these facts, the court found that the defendants met the criteria to qualify for the necessity defense and ordered an acquittal of the charges of cultivating cannabis and possession of drug paraphernalia.

²¹ Section 893.02(c), F.S.

²² Section 893.03(c)7. and 37., F.S.

²³ This penalty is applicable to possession or delivery of less than 20 grams of cannabis. *See* s. 893.13(3) and (6)(b), F.S.

²⁴ Trafficking in more than 25 pounds, or 300 plants, of cannabis is a first degree felony with a mandatory minimum sentence that varies from 3 to 15 years in state prison depending on the quantity of the cannabis possessed, sold, etc. *See* s. 893.135(1)(a), F.S.

²⁵ This term is defined in s. 893.145, F.S.

²⁶ Section 893.147, F.S.

²⁷ 582 So.2d 676 (Fla. 1st DCA 1991), *review denied*, 589 So.2d 292 (Fla. 1991)

Medical Marijuana Laws in Other States

Currently, 23 states, the District of Columbia, and Guam²⁸ have some form of law that permits the use of marijuana for medicinal purposes. These laws vary widely in detail but most are similar in that they touch on several recurring themes. Most state laws include the following in some form:

- A list of medical conditions for which a practitioner can recommend the use of medical marijuana to a patient.
 - Nearly every state that permits the use of marijuana for medicinal purposes has a list of applicable medical conditions, though the particular conditions vary from state to state. Most states also include a way to expand the list either by allowing a state agency or board to add medical conditions to the list or by including a “catch-all” phrase.²⁹ Most states require that the patient receive certification from at least one, but often two, physicians designating that the patient has a qualifying condition before the patient may be issued an identification card needed for the acquisition of medical marijuana.
- Provisions for the patient to designate one or more caregivers who can possess the medical marijuana and assist the patient in preparing and using the medical marijuana.
 - The number of caregivers allowed and the qualifications to become a caregiver vary from state to state. Most states allow one or two caregivers and require that they be at least 21 years of age and, typically, cannot be the patient’s physician. Caregivers are generally allowed to purchase or grow marijuana for the patient, be in possession of the allowed quantity of marijuana, and aid the patient in using the marijuana, but are strictly prohibited from using the marijuana themselves.
- A required identification card for the patient, caregiver, or both that is typically issued by a state agency.
- A registry of people who have been issued an identification card.
- A method for registered patients and caregivers to obtain medical marijuana.
 - There are two general methods by which patients can obtain medical marijuana. They must either self-cultivate the marijuana in their homes or the state allows specified marijuana points-of-sale or dispensaries. The regulations governing such dispensaries vary widely.
- General restrictions on where medical marijuana may be used.
 - Typically, medical marijuana may not be used in public places, such as parks and on buses, or in areas where there are more stringent restrictions placed on the use of drugs, such as in or around schools or in prisons.

²⁸ These states include Alaska, Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington. California was the first to establish a medical marijuana program in 1996 and New York was the most recent state to pass medical marijuana legislation in June 2014. The New York legislation became effective on July 5, 2014. Eleven states allow limited access to marijuana products (low-THC and/or high CBD-cannabidiol). Alabama, Florida, Iowa, Kentucky, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, Utah, and Wisconsin. See <http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx> (last visited on March 25, 2015).

²⁹ An example is California’s law that includes “any other chronic or persistent medical symptom that either: Substantially limits the ability of the person to conduct one or more major life activities as defined in the Americans with Disabilities Act of 1990, or if not alleviated, may cause serious harm to the patient's safety or physical or mental health.”

State Medical Marijuana Laws and Their Interaction with the Federal Government

The Federal Controlled Substances Act lists Marijuana as a Schedule 1 drug with no accepted medical uses. Under federal law possession, manufacturing, and distribution of marijuana is a crime.³⁰ Although a state's medical marijuana laws protect patients from prosecution for the legitimate use of marijuana under the guidelines established in that state, such laws do not protect individuals from prosecution under federal law if the federal government decides to enforce those laws.

In August 2013, the United States Justice Department (USDOJ) issued a publication entitled "Smart on Crime: Reforming the Criminal Justice System for the 21st Century."³¹ This document details the federal government's current stance on low-level drug crimes and contains the following passage:

... the Attorney General is announcing a change in Department of Justice charging policies so that certain people who have committed low-level, nonviolent drug offenses, who have no ties to large-scale organizations, gangs, or cartels, will no longer be charged with offenses that impose draconian mandatory minimum sentences. Under the revised policy, these people would instead receive sentences better suited to their individual conduct rather than excessive prison terms more appropriate for violent criminals or drug kingpins.

In addition, the USDOJ published, on August 29, 2013, a memorandum with the subject "Guidance regarding Marijuana Enforcement." This memorandum makes clear that the USDOJ considers small-scale marijuana use to be a state matter which states may choose to punish or not, and, while larger operations would fall into the purview of the USDOJ, those operations that adhere to state laws legalizing marijuana in conjunction with robust regulatory systems would be far less likely to come under federal scrutiny.³² These announcements generally indicate the USDOJ's current unwillingness to prosecute such cases and its inclination to leave such prosecutions largely up to state authorities.

Tetrahydrocannabinol

Tetrahydrocannabinol (THC) is the major psychoactive constituent of marijuana. The potency of marijuana, in terms of psychoactivity, is dependent on THC concentration and is usually expressed as a percent of THC per dry weight of material.

The average THC concentration in marijuana is 1 percent to 5 percent; the form of marijuana known as *sinemilla* is derived from the unpollinated female cannabis plant and is preferred for its high THC content (up to 17 percent THC). Recreational doses are highly variable and users often concentrate their own dose. A single intake of smoke from a pipe or joint is called a hit

³⁰ The punishments vary depending on the amount of marijuana and the intent with which the marijuana is possessed. See <http://www.fda.gov/regulatoryinformation/legislation/ucm148726.htm#cntlsbd>. (last visited on March 25, 2015).

³¹ See <http://www.justice.gov/ag/smart-on-crime.pdf>. (last visited on March 25, 2015).

³² See USDOJ memo on "Guidance Regarding Marijuana Enforcement," August 29, 2013, available at <http://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf> (last accessed on March 25, 2015).

(approximately 1/20th of a gram). The lower the potency or THC content the more hits are needed to achieve the desired effects.³³

Marinol is a currently-approved drug³⁴ that consists of a man-made form of THC known as dornabinol.³⁵ Marinol is used to treat anorexia associated with weight loss in patients with AIDS and nausea and vomiting associated with cancer chemotherapy in patients who have failed to adequately respond to conventional antiemetic treatments. Marinol has a variety of side-effects including a cannabinoid dose-related “high.”³⁶

Cannabidiol

Cannabidiol (CBD) is another cannabinoid that is found in marijuana and, although THC has psychoactive effects, CBD and other cannabinoids are not known to cause intoxication.³⁷ Some evidence shows that CBD is effective in treating seizure disorders,^{38,39} although much of this evidence is anecdotal. Currently, the drug Epidiolex, which is a liquid form of highly purified CBD extract, was approved by the FDA in November 2013, as an orphan drug⁴⁰ that may be used to treat Dravet syndrome.^{41,42}

Dravet Syndrome

Also known as Severe Myoclonic Epilepsy of Infancy (SMEI), Dravet syndrome is a rare form of intractable epilepsy that begins in infancy.⁴³ Initial seizures are most often prolonged events and, in the second year of life, other seizure types begin to emerge. Individuals with Dravet syndrome face a higher incidence of SUDEP (sudden unexplained death in epilepsy) and typically have associated conditions that also need to be properly treated and managed. These conditions include:

- Behavioral and developmental delays;
- Movement and balance issues;
- Orthopedic conditions;
- Delayed language and speech issues;
- Growth and nutrition issues;

³³ Drugs and Human Performance Fact Sheet for Cannabis / Marijuana, National Highway Traffic Safety Administration, available at <http://www.nhtsa.gov/people/injury/research/job185drugs/cannabis.htm> (last visited on March 25, 2015).

³⁴ The drug is approved by the US Food and Drug Administration.

³⁵ See <http://www.marinol.com/about-marinol.cfm> (last visited on March 25, 2015).

³⁶ For Marinol prescribing information, see http://www.rxabbvie.com/pdf/marinol_PI.pdf (last visited on March 25, 2015).

³⁷ This information is from GW Pharmaceuticals, see <http://www.gwpharm.com/FAQ.aspx> (last visited on March 25, 2015).

³⁸ See <http://www.cnn.com/2013/08/07/health/charlotte-child-medical-marijuana/> (last visited on March 25, 2015).

³⁹ See also the presentation to the Florida House Criminal Justice Subcommittee on the Charlotte’s Web strain of marijuana on January 9, 2014.

⁴⁰ An orphan drug is defined as a drug that is intended for the safe and effective treatment, diagnosis, or prevention of rare diseases/disorders that affect fewer than 200,000 people in the U.S., or that affect more than 200,000 persons but are not expected to recover the costs of developing and marketing a treatment drug. See <http://www.fda.gov/forindustry/DevelopingProductsforRareDiseasesConditions/default.htm>. (last visited on March 25, 2015).

⁴¹ See <http://www.gwpharm.com/LGS%20Orphan%20Designation.aspx> (last visited on March 25, 2015).

⁴² Dravet syndrome is a rare form of childhood epilepsy. See http://www.ninds.nih.gov/disorders/dravet_syndrome/dravet_syndrome.htm (last visited on March 25, 2015).

⁴³ Dravet Syndrome Foundation, <http://www.dravetfoundation.org/dravet-syndrome/what-is-dravet-syndrome> (last visited on March 25, 2015).

- Sleeping difficulties;
- Chronic infections;
- Sensory integration disorders; and
- Disruptions of the autonomic nervous system (which regulates bodily functions such as temperature regulation and sweating).

Individuals with Dravet syndrome do not outgrow the condition. Current treatment options are extremely limited and constant care and supervision are typically required.

III. Effect of Proposed Changes:

Cultivation, Processing, and Dispensing Low-THC Cannabis

SB 7066 provides for the cultivation, processing, and dispensing of low-THC cannabis, and licensure of dispensing organizations, including:

- The identification of a harvest as a specifically identified and numbered quantity of low-THC cannabis cultivated using the same herbicides, pesticides, and fungicides, and harvested at the same time from a single facility; and
- The identification of a low-THC cannabis product as any product derived from low-THC cannabis, including the resin extracted from any part of such plant or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin which is dispensed from a dispensing organization; such products include, but are not limited to, oils, tinctures, creams, encapsulations, and food products, which must maintain concentrations, weight for weight, of 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol.

Medical use of low-THC cannabis does not include the use of or administration of medical-grade marijuana:

- On any form of public transportation;
- In any public place;
- In a registered qualified patient's place of work, if restricted by his or her employer;
- In a correctional facility;
- On the grounds of any preschool, primary school, or secondary school; or
- On a school bus.

The bill revises the conditions for which low-THC cannabis may be ordered for a qualified patient's medical use. A physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms no longer qualifies as an eligible condition. Along with cancer, the following additional conditions qualify for the ordering of low-THC cannabis to qualified patients:⁴⁴

- Human immunodeficiency virus;
- Acquired immune deficiency syndrome;

⁴⁴ Anyone who fraudulently represents to a physician that he or she has at least one of the above conditions for the purpose of being ordered low-THC cannabis commits a first degree misdemeanor, which is punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.; a sentence of a term of imprisonment up to one year may be imposed, along with a fine not to exceed \$1,000.

- Epilepsy;
- Amyotrophic lateral sclerosis;
- Multiple sclerosis;
- Crohn's disease;
- Parkinson's disease;
- Paraplegia;
- Quadriplegia; or
- Terminal illness.

The bill provides that in addition to treatment of such disease, disorder, or condition, or to alleviate symptoms of such disease, disorder, or condition, low-THC cannabis may be ordered to alleviate symptoms caused by a treatment for such disease, disorder, or condition.

Requirements for Physicians

In addition to registration of the physician as the orderer of low-THC cannabis, the bill requires that the physician register the patient and the patient's legal representative if requested by the patient. If the patient is a minor, the physician must register a legal representative on the compassionate use registry.

Physicians must submit any other requested medical records to the University of Florida College of Pharmacy for research on the safety and efficacy of low-THC cannabis on patients, in addition to the patient treatment plan currently required.

A patient's voluntary informed consent (or the consent of the patient's legal representative) must address the effectiveness of treatment with low-THC cannabis of not only the patient's condition, but all the patients conditions or symptoms.

A physician who improperly orders low-THC cannabis is subject to disciplinary action under the applicable practice act and under s. 456.072(1)(k), F.S., addressing grounds for discipline. The bill provides that a physician commits a misdemeanor of the first degree,⁴⁵ if the physician orders low-THC cannabis for a patient without a reasonable belief that the patient is suffering from at least one of the following conditions:

- Cancer;
- Human immunodeficiency virus;
- Acquired immune deficiency syndrome;
- Epilepsy;
- Amyotrophic lateral sclerosis;
- Multiple sclerosis;
- Crohn's disease;
- Parkinson's disease;
- Paraplegia;
- Quadriplegia; or

⁴⁵ A misdemeanor of the first degree is punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.; a sentence of a term of imprisonment up to one year may be imposed, along with a fine not to exceed \$1,000.

- Terminal illness.

Duties and Powers of the Department

The bill amends s. 381.986(5)(b), F.S., to provide the following time frame for the issuance of dispensing organization licenses:

- Seven days after the effective date of the act the DOH must begin to accept applications for licensure and to review the applications to determine compliance with the license criteria;
- Within 10 days of receiving an application, the DOH must notify the applicant of any errors in the application;
- Applications for licensure must be filed with the DOH no later than 30 days after the effective date of this act; and
- All applications must be complete no later than 60 days after the effective date of this act.

The bill limits the number of dispensing organization licenses to 20 licenses. If more than 20 applicants meet the licensure criteria, the DOH must determine the licensees by lottery.

Beginning March 15, 2016, if all 20 licenses are not issued during the initial licensing period, the bill requires the DOH to issue additional licenses to qualified applicants up to the 20-organization maximum. If more than 20 applicants meet the licensure criteria, the DOH must determine the licensees by lottery.

The bill exempts the issuance of dispensing organization licenses by the DOH from s. 120.60, F.S., which provides the procedure for the issuance of licenses by the DOH and requires that a license application that is not approved or denied within 90 days of receipt of the completed license application is deemed approved.

The bill deletes the requirement that the DOH must approve five dispensing organization licenses, and the issuance of the licenses to one in northwest Florida, one in northeast Florida, one in central Florida, one in southeast Florida, and one in southwest Florida. It also deletes the license criteria in current law.

Section 381.986(5)(c), F.S., specifies the identifying information that must be included in the initial licensure or renewal application.

Section 381.986(5)(d), F.S., provides the following fees:

- Initial application fee of \$50,000.
- Initial license fee of \$125,000.
- Biennial renewal fee of \$125,000.

Section 381.986(5)(e), F.S., requires the DOH to inspect each dispensing organization's properties, cultivation facilities, processing facilities, and retail facilities before they begin operations. The DOH must conduct inspections at least once every 2 years after licensure, but may conduct additional announced or unannounced inspections, including follow-up inspections, at reasonable hours in order to ensure that such property and facilities maintain compliance with all applicable requirements. The dispensing organization must make all facility premises, equipment, documents, low-THC cannabis, and low-THC cannabis products available to the

DOH upon inspection. The DOH may test any low-THC cannabis or low-THC cannabis product in order to ensure that it is safe for human consumption and meets the testing requirements in s. 381.986(7), F.S.

Section 381.986(5)(f), F.S., provides the grounds for revoking, suspending, denying, or refusing to renew a license, and for imposing an administrative penalty not to exceed \$10,000, including a violation of any provision in s. 381.986, F.S., failure to maintain the qualifications for a license, and endangering the health, safety, and welfare of a qualified patient.

Section 381.986(5)(g), F.S., requires the DOH to create a permitting process for all vehicles used by dispensing organizations to transport low-THC cannabis and low-THC products.

Dispensing Organization

The bill amends ss. 381.986(6)(a)-(b), F.S., to detail the criteria for the issuance or renewal of a dispensing organization license. It requires the DOH to review all applications for completeness and to inspect the applicant's property and facilities to verify the authenticity of the information provided in, or in connection with, the application. It provides that an applicant authorizes the DOH to inspect his or her property and facilities for licensure by applying for the license.

The bill specifies the proof that the applicant must submit to the DOH to receive or renew a dispensing organization license, including:

- The applicant, or a separate entity that is owned solely by the same persons or entities in the same ratio as the applicant, possesses a valid certificate of registration issued by the Department of Agriculture and Consumer Services for the cultivation of more than 400,000 plants;
- The applicant's land is operated by a nurseryman as defined in s. 581.011, F.S.;
- The land has been operated as a registered nursery in this state for at least 30 continuous years;
- The applicant has experience cultivating and introducing multiple varieties of plants in this state, including plants that are not native to Florida, propagating plants; and genetic modification or breeding of plants;
- The applicant has at least one person on staff or under contract who has the specified experience, including analytical laboratory quality control measures, chain of custody procedures, and inventory control;
- All persons with a direct or indirect interest in the applicant as well as the applicant's owners, managers, employees, and any contractors who directly interact with low-THC cannabis or low-THC cannabis product have been fingerprinted and have successfully passed a level 2 background screening pursuant to s. 435.04, F.S.;
- The applicant owns, or has at least a 2-year long-term lease of, all properties, facilities, and equipment necessary for the cultivation and processing of low-THC cannabis.
- The applicant has the capability to serve at least 15,000 patients with an assumed daily use of 1,000 mg per patient per day of low-THC cannabis or low-THC cannabis product;
- The applicant's facility is secured and has theft-prevention systems including an alarm system, cameras, and 24-hour security personnel;
- The applicant's has diversion and tracking prevention procedures;

- The applicant has financial documentation with the specified information, including the applicant's assets, credit, and projected revenues.

The applicant must also have a \$1 million performance and compliance bond, or other equivalent means of security deemed equivalent by the DOH, such as an irrevocable letter of credit or a deposit in a trust account or financial institution. The bond must be payable to the DOH, and posted once the applicant is approved as a dispensing organization. The purpose of the bond is to secure payment of any administrative penalties imposed by the DOH and any fees and costs incurred by the DOH regarding the dispensing organization license, such as the dispensing organization failing to pay 30 days after the fine or costs become final.

The dispensing organizations must also employ a medical director who is a physician licensed under ch. 458, F.S., or ch. 459, F.S., to supervise the activities of the dispensing organization.

An approved dispensing organization is required to maintain compliance with the license criteria at all times.

Dispensing Low-THC Cannabis and Products

Section 381.986(6)(c), F.S., requires dispensing organizations to verify the identity of the qualified patient or the legal representative before dispensing low-THC cannabis or low-THC product by requiring the person to produce a government issued identification.

Section 381.986(6)(d), F.S., permits dispensing organizations to have cultivation facilities, processing facilities, and retail facilities.

The bill preempts to the state all matters regarding the location of cultivation facilities and processing facilities. It requires that cultivation facilities and processing facilities must be closed to the public, and low-THC cannabis may not be dispensed on the premises of such facilities.

The bill requires that a county determine by ordinance the criteria for the number, location, and other permitting requirements for all retail facilities located within that county. A retail facility may only be established after a county has adopted such an ordinance.

Section 381.986(6)(e), F.S., requires that a dispensing organization provide the DOH with the following information within 15 days of such information becoming available:

- The location of any new or proposed facilities;
- Updated contact information for all dispensing organization facilities;
- Registration information for any vehicles used for the transportation of low-THC cannabis and low-THC cannabis product; and
- A plan for the recall of any or all low-THC cannabis or low-THC cannabis product.

Section 381.986(6)(f), F.S., requires that all vehicles used to transport all low-THC cannabis or low-THC cannabis products must have a permit issued by the DOH. The cost of the permit is \$5. The permit must be in the vehicle whenever low-THC cannabis or low-THC cannabis products is being transported. The vehicle must be driven by the person identified in the permit. By acceptance of a dispensing organization license and the use of the vehicles, the licensee agrees

that the vehicle shall always be subject to be inspected and searched without a search warrant, for the purpose of ascertaining that the licensee is complying with all provisions of the act. The inspection may be made during business hours or other times the vehicle is being used to transport low-THC cannabis or low-THC cannabis products.

Testing and Labeling of Low-THC Cannabis

The bill creates s. 381.986(7), F.S., to require that all low-THC cannabis and low-THC cannabis products must be tested by an independent testing laboratory before the dispensing organization may dispense it. The independent testing laboratory shall provide the lab results to the dispensing organization, and the dispensing organization must determine that the lab results indicate that the low-THC cannabis or low-THC cannabis products meet the definition of low-THC cannabis or low-THC cannabis product, is safe for human consumption, and is free from harmful contaminants before it can be given to a patient.

The bill requires that all low-THC cannabis and low-THC cannabis products must be labeled before dispensing, and specifies the information that must be included on the label, including the batch and harvest numbers.

Safety and Efficacy Research for Low-THC Cannabis

The bill creates s. 381.986(8), F.S., to require the University of Florida College of Pharmacy to establish and maintain a safety and efficacy research program for the use of low-THC cannabis or low-THC cannabis products to treat qualifying conditions and symptoms. The bill requires that the DOH provide the University of Florida College of Pharmacy with access to information from the compassionate use registry and the prescription drug monitoring database, established in s. 893.055, F.S., as needed to conduct research. The Agency for Health Care Administration must also provide access to registered patient Medicaid records, to the extent allowed under federal law, as needed to conduct research.

Exemptions to Other Laws

The bill amends s. 381.986(9)(a), F.S., to exempt the following persons from the prohibition against the possession of the controlled substance cannabis in ss. 893.13, 893.135, and 893.147, F.S., or any other provision of law:

- The patient's qualified representative who is registered with the DOH on the compassionate use registry as a condition to having legal possession of low-THC cannabis;
- The owners, managers, and employees of contractors of a dispensing organization who have direct contact with low-THC cannabis or low-THC cannabis products; and
- A licensed laboratory and its employees who receive and possess low-THC cannabis for the sole purpose of testing to ensure compliance.

Legislative Ratification

The bill creates s. 381.986(10), F.S., to exempt rules of the DOH under this section from the ratification requirements of s. 120.541(3), F.S.

Public Records Exceptions

The bill revises the public records exemption relating to the compassionate use registry in s. 381.987, F.S., to permit employees of the University of Florida to have access to the compassionate use registry for the purpose of maintaining the registry and periodic reporting or disclosure of information that has been redacted to exclude personal identifying information. It also permits persons engaged in research at the University of Florida pursuant to s. 381.986(8), F.S., to have access to the registry.

The bill amends the public records exemption for the prescription drug monitoring program in ss. 893.055 and 893.0551, F.S., to permit persons engaged in research at the University of Florida pursuant to s. 381.986(8), F.S., to have access to information in the prescription drug monitoring program's database which relates to qualified patients as defined in s. 381.986(1), F.S., for the purpose of conducting research.

Effective Date

The bill is effective upon becoming law.

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:**

Persons who apply for a dispensing organization license will incur costs in the preparation of the application. A dispensing organization must pay the fees required for applying for and obtaining a license. Section 381.986(5)(d), F.S., provides the following fees:

- Initial application fee of \$50,000;
- Initial license fee of \$125,000; and
- Biennial renewal fee of \$125,000.

Section 381.986(6)(f), F.S., requires that all vehicles used to transport all low-THC cannabis or low-THC cannabis products must have a permit issued by the DOH, and the permit cost is \$5.

B. Private Sector Impact:

The bill requires that all persons who have a direct or indirect interest in the dispensing organization and the applicant's managers, employees, and contractors who directly interact with low-THC cannabis or low-THC cannabis products must be fingerprinted and successfully pass a level 2 background screening pursuant to s. 435.04, F.S. The amount of the fee for fingerprinting varies by vendor. For example, the Department of Business and Professional Regulation assesses a total fee of \$54.50, which includes a \$40.50 payment to the Florida Department of Law Enforcement and the Federal Bureau of Investigation to process the fingerprints, and an additional \$14.00 processing charge to have the fingerprints scanned and submitted electronically.⁴⁶

C. Government Sector Impact:

The Department of Health must accept and review applications for approval of licensure as a dispensing organization. Depending on the number of qualified applicants, a lottery may be needed to determine the selection of the qualified applicants for the 20 available licenses to be issued to dispensing organizations. The DOH may also incur costs for rulemaking.

VI. Technical Deficiencies:

Consideration should be given to addressing the cross references for the requirements imposed on retail facilities (Lines 614-615), so that the restrictions intended to be imposed are in subsection (6)(d)2 of the bill.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.986, 381.987, 893.055, and 893.0551.

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

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

None.

⁴⁶ See Department of Business and Professional Regulation, *Electronic Fingerprinting Frequently Asked Questions, How much does electronic fingerprinting cost?* at http://www.myfloridalicense.com/dbpr/servop/testing/documents/finger_faq.pdf (last visited March 25, 2015).

B. Amendments:

None.

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

FOR CONSIDERATION By the Committee on Regulated Industries

580-02582A-15

20157066pb

1 A bill to be entitled
 2 An act relating to low-THC cannabis; amending s.
 3 381.986, F.S.; defining terms; revising the illnesses
 4 and symptoms for which a physician may order a patient
 5 the medical use of low-THC cannabis in certain
 6 circumstances; providing that a physician who
 7 improperly orders low-THC cannabis is subject to
 8 specified disciplinary action; revising the duties of
 9 the Department of Health; requiring the department to
 10 create a secure, electronic, and online compassionate
 11 use registry; requiring the department to begin to
 12 accept applications for licensure as a dispensing
 13 organization according to a specified application
 14 process; requiring the department to review all
 15 applications, notify applicants of deficient
 16 applications, and request any additional information
 17 within a specified period; requiring an application
 18 for licensure to be filed and complete by specified
 19 dates; providing for a lottery for licensure as a
 20 dispensing organization in certain circumstances;
 21 authorizing the department to issue additional
 22 licenses to qualified applicants in certain
 23 circumstances; providing an exemption for the
 24 application process; requiring the department to use
 25 an application form that requires specified
 26 information from the applicant; requiring the
 27 department to impose specified application fees;
 28 requiring the department to inspect each dispensing
 29 organization's properties, cultivation facilities,

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30 processing facilities, and retail facilities before
 31 those facilities may operate; authorizing followup
 32 inspections at reasonable hours; providing that
 33 licensure constitutes permission for the department to
 34 enter and inspect the premises and facilities of any
 35 dispensing organization; authorizing the department to
 36 inspect any licensed dispensing organization;
 37 requiring dispensing organizations to make all
 38 facility premises, equipment, documents, low-THC
 39 cannabis, and low-THC cannabis products available to
 40 the department upon inspection; authorizing the
 41 department to test low-THC cannabis or low-THC
 42 cannabis products; authorizing the department to
 43 suspend or revoke a license, deny or refuse to renew a
 44 license, or impose a maximum administrative penalty
 45 for specified acts or omissions; requiring the
 46 department to create a permitting process for vehicles
 47 used for the transportation of low-THC cannabis or
 48 low-THC cannabis products; authorizing the department
 49 to adopt rules as necessary for implementation of
 50 specified provisions and procedures, and to provide
 51 specified guidance; providing procedures and
 52 requirements for an applicant seeking licensure as a
 53 dispensing organization or the renewal of its license;
 54 requiring the dispensing organization to verify
 55 specified information of specified persons in certain
 56 circumstances; authorizing a dispensing organization
 57 to have cultivation facilities, processing facilities,
 58 and retail facilities; requiring a dispensing

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59 organization to provide the department with specified
 60 updated information within a specified period;
 61 authorizing a dispensing organization to transport
 62 low-THC cannabis or low-THC cannabis products in
 63 vehicles in certain circumstances; requiring such
 64 vehicles to be operated by specified persons in
 65 certain circumstances; requiring a fee for a vehicle
 66 permit; requiring the signature of the designated
 67 driver with a vehicle permit application; providing
 68 for expiration of the permit in certain circumstances;
 69 requiring the department to cancel a vehicle permit
 70 upon the request of specified persons; providing that
 71 the licensee authorizes the inspection and search of
 72 his or her vehicle without a search warrant by
 73 specified persons; requiring all low-THC cannabis and
 74 low-THC cannabis products to be tested by an
 75 independent testing laboratory before the dispensing
 76 organization may dispense it; requiring the
 77 independent testing laboratory to provide the lab
 78 results to the dispensing organization for a specified
 79 determination; requiring all low-THC cannabis and low-
 80 THC cannabis products to be labeled with specified
 81 information before dispensing; requiring the
 82 University of Florida College of Pharmacy to establish
 83 and maintain a specified safety and efficacy research
 84 program; providing program requirements; requiring the
 85 department to provide information from the
 86 prescription drug monitoring program to the University
 87 of Florida as needed; requiring the Agency for Health

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88 Care Administration to provide access to specified
 89 patient records under certain circumstances;
 90 authorizing specified individuals to manufacture,
 91 possess, sell, deliver, distribute, dispense, and
 92 lawfully dispose of reasonable quantities of low-THC
 93 cannabis; authorizing a licensed laboratory and its
 94 employees to receive and possess low-THC cannabis in
 95 certain circumstances; providing that specified rules
 96 adopted by the department are exempt from the
 97 requirement to be ratified by the Legislature;
 98 amending s. 381.987, F.S.; requiring the department to
 99 allow specified persons engaged in research to access
 100 the compassionate use registry; amending s. 893.055,
 101 F.S.; providing that persons engaged in research at
 102 the University of Florida shall have access to
 103 specified information; amending s. 893.0551, F.S.;
 104 providing a specified public records exemption for
 105 persons engaged in research at the University of
 106 Florida; providing an effective date.

107
 108 Be It Enacted by the Legislature of the State of Florida:

109
 110 Section 1. Section 381.986, Florida Statutes, is amended to
 111 read:

112 381.986 Compassionate use of low-THC cannabis.—

113 (1) DEFINITIONS.—As used in this section, the term:

114 (a) "Applicant" means a person that has submitted an
 115 application to the department for licensure or renewal as a
 116 dispensing organization.

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- 117 (b) "Batch" means a specific quantity of low-THC cannabis
 118 product that is intended to have uniform character and quality,
 119 within specified limits, and is produced at the same time from
 120 one or more harvests.
- 121 (c) "Dispensing organization" means an applicant licensed
 122 organization approved by the department to cultivate, process,
 123 and dispense low-THC cannabis pursuant to this section.
- 124 (d) "Harvest" means a specifically identified and numbered
 125 quantity of low-THC cannabis cultivated using the same
 126 herbicides, pesticides, and fungicides and harvested at the same
 127 time from a single facility.
- 128 (e) (b) "Low-THC cannabis" means a plant of the genus
 129 Cannabis, the dried flowers of which contain 0.8 percent or less
 130 of tetrahydrocannabinol and more than 10 percent of cannabidiol
 131 weight for weight; the seeds thereof; the resin extracted from
 132 any part of such plant; or any compound, manufacture, salt,
 133 derivative, mixture, or preparation of such plant or its seeds
 134 or resin that is dispensed only from a dispensing organization.
- 135 (f) "Low-THC cannabis product" means any product derived
 136 from low-THC cannabis, including the resin extracted from any
 137 part of such plant or any compound, manufacture, salt,
 138 derivative, mixture, or preparation of such plant or its seeds
 139 or resin which is dispensed from a dispensing organization. Low-
 140 THC cannabis products include, but are not limited to, oils,
 141 tinctures, creams, encapsulations, and food products. All low-
 142 THC cannabis products must maintain concentrations, weight for
 143 weight, of 0.8 percent or less of tetrahydrocannabinol and more
 144 than 10 percent of cannabidiol.
- 145 (g) (e) "Medical use" means administration of the ordered

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- 146 amount of low-THC cannabis. The term does not include:
- 147 1. The possession, use, or administration by smoking; -
 148 2. ~~The term also does not include~~ The transfer of low-THC
 149 cannabis to a person other than the qualified patient for whom
 150 it was ordered or the qualified patient's legal representative
 151 who is registered in the compassionate use registry on behalf of
 152 the qualified patient; or -
- 153 3. The use or administration of medical-grade marijuana:
- 154 a. On any form of public transportation.
 155 b. In any public place.
 156 c. In a registered qualified patient's place of work, if
 157 restricted by his or her employer.
 158 d. In a correctional facility.
 159 e. On the grounds of any preschool, primary school, or
 160 secondary school.
 161 f. On a school bus.
- 162 (h) (d) "Qualified patient" means a resident of this state
 163 who has been added to the compassionate use registry by a
 164 physician licensed under chapter 458 or chapter 459 to receive
 165 low-THC cannabis from a dispensing organization.
- 166 (i) (e) "Smoking" means burning or igniting a substance and
 167 inhaling the smoke. Smoking does not include the use of a
 168 vaporizer.
- 169 (2) PHYSICIAN ORDERING.—
- 170 (a) ~~Effective January 1, 2015,~~ A physician licensed under
 171 chapter 458 or chapter 459 who has examined and is treating a
 172 patient suffering from cancer, human immunodeficiency virus,
 173 acquired immune deficiency syndrome, epilepsy, amyotrophic
 174 lateral sclerosis, multiple sclerosis, Crohn's disease,

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175 Parkinson's disease, paraplegia, quadriplegia, or terminal
 176 illness a physical medical condition that chronically produces
 177 symptoms of seizures or severe and persistent muscle spasms may
 178 order for the patient's medical use low-THC cannabis to treat
 179 such disease, disorder, or condition; ~~or~~ to alleviate symptoms
 180 of such disease, disorder, or condition; or to alleviate
 181 symptoms caused by a treatment for such disease, disorder, or
 182 condition if no other satisfactory alternative treatment options
 183 exist for that patient and all of the following ~~conditions~~
 184 apply:

- 185 1.(a) The patient is a permanent resident of this state.
 186 2.(b) The physician determines that the risks of ordering
 187 low-THC cannabis are reasonable in light of the potential
 188 benefit for that patient. If a patient is younger than 18 years
 189 of age, a second physician must concur with this determination,
 190 and such determination must be documented in the patient's
 191 medical record.
 192 3.(e) The physician registers the patient, the patient's
 193 legal representative if requested by the patient, and himself or
 194 herself as the orderer of low-THC cannabis for the named patient
 195 on the compassionate use registry maintained by the department
 196 and updates the registry to reflect the contents of the order.
 197 If the patient is a minor, the physician must register a legal
 198 representative on the compassionate use registry. The physician
 199 shall deactivate the patient's registration when treatment is
 200 discontinued.
 201 4.(d) The physician maintains a patient treatment plan that
 202 includes the dose, route of administration, planned duration,
 203 and monitoring of the patient's symptoms and other indicators of

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204 tolerance or reaction to the low-THC cannabis.

205 5.(e) The physician submits the patient treatment plan, as
 206 well as any other requested medical records, quarterly to the
 207 University of Florida College of Pharmacy for research on the
 208 safety and efficacy of low-THC cannabis on patients pursuant to
 209 subsection (8).

210 6.(f) The physician obtains the voluntary informed consent
 211 of the patient or the patient's legal guardian to treatment with
 212 low-THC cannabis after sufficiently explaining the current state
 213 of knowledge in the medical community of the effectiveness of
 214 treatment of the patient's conditions or symptoms ~~condition~~ with
 215 low-THC cannabis, the medically acceptable alternatives, and the
 216 potential risks and side effects.

217 (b) A physician who improperly orders low-THC cannabis is
 218 subject to disciplinary action under the applicable practice act
 219 and under s. 456.072(1)(k).

220 (3) PENALTIES.—

221 (a) A physician commits a misdemeanor of the first degree,
 222 punishable as provided in s. 775.082 or s. 775.083, if the
 223 physician orders low-THC cannabis for a patient without a
 224 reasonable belief that the patient is suffering from at least
 225 one of the conditions listed in subsection (2).+

226 ~~1. Cancer or a physical medical condition that chronically~~
 227 ~~produces symptoms of seizures or severe and persistent muscle~~
 228 ~~spasms that can be treated with low-THC cannabis; or~~

229 ~~2. Symptoms of cancer or a physical medical condition that~~
 230 ~~chronically produces symptoms of seizures or severe and~~
 231 ~~persistent muscle spasms that can be alleviated with low-THC~~
 232 ~~cannabis.~~

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233 (b) Any person who fraudulently represents that he or she
 234 has at least one condition listed in subsection (2) ~~cancer or a~~
 235 ~~physical medical condition that chronically produces symptoms of~~
 236 ~~seizures or severe and persistent muscle spasms~~ to a physician
 237 for the purpose of being ordered low-THC cannabis by such
 238 physician commits a misdemeanor of the first degree, punishable
 239 as provided in s. 775.082 or s. 775.083.

240 (4) PHYSICIAN EDUCATION.—

241 (a) Before ordering low-THC cannabis for use by a patient
 242 in this state, the appropriate board shall require the ordering
 243 physician licensed under chapter 458 or chapter 459 to
 244 successfully complete an 8-hour course and subsequent
 245 examination offered by the Florida Medical Association or the
 246 Florida Osteopathic Medical Association that encompasses the
 247 clinical indications for the appropriate use of low-THC
 248 cannabis, the appropriate delivery mechanisms, the
 249 contraindications for such use, as well as the relevant state
 250 and federal laws governing the ordering, dispensing, and
 251 possessing of this substance. The first course and examination
 252 shall be presented by October 1, 2014, and shall be administered
 253 at least annually thereafter. Successful completion of the
 254 course may be used by a physician to satisfy 8 hours of the
 255 continuing medical education requirements required by his or her
 256 respective board for licensure renewal. This course may be
 257 offered in a distance learning format.

258 (b) The appropriate board shall require the medical
 259 director of each dispensing organization approved under
 260 subsection (5) to successfully complete a 2-hour course and
 261 subsequent examination offered by the Florida Medical

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262 Association or the Florida Osteopathic Medical Association that
 263 encompasses appropriate safety procedures and knowledge of low-
 264 THC cannabis.

265 (c) Successful completion of the course and examination
 266 specified in paragraph (a) is required for every physician who
 267 orders low-THC cannabis each time such physician renews his or
 268 her license. In addition, successful completion of the course
 269 and examination specified in paragraph (b) is required for the
 270 medical director of each dispensing organization each time such
 271 physician renews his or her license.

272 (d) A physician who fails to comply with this subsection
 273 and who orders low-THC cannabis may be subject to disciplinary
 274 action under the applicable practice act and under s.
 275 456.072(1)(k).

276 (5) DUTIES AND POWERS OF THE DEPARTMENT. ~~By January 1,~~
 277 ~~2015, The department shall:~~

278 (a) The department shall create a secure, electronic, and
 279 online compassionate use registry for the registration of
 280 physicians and patients as provided under this section. The
 281 registry must be accessible to law enforcement agencies and to a
 282 dispensing organization in order to verify patient authorization
 283 for low-THC cannabis and record the low-THC cannabis dispensed.
 284 The registry must prevent an active registration of a patient by
 285 multiple physicians.

286 (b) 1. Beginning 7 days after the effective date of this
 287 act, the department shall accept applications for licensure as a
 288 dispensing organization. The department shall review each
 289 application to determine whether the applicant meets the
 290 criteria in subsection (6) and qualifies for licensure.

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291 2. Within 10 days after receiving an application for
 292 licensure, the department shall examine the application, notify
 293 the applicant of any apparent errors or omissions, and request
 294 any additional information the department is allowed by law to
 295 require. An application for licensure must be filed with the
 296 department no later than 5 p.m. on the 30th day after the
 297 effective date of this act, and all applications must be
 298 complete no later than 5 p.m. on the 60th day after the
 299 effective date of this act.

300 3. If fewer than 20 applicants meet the criteria specified
 301 in subsection (6), the department shall, by the 75th day after
 302 the effective date of this act, license each such applicant. If
 303 more than 20 applicants meet these criteria, licensure shall be
 304 determined by lottery.

305 4. Beginning March 15, 2016, and every 6 months thereafter,
 306 if fewer than 20 dispensing organization licenses have been
 307 issued in this state, the department may issue additional
 308 licenses to qualified applicants up to the 20-organization
 309 maximum. If the number of qualified applicants under this
 310 subparagraph exceeds the number of dispensing organization
 311 licenses available for issuance, licensure shall be determined
 312 by lottery.

313 5. This section is exempt from s. 120.60. Authorize the
 314 establishment of five dispensing organizations to ensure
 315 reasonable statewide accessibility and availability as necessary
 316 for patients registered in the compassionate use registry and
 317 who are ordered low-THC cannabis under this section, one in each
 318 of the following regions: northwest Florida, northeast Florida,
 319 central Florida, southeast Florida, and southwest Florida.

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320 (c) The department shall ~~use develop~~ an application form
 321 that requires the applicant to state:

322 1. Whether the application is for initial licensure or
 323 renewal licensure;

324 2. The name, the physical address, the mailing address, the
 325 address listed on the Department of Agriculture and Consumer
 326 Services certificate required in paragraph (6)(b), and the
 327 contact information for the applicant and for the nursery that
 328 holds the Department of Agriculture and Consumer Services
 329 certificate, if different from the applicant;

330 3. The name, address, and contact information for the
 331 operating nurseryman of the organization that holds the
 332 Department of Agriculture and Consumer Services certificate;

333 4. The name, address, license number, and contact
 334 information for the applicant's medical director; and

335 5. All information required to be included by subsection
 336 (6).

337 (d) The department shall ~~and~~ impose an initial application
 338 fee of \$50,000, an initial licensure fee of \$125,000, and a
 339 biennial renewal fee of \$125,000 that is sufficient to cover the
 340 costs of administering this section. An applicant for approval
 341 as a dispensing organization must be able to demonstrate:

342 1. The technical and technological ability to cultivate and
 343 produce low-THC cannabis. The applicant must possess a valid
 344 certificate of registration issued by the Department of
 345 Agriculture and Consumer Services pursuant to s. 581.131 that is
 346 issued for the cultivation of more than 400,000 plants, be
 347 operated by a nurseryman as defined in s. 581.011, and have been
 348 operated as a registered nursery in this state for at least 30

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349 ~~continuous years.~~

350 ~~2. The ability to secure the premises, resources, and~~
 351 ~~personnel necessary to operate as a dispensing organization.~~

352 ~~3. The ability to maintain accountability of all raw~~
 353 ~~materials, finished products, and any byproducts to prevent~~
 354 ~~diversion or unlawful access to or possession of these~~
 355 ~~substances.~~

356 ~~4. An infrastructure reasonably located to dispense low-THC~~
 357 ~~cannabis to registered patients statewide or regionally as~~
 358 ~~determined by the department.~~

359 ~~5. The financial ability to maintain operations for the~~
 360 ~~duration of the 2 year approval cycle, including the provision~~
 361 ~~of certified financials to the department. Upon approval, the~~
 362 ~~applicant must post a \$5 million performance bond.~~

363 ~~6. That all owners and managers have been fingerprinted and~~
 364 ~~have successfully passed a level 2 background screening pursuant~~
 365 ~~to s. 435.04.~~

366 ~~7. The employment of a medical director who is a physician~~
 367 ~~licensed under chapter 458 or chapter 459 to supervise the~~
 368 ~~activities of the dispensing organization.~~

369 (e) The department shall inspect each dispensing
 370 organization's properties, cultivation facilities, processing
 371 facilities, and retail facilities before they begin operations
 372 and at least once every 2 years thereafter. The department may
 373 conduct additional announced or unannounced inspections,
 374 including followup inspections, at reasonable hours in order to
 375 ensure that such property and facilities maintain compliance
 376 with all applicable requirements in subsections (6) and (7) and
 377 to ensure that the dispensing organization has not committed any

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378 other act that would endanger the health, safety, or security of
 379 a qualified patient, dispensing organization staff, or the
 380 community in which the dispensing organization is located.
 381 Licensure under this section constitutes permission for the
 382 department to enter and inspect the premises and facilities of
 383 any dispensing organization. The department may inspect any
 384 licensed dispensing organization, and a dispensing organization
 385 must make all facility premises, equipment, documents, low-THC
 386 cannabis, and low-THC cannabis products available to the
 387 department upon inspection. The department may test any low-THC
 388 cannabis or low-THC cannabis product in order to ensure that it
 389 is safe for human consumption and that it meets the requirements
 390 in this section.

391 (f) The department may suspend or revoke a license, deny or
 392 refuse to renew a license, or impose an administrative penalty
 393 not to exceed \$10,000 for the following acts or omissions:

394 1. A violation of this section or department rule.

395 2. Failing to maintain qualifications for licensure.

396 3. Endangering the health, safety, or security of a
 397 qualified patient.

398 4. Improperly disclosing personal and confidential
 399 information of the qualified patient.

400 5. Attempting to procure a license by bribery or fraudulent
 401 misrepresentation.

402 6. Being convicted or found guilty of, or entering a plea
 403 of nolo contendere to, regardless of adjudication, a crime in
 404 any jurisdiction which directly relates to the business of a
 405 dispensing organization.

406 7. Making or filing a report or record that the licensee

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407 knows to be false.

408 8. Willfully failing to maintain a record required by this
409 section or rule of the department.

410 9. Willfully impeding or obstructing an employee or agent
411 of the department in the furtherance of his or her official
412 duties.

413 10. Engaging in fraud or deceit, negligence, incompetence,
414 or misconduct in the business practices of a dispensing
415 organization.

416 11. Making misleading, deceptive, or fraudulent
417 representations in or related to the business practices of a
418 dispensing organization.

419 12. Having a license or the authority to engage in any
420 regulated profession, occupation, or business that is related to
421 the business practices of a dispensing organization revoked,
422 suspended, or otherwise acted against, including the denial of
423 licensure, by the licensing authority of any jurisdiction,
424 including its agencies or subdivisions, for a violation that
425 would constitute a violation under state law. A licensing
426 authority's acceptance of a relinquishment of licensure or a
427 stipulation, consent order, or other settlement, offered in
428 response to or in anticipation of the filing of charges against
429 the license, shall be construed as an action against the
430 license.

431 13. Violating a lawful order of the department or an agency
432 of the state, or failing to comply with a lawfully issued
433 subpoena of the department or an agency of the state.

434 (g) The department shall create a permitting process for
435 all dispensing organization vehicles used for the transportation

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436 of low-THC cannabis or low-THC cannabis products.

437 (h)-(e) The department shall monitor physician registration
438 and ordering of low-THC cannabis for ordering practices that
439 could facilitate unlawful diversion or misuse of low-THC
440 cannabis and take disciplinary action as indicated.

441 (i)-(d) The department shall adopt rules as necessary to
442 implement this section.

443 (6) DISPENSING ORGANIZATION.-

444 (a) An applicant seeking licensure as a dispensing
445 organization, or the renewal of its license, must submit an
446 application to the department. The department must review all
447 applications for completeness, including an appropriate
448 inspection of the applicant's property and facilities to verify
449 the authenticity of the information provided in, or in
450 connection with, the application. An applicant authorizes the
451 department to inspect his or her property and facilities for
452 licensure by applying under this subsection.

453 (b) In order to receive or maintain licensure as a
454 dispensing organization, an applicant must provide proof that:

455 1. The applicant, or a separate entity that is owned solely
456 by the same persons or entities in the same ratio as the
457 applicant, possesses a valid certificate of registration issued
458 by the Department of Agriculture and Consumer Services pursuant
459 to s. 581.131 for the cultivation of more than 400,000 plants,
460 the applicant's land is operated by a nurseryman as defined in
461 s. 581.011, and the land has been operated as a registered
462 nursery in this state for at least 30 continuous years.

463 2. The personnel on staff or under contract for the
464 applicant have experience cultivating and introducing multiple

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465 varieties of plants in this state, including plants that are not
 466 native to Florida; experience with propagating plants; and
 467 experience with genetic modification or breeding of plants.

468 3. The personnel on staff or under contract for the
 469 applicant include at least one person who:

470 a. Has at least 5 years' experience with United States
 471 Department of Agriculture Good Agricultural Practices and Good
 472 Handling Practices;

473 b. Has at least 5 years' experience with United States Food
 474 and Drug Administration Good Manufacturing Practices for food
 475 production;

476 c. Has a doctorate degree in organic chemistry or
 477 microbiology;

478 d. Has at least 5 years of experience with laboratory
 479 procedures which includes analytical laboratory quality control
 480 measures, chain of custody procedures, and analytical laboratory
 481 methods;

482 e. Has experience with cannabis cultivation and processing,
 483 including cannabis extraction techniques and producing cannabis
 484 products;

485 f. Has experience and qualifications in chain of custody or
 486 other tracking mechanisms;

487 g. Works solely on inventory control; and

488 h. Works solely for security purposes.

489 4. The persons who have a direct or indirect interest in
 490 the dispensing organization and the applicant's managers,
 491 employees, and contractors who directly interact with low-THC
 492 cannabis or low-THC cannabis products have been fingerprinted
 493 and have successfully passed a level 2 background screening

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494 pursuant to s. 435.04.

495 5. The applicant owns, or has at least a 2-year lease of,
 496 all properties, facilities, and equipment necessary for the
 497 cultivation and processing of low-THC cannabis. The applicant
 498 must provide a detailed description of each facility and its
 499 equipment, a cultivation and processing plan, and a detailed
 500 floor plan. The description must include proof that:

501 a. The applicant is capable of sufficient cultivation and
 502 processing to serve at least 15,000 patients with an assumed
 503 daily use of 1,000 mg per patient per day of low-THC cannabis or
 504 low-THC cannabis product;

505 b. The applicant has arranged for access to all utilities
 506 and resources necessary to cultivate or process low-THC cannabis
 507 at each listed facility; and

508 c. Each facility is secured and has theft-prevention
 509 systems including an alarm system, cameras, and 24-hour security
 510 personnel.

511 6. The applicant has diversion and tracking prevention
 512 procedures, including:

513 a. A system for tracking low-THC material through
 514 cultivation, processing, and dispensing, including the use of
 515 batch and harvest numbers;

516 b. An inventory control system for low-THC cannabis and
 517 low-THC cannabis products;

518 c. A vehicle tracking and security system; and

519 d. A cannabis waste-disposal plan.

520 7. The applicant has recordkeeping policies and procedures
 521 in place.

522 8. The applicant has a facility emergency management plan.

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523 9. The applicant has a plan for dispensing low-THC cannabis
 524 throughout the state. This plan must include planned retail
 525 facilities and a delivery plan for providing low-THC cannabis
 526 and low-THC cannabis products to qualified patients who cannot
 527 travel to a retail facility.

528 10. The applicant has financial documentation, including:
 529 a. Documentation that demonstrates the applicant's
 530 financial ability to operate. If the applicant's assets, credit,
 531 and projected revenues meet or exceed projected liabilities and
 532 expenses and the applicant provides independent evidence that
 533 the funds necessary for startup costs, working capital, and
 534 contingency financing exist and are available as needed, the
 535 applicant has demonstrated the financial ability to operate.
 536 Financial ability to operate must be documented by:

537 I. The applicant's audited financial statements. If the
 538 applicant is a newly formed entity and does not have a financial
 539 history of business upon which audited financial statements may
 540 be submitted, the applicant must provide audited financial
 541 statements for the separate entity that is owned solely by the
 542 same persons or entities in the same ratio as the applicant that
 543 possesses the valid certificate of registration issued by the
 544 Department of Agriculture and Consumer Services;

545 II. The applicant's projected financial statements,
 546 including a balance sheet, an income and expense statement, and
 547 a statement of cash flow for the first 2 years of operation,
 548 which provides evidence that the applicant has sufficient
 549 assets, credit, and projected revenues to cover liabilities and
 550 expenses; and

551 III. A statement of the applicant's estimated startup costs

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552 and sources of funds, including a break-even projection and
 553 documentation demonstrating that the applicant has the ability
 554 to fund all startup costs, working capital costs, and
 555 contingency financing requirements.

556
 557 All documents required under this sub-subparagraph shall be
 558 prepared in accordance with generally accepted accounting
 559 principles and signed by a certified public accountant. The
 560 statements required by sub-sub-subparagraph II. and III. may be
 561 presented as a compilation.

562 b. A list of all subsidiaries of the applicant;

563 c. A list of all lawsuits pending and completed within the
 564 past 7 years of which the applicant was a party; and

565 d. Proof of a \$1 million performance and compliance bond,
 566 or other equivalent means of security deemed equivalent by the
 567 department, such as an irrevocable letter of credit or a deposit
 568 in a trust account or financial institution, payable to the
 569 department, which must be posted once the applicant is approved
 570 as a dispensing organization. The purpose of the bond is to
 571 secure payment of any administrative penalties imposed by the
 572 department and any fees and costs incurred by the department
 573 regarding the dispensing organization license, such as the
 574 dispensing organization failing to pay 30 days after the fine or
 575 costs become final. The department may make a claim against such
 576 bond or security until 1 year after the dispensing
 577 organization's license ceases to be valid or until 60 days after
 578 any administrative or legal proceeding authorized in this
 579 section involving the dispensing organization concludes,
 580 including any appeal, whichever occurs later.

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581 11. The employment of a medical director who is a physician
 582 licensed under chapter 458 or chapter 459 to supervise the
 583 activities of the dispensing organization.

584 (c) An approved dispensing organization shall maintain
 585 compliance with the criteria in paragraphs (b), (d), and (e) and
 586 subsection (7) ~~demonstrated for selection and approval as a~~
 587 ~~dispensing organization under subsection (5)~~ at all times.
 588 Before dispensing low-THC cannabis or low-THC cannabis products
 589 to a qualified patient or to the qualified patient's legal
 590 representative, the dispensing organization shall verify the
 591 identity of the qualified patient or the qualified patient's
 592 legal representative by requiring the qualified patient or the
 593 qualified patient's legal representative to produce a
 594 government-issued identification card and shall verify that the
 595 qualified patient and the qualified patient's legal
 596 representative have ~~has~~ an active registration in the
 597 compassionate use registry, that the order presented matches the
 598 order contents as recorded in the registry, and that the order
 599 has not already been filled. Upon dispensing the low-THC
 600 cannabis, the dispensing organization shall record in the
 601 registry the date, time, quantity, and form of low-THC cannabis
 602 dispensed.

603 (d) A dispensing organization may have cultivation
 604 facilities, processing facilities, and retail facilities.

605 1. All matters regarding the location of cultivation
 606 facilities and processing facilities are preempted to the state.
 607 Cultivation facilities and processing facilities must be closed
 608 to the public, and low-THC cannabis may not be dispensed on the
 609 premises of such facilities.

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610 2. A county must determine by ordinance the criteria for
 611 the number, location, and other permitting requirements for all
 612 retail facilities located within that county. A retail facility
 613 may be established in a county only after such an ordinance has
 614 been created. Retail facilities must meet the requirements in
 615 subparagraphs (b)5. and (b)7. Retail facilities may not sell, or
 616 contract for the sale of, anything other than low-THC cannabis
 617 or low-THC cannabis products on the property of the retail
 618 facility. Before a retail facility may dispense low-THC cannabis
 619 or a low-THC cannabis product, the dispensing organization must
 620 have a computer network compliant with the federal Health
 621 Insurance Portability and Accountability Act of 1996 which is
 622 able to access and upload data to the compassionate use registry
 623 and which shall be used by all retail facilities.

624 (e) Within 15 days of such information becoming available,
 625 a dispensing organization must provide the department with
 626 updated information, as applicable, including:

627 1. The location and a detailed description of any new or
 628 proposed facilities.

629 2. The updated contact information, including electronic
 630 and voice communication, for all dispensing organization
 631 facilities.

632 3. The registration information for any vehicles used for
 633 the transportation of low-THC cannabis and low-THC cannabis
 634 product, including confirmation that all such vehicles have
 635 tracking and security systems.

636 4. A plan for the recall of any or all low-THC cannabis or
 637 low-THC cannabis product.

638 (f)1. A dispensing organization may transport low-THC

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639 cannabis or low-THC cannabis products in vehicles departing from
 640 their places of business only in vehicles that are owned or
 641 leased by the licensee or by a person designated by the
 642 dispensing organization, and for which a valid vehicle permit
 643 has been issued for such vehicle by the department.

644 2. A vehicle owned or leased by the dispensing organization
 645 or a person designated by the dispensing organization and
 646 approved by the department must be operated by such person when
 647 transporting low-THC cannabis or low-THC products from the
 648 licensee's place of business.

649 3. A vehicle permit may be obtained by a dispensing
 650 organization upon application and payment of a fee of \$5 per
 651 vehicle to the department. The signature of the person
 652 designated by the dispensing organization to drive the vehicle
 653 must be included on the vehicle permit application. Such permit
 654 remains valid and does not expire unless the licensee or any
 655 person designated by the dispensing organization disposes of his
 656 or her vehicle, or the licensee's license is transferred,
 657 canceled, not renewed, or is revoked by the department,
 658 whichever occurs first. The department shall cancel a vehicle
 659 permit upon request of the licensee or owner of the vehicle.

660 4. By acceptance of a license issued under this section,
 661 the licensee agrees that the licensed vehicle is, at all times
 662 it is being used to transport low-THC cannabis or low-THC
 663 cannabis products, subject to inspection and search without a
 664 search warrant by authorized employees of the department,
 665 sheriffs, deputy sheriffs, or police officers to determine that
 666 the licensee is transporting such products in compliance with
 667 this section.

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668 (7) TESTING AND LABELING OF LOW-THC CANNABIS.-

669 (a) All low-THC cannabis and low-THC cannabis products must
 670 be tested by an independent testing laboratory before the
 671 dispensing organization may dispense them. The independent
 672 testing laboratory shall provide the dispensing organization
 673 with lab results. Before dispensing, the dispensing organization
 674 must determine that the lab results indicate that the low-THC
 675 cannabis or low-THC cannabis product meets the definition of
 676 low-THC cannabis or low-THC cannabis product, is safe for human
 677 consumption, and is free from harmful contaminants.

678 (b) All low-THC cannabis and low-THC cannabis products must
 679 be labeled before dispensing. The label must include, at a
 680 minimum:

681 1. A statement that the low-THC cannabis or low-THC
 682 cannabis product meets the requirements in paragraph (a);

683 2. The name of the independent testing laboratory that
 684 tested the low-THC cannabis or low-THC cannabis product;

685 3. The name of the cultivation and processing facility
 686 where the low-THC cannabis or low-THC cannabis product
 687 originates; and

688 4. The batch number and harvest number from which the low-
 689 THC cannabis or low-THC cannabis product originates.

690 (8) SAFETY AND EFFICACY RESEARCH FOR LOW-THC CANNABIS.-The
 691 University of Florida College of Pharmacy must establish and
 692 maintain a safety and efficacy research program for the use of
 693 low-THC cannabis or low-THC cannabis products to treat
 694 qualifying conditions and symptoms. The program must include a
 695 fully integrated electronic information system for the broad
 696 monitoring of health outcomes and safety signal detection. The

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697 electronic information system must include information from the
 698 compassionate use registry; provider reports, including
 699 treatment plans, adverse event reports, and treatment
 700 discontinuation reports; patient reports of adverse impacts;
 701 event-triggered interviews and medical chart reviews performed
 702 by University of Florida clinical research staff; information
 703 from external databases, including Medicaid billing reports and
 704 information in the prescription drug monitoring database for
 705 registered patients; and all other medical reports required by
 706 the University of Florida to conduct the research required by
 707 this subsection. The department must provide access to
 708 information from the compassionate use registry and the
 709 prescription drug monitoring database, established in s.
 710 893.055, as needed by the University of Florida to conduct
 711 research under this subsection. The Agency for Health Care
 712 Administration must provide access to registered patient
 713 Medicaid records, to the extent allowed under federal law, as
 714 needed by the University of Florida to conduct research under
 715 this subsection.

716 (9)(7) EXCEPTIONS TO OTHER LAWS.-

717 (a) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or
 718 any other ~~provision~~ of law, but subject to the requirements of
 719 this section, a qualified patient and the qualified patient's
 720 legal representative who is registered with the department on
 721 the compassionate use registry may purchase and possess for the
 722 patient's medical use up to the amount of low-THC cannabis
 723 ordered for the patient.

724 (b) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or
 725 any other provision of law, but subject to the requirements of

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726 this section, an approved dispensing organization and its
 727 owners, managers, ~~and~~ employees and the owners, managers, and
 728 employees of contractors who have direct contact with low-THC
 729 cannabis or low-THC cannabis product may manufacture, possess,
 730 sell, deliver, distribute, dispense, and lawfully dispose of
 731 reasonable quantities, as established by department rule, of
 732 low-THC cannabis. For purposes of this subsection, the terms
 733 "manufacture," "possession," "deliver," "distribute," and
 734 "dispense" have the same meanings as provided in s. 893.02.

735 (c) An approved dispensing organization and its owners,
 736 managers, and employees are not subject to licensure or
 737 regulation under chapter 465 or chapter 499 for manufacturing,
 738 possessing, selling, delivering, distributing, dispensing, or
 739 lawfully disposing of reasonable quantities, as established by
 740 department rule, of low-THC cannabis.

741 (d) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or
 742 any other law, but subject to the requirements of this section,
 743 a licensed laboratory and its employees may receive and possess
 744 low-THC cannabis for the sole purpose of testing the low-THC
 745 cannabis to ensure compliance with this section.

746 (10) Rules adopted by the department under this section are
 747 exempt from the requirement that they be ratified by the
 748 Legislature pursuant to s. 120.541(3).

749 Section 2. Paragraph (g) is added to subsection (3) of
 750 section 381.987, Florida Statutes, to read:

751 381.987 Public records exemption for personal identifying
 752 information in the compassionate use registry.-

753 (3) The department shall allow access to the registry,
 754 including access to confidential and exempt information, to:

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755 (g) Persons engaged in research at the University of
 756 Florida pursuant to s. 381.986(8).
 757 Section 3. Paragraph (b) of subsection (7) of section
 758 893.055, Florida Statutes, is amended to read:
 759 893.055 Prescription drug monitoring program.—
 760 (7)
 761 (b) A pharmacy, prescriber, or dispenser shall have access
 762 to information in the prescription drug monitoring program's
 763 database which relates to a patient of that pharmacy,
 764 prescriber, or dispenser in a manner established by the
 765 department as needed for the purpose of reviewing the patient's
 766 controlled substance prescription history. Persons engaged in
 767 research at the University of Florida pursuant to s. 381.986(8)
 768 shall have access to information in the prescription drug
 769 monitoring program's database which relates to qualified
 770 patients as defined in s. 381.986(1) for the purpose of
 771 conducting such research. Other access to the program's database
 772 shall be limited to the program's manager and to the designated
 773 program and support staff, who may act only at the direction of
 774 the program manager or, in the absence of the program manager,
 775 as authorized. Access by the program manager or such designated
 776 staff is for prescription drug program management only or for
 777 management of the program's database and its system in support
 778 of the requirements of this section and in furtherance of the
 779 prescription drug monitoring program. Confidential and exempt
 780 information in the database shall be released only as provided
 781 in paragraph (c) and s. 893.0551. The program manager,
 782 designated program and support staff who act at the direction of
 783 or in the absence of the program manager, and any individual who

Page 27 of 28

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

580-02582A-15

20157066pb

784 has similar access regarding the management of the database from
 785 the prescription drug monitoring program shall submit
 786 fingerprints to the department for background screening. The
 787 department shall follow the procedure established by the
 788 Department of Law Enforcement to request a statewide criminal
 789 history record check and to request that the Department of Law
 790 Enforcement forward the fingerprints to the Federal Bureau of
 791 Investigation for a national criminal history record check.
 792 Section 4. Paragraph (h) is added to subsection (3) of
 793 section 893.0551, Florida Statutes, to read:
 794 893.0551 Public records exemption for the prescription drug
 795 monitoring program.—
 796 (3) The department shall disclose such confidential and
 797 exempt information to the following persons or entities upon
 798 request and after using a verification process to ensure the
 799 legitimacy of the request as provided in s. 893.055:
 800 (h) Persons engaged in research at the University of
 801 Florida pursuant to s. 381.986(8).
 802 Section 5. This act shall take effect upon becoming a law.

Page 28 of 28

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

7066
Bill Number (if applicable)

Meeting Date _____

Topic 7066 Medical Marijuana

Amendment Barcode (if applicable) _____

Name Susan Goldstein

Job Title Parent / Advocate / Lobbyist

Address 3158 Inverness

Phone 954 830-6300

Weston FL 33332
City State Zip

Email skgoldstein@hotmail.com

Speaking: For Against Information

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

Representing JD Thornton Nurseries - & Innovation Industries

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)

2056

~~7055~~

Bill Number (if applicable)

Meeting Date

Amendment Barcode (if applicable)

Topic

Name Jeffrey Melloy R.Ph

Job Title Pharmacist

Address 3820 Gulf Blvd #1201

Phone 727 367 5052

Street

City

State

Zip

St Pete Beach FL 33706

Email jmelly2@Tampa Bay R.Ph.

Speaking: For Against Information

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

Representing

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-24-15

Meeting Date

7066

Bill Number (if applicable)

Topic low THIC

Amendment Barcode (if applicable)

Name Jacel Bergadillo

Job Title _____

Address 9320 Flagler St
Street

Phone _____

Miami FL
City State Zip

Email _____

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

Meeting Date _____

7066
Bill Number (if applicable)

Topic 7085

Amendment Barcode (if applicable)

Name MORGAN HAAS

Job Title DISABLED

Address 1528 VALLHART DRIVE

Phone 563-617-0463

Street

LAKELAND FL 33810

City

State

Zip

Email HAAS3RD@CLOUD

Speaking: For Against Information

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

Representing FLORIDA FOR CARE

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)

3/24/16
Meeting Date

7000
Bill Number (if applicable)

Topic MEDICAL CANNABIS

Amendment Barcode (if applicable)

Name JOE SHARKEY

Job Title

Address 100 E Colley Ave
Street
Rt State 32301
City State Zip

Phone

Email

Speaking: For Against Information

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

Representing MEDICAL MARIJUANA BUSINESS 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)

03/24/15

Meeting Date

SPB 7066

Bill Number (if applicable)

Topic Medical Cannabis

Amendment Barcode (if applicable)

Name Mariah Barnhart

Job Title Patient Parent & Advocate

Address _____
Street

Phone 1-813-720-5893

City

State

Zip

Email mariahbarnhart@
yahoo.com

Speaking: For Against Information

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

Representing Dahlia Barnhart - Child Patient

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/24/15
Meeting Date

SPB 7066
Bill Number (if applicable)

Topic Medical Cannabis

Amendment Barcode (if applicable)

Name Christopher Ralph

Job Title Legal Administrator - Health Law Services

Address 4446 Hendricks Ave. #139

Phone 904-240-4378

Jacksonville FL 32207
City State Zip

Email chris@healthlaw
services.org

Speaking: For Against Information

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

Representing Health Law Services
Medical Patients, Dahlia Barnhart

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)

7066
Bill Number (if applicable)

Meeting Date _____

Topic CANNABIS

Amendment Barcode (if applicable) _____

Name LOUIS ROTUNDO

Job Title _____

Address 302 Pinestraw Circle

Phone 407-699-9361

Street

Altamonte Springs FL

32714

Email LCR5002@adl.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Medical Cannabis 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)

3-24-2015
Meeting Date

CB 7066
Bill Number (if applicable)

Topic Statement from Cathy Jordan, Pres. FLCAN Amendment Barcode (if applicable)

Name Ethel Rowland

Job Title Legislative Director

Address 1375 Cypress Ave

Phone 772 618-3678

Melbourne FL 32935
City State Zip

Email ethelrowland@gmail.com

Speaking: For Against Information

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

Representing Florida Cannabis 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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THE FLORIDA SENATE
APPEARANCE RECORD

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

3-24-2015
Meeting Date

CB 7066
Bill Number (if applicable)

Topic No cap on THC

Amendment Barcode (if applicable)

Name Tara Thrift

Job Title Mother and Advocate

Address 2107 Willesdon Dr. East
Street

Phone 904-428-2720

Jacksonville Florida 32246
City State Zip

Email tara.ehlers@yahoo.com

Speaking: For Against Information

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

Representing my 7 year old son

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)

3-24-15
Meeting Date

SPB 7066
Bill Number (if applicable)

Topic Low THC Medical Can

Amendment Barcode (if applicable)

Name Danielle Hall

Job Title Mother

Address 2575 Elderberry Dr.
Street

Phone 727-692-8284

Clearwater FL 33761
City State Zip

Email brentanddani@verizon.net

Speaking: For Against Information

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

Representing myself and my son, Brendan Hall

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)

3/24/2015

Meeting Date

706L

Bill Number (if applicable)

Topic Low THC PCB

Amendment Barcode (if applicable)

Name Dr. Darryl Appleton

Job Title Physician

Address 301 West Atlantic Ave #0-6

Phone 561-450-8328

Street

Delray Beach FL 33444

City

State

Zip

Email reception@sleepandfatigue.com

Speaking: For Against Information

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

Representing Sleep and Fatigue Treatment Center

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/24/15

Meeting Date

7066

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name JEFF KOTTKAMP

Job Title _____

Address 3311 DARTMOUTH DRIVE

Phone _____

Street

TALLAHASSEE FL 32312

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing FLORIDA FOR CARE

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/24/15 Meeting Date

SPB 7066 Bill Number (if applicable)

Topic PCB - MEDICAL MARIJUANA

Amendment Barcode (if applicable)

Name ROBERT TORNELLO

Job Title PRESIDENT/OWNER TORNELLO LANDSCAPE 3-BOYS FARM

Address P.O. BOX 789

Phone 813-917-8550

Street

RUSKIN FL 33570

Email ROBERTTORNELLO@MAC.COM

City

State

Zip

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

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

Representing MYSELF

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

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

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/24/15

Meeting Date

SPB 7066
Bill Number (if applicable)

Topic PCB - MEDICAL MARIJUANA

Amendment Barcode (if applicable)

Name JAMES EATON

Job Title _____

Address 119 S. MONROE ST SUITE 202

Street

Phone 850 224 6789

TALLAHASSEE FL 32301

City

State

Zip

Email jimeaton53@aol.com

Speaking: For Against Information

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

Representing CANOPY GROW - THREE BOYS FARMS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

7061
Bill Number (if applicable)

Meeting Date

Topic SB 528

Amendment Barcode (if applicable)

Name DENNIS DECKERHOFF

Job Title FINANCIAL ADVISOR

Address 5704 VICTOR BROWN TR.

Phone 850.567.0405

Street

TALL FL 32303

Email dennis@deckerhoff.com

City

State

Zip

Speaking: For Against Information

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

Representing CHILD ADVOCATE

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/24/15
Meeting Date

SPB 7066
Bill Number (if applicable)

Topic Marijuana

Amendment Barcode (if applicable)

Name RYAN PADGETT

Job Title Asst. General Counsel

Address PO Box 1757
Street

Phone (850) 701-3616

Tallahassee FL 32302
City State Zip

Email rpadgett@flcities.com

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/24/2015

Meeting Date

7066

Bill Number (if applicable)

Topic SPB 7066 Medical Marijuana

Amendment Barcode (if applicable)

Name Phillip Castelucci

Job Title Retired CO Sgt.

Address 3347 Ross Rd.
Street

Phone 850-223-2657

Perry FL 32348
City State Zip

Email lucchi7445@gmail.com

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/24/15

Meeting Date

706L

Bill Number (if applicable)

Topic Audit Financials / Production

Amendment Barcode (if applicable)

Name Sam Harris III

Job Title CEO - UGROW, INC

Address 10006 Cross Creek Blvd #462

Phone 813-510-0982

Street

Tampa

City

FL

State

33647

Zip

Email sam@ugrowflorida.com

Speaking: For Against Information

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

Representing UGrow, Inc. + Tampa Wholesale Nursery

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/24/15

Meeting Date

SB 7066

Bill Number (if applicable)

Topic Low THC cannabis

Amendment Barcode (if applicable)

Name Ron Watson

Job Title Lobbyist

Address 3738 Mundon Way

Phone 850 567-1202

Tallahassee FL 32309

Email Watson.Strategies@comcast.net

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

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

Representing AltMed

Appearing at request of Chair: [] Yes [] 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)

3/24/15
Meeting Date

SP18 7066
Bill Number (if applicable)

Topic Relating to Low-THC Cannabis

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title President & CEO

Address 204 S. Monroe St. Suite 201
Street

Phone 850-577-3032

Tallahassee FL 32304
City State Zip

Email Barney@Barneybishop.com

Speaking: For Against Information

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

Representing The Florida Smart Justice Alliance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-24-2015
Meeting Date

SPB 7066
Bill Number (if applicable)

Topic Low THC - Cannabis

Amendment Barcode (if applicable)

Name Christopher Cno

Job Title Executive Director - Central Florida NORML

Address 1529 W. River LN

Phone 813-767-5295

Street

Tampa
City

FL
State

33603
Zip

Email CCcno@mail.usf.edu

Speaking: For Against Information

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

Representing Central Florida National Organization for Reform of Marijuana Laws

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/24/2015
Meeting Date

7066
Bill Number (if applicable)

Topic SRB 7066 - Medical Marijuana

Amendment Barcode (if applicable)

Name Tom Quigley

Job Title CEO Common Bond

Address 1302 19th Street Suite 200
Street

Phone 813 465 3894

Tampa FL 33605
City State Zip

Email Tom@cbego.com

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/24/2015

Meeting Date

Topic _____ Bill Number 7066

(if applicable)

Name BRIAN PITTS Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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)

7000

Meeting Date

Bill Number (if applicable)

Topic MEDICAL COUNCIL

Amendment Barcode (if applicable)

Name Robert Tornillo

Job Title 3 BOYS FARM

Address 2000 Farm Way

Phone 813 917 8550

Street

Ruskin

Email Robert.tornillo@me.com

City

State

Zip

Speaking: For Against Information

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

Representing 3 BOYS FARM

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

KOON.LYNN

From: robert tornello <roberttornello@me.com>
Sent: Wednesday, March 25, 2015 9:10 AM
To: KOON.LYNN
Cc: IMHOF.BOOTER
Subject: Re: Material Submitted at Regulated Industries on 3/24/15

Lynn, thank you. You were on my call list for today.
I drove back late last night and am heading to the office.
I will send you the links in addition to the PDF's associated with the Primus audits.
Also I will provide the reasoning for them and what they represent.

The other point I made was the requirement for removal of the wording related to pesticides.
This is federal and state law that is so often overlooked as we in todays society assume pesticides are tested and approved for everything. They are not, and the labeling laws are clear, if you use any input on a product it is not tested and approved for it is illegal to use, and punishable by fines.
The State would be in violation as well as potentially liable for its reference use.
You will be copied on the letters from the Ag Sciences around the corner from you.
Thank you,
Robert

On Mar 25, 2015, at 8:47 AM, KOON.LYNN wrote:

Mr. Tornello:

Can you provide me with websites for the information you submitted yesterday to staff at the Regulated Industries Committee relating to SPB 7066 - Low THC Cannabis.

I have the website for the book "American Herbal Pharmacopoeia".

Thank you .

*Lynn Koon
Senior Admin. Assistant
Senate Regulated Industries Committee
330 Knott Building
Tallahassee, Florida 32399-1100
(850) 487-5937 or (850) 487-5957
Fax: (850) 410-5120*

ANNE LYNN MORGAN, M.D.
860 US HIGHWAY 1, SUITE 203 A
NORTH PALM BEACH, FLORIDA 33408
Ph 954-592-0700

Dear Senators and other Interested Persons,

I would have liked to be speaking to you in person, but that is not possible, so please accept the reading of this letter as my heartfelt plea for your help at all levels.

MEDICAL CANNABIS:

This is not about getting high. This is not just about children with epilepsy, this is about an entire population of people that you are in the position to help NOW.

I write as the evidence is SO VERY CLEAR that we cannot wait any longer.

The Federal Government owns the patent on Cannabis as a treatment and preventative for Alzheimer's, Parkinson's disease, brain injury, and other brain disorders, even some kinds of stroke. US patent # 6630507. The Federal Government at the same time claims it has "no medicinal value" which is the definition of a Class I Controlled Substance. This is a travesty, indeed!

So, that is why we have to act now as citizens of The Great State of Florida where I was proudly born. I ask that each one of you listen to this now as you have the opportunity to save lives now.

I also suspect that each one of you has or knows of someone with one of the disorders that medical cannabis can treat or prevent now. Today. We have heard many say that they want more research. I agree, but that can occur at the same time while we allow our citizens to utilize medical cannabis NOW.

In RESPONSE TO OBJECTIONS THAT YOU HAVE HEARD:

1. If regulated properly with clinicians like myself and other members of the medical community, working along with law enforcement community, it can be supervised and managed safely, without the hyperbolic panic that we have seen and read about recently.
2. The safety of medical cannabis is unmatched by any other medicinal product as there are NO receptors for it in the part of our brains that can cause a LETHAL overdose. There can be bad and dissociative reactions, absolutely, however they are short-lived and

not deadly like opiates, aspirin, Tylenol, fat soluble vitamin overdoses and many other substances that are in our homes today.

THE FOLLOWING CONDITIONS CAN BE TREATED AND IMPROVED WITH MEDICAL CANNABIS:

1. ALS (Lou Gehrig's Disease)
2. Alzheimer's Disease
3. Asperger's Syndrome
4. Autism
5. Cancers: to date: brain, breast and prostate
6. Chronic pain
7. Crohn's Disease
8. Depression
9. Dravet Syndrome (see HB 1030)
10. Glaucoma
11. Hypertension
12. HIV/AIDS
13. Irritable Bowel Syndrome
14. Lyme Disease
15. Migraines
16. Multiple Sclerosis
17. Chemotherapy-induced neuropathy
18. Parkinson's Disease
19. PTSD
20. Tourette's Syndrome

As well as new studies showing it can reverse the brain injury in some types of Cerebral Palsy, Traumatic Brain Injury, as well as, useful in Opiate Reduction.

As you consider what is being brought forth to you today, I urge you to learn about the "Entourage Effect". This is a phenomenon that realizes that the THC, the CBD and ALL the other 200 or more components in the cannabis plant effectively work together at different, but specific receptor sites, which is exactly why there HAS to be THC with the CBD and vice versa. This is what the entire plant can provide. It should be doctors, not lawmakers deciding what CBD/THC ratios work best for their patients and their patients' own specific needs. Each disorder & patient actually has different requirements.

Who would you go to if you had one of the diseases or disorders that I have named? I suggest that it would be your doctor and not your Senator. So, please, I urge you to educate yourselves as well. This affects you, your families and your constituents.

PUBLIC HEALTH INFORMATION:

Let's just take these last few moments to talk about the two largest groups:

Those who may get Alzheimer's disease and those with PTSD:

New projections are stating that of those currently 65 years old: one in 8-10 will have Alzheimer's Disease in their future.

WHO WILL TAKE CARE OF THEM?

WHO WILL PAY FOR THIS?

WHAT ABOUT THEIR FAMILIES?

The biggest fear in anyone over 50 is cognitive decline. I have that fear, don't you?

Medical cannabis has the unique capability to help prevent and break up the plaques in the brain attributing to Alzheimer's. It has also been shown to create NEW pathways in the brain that has been damaged.

NOW IS EXACTLY WHY WE NEED YOU TO ACT UPON THIS TODAY! None of us can wait any longer. The benefits overwhelmingly outweigh the risks, I am certain that you would agree. If you could take a pill, eat a cookie or drink a smoothie that would prevent you from getting Alzheimer's or Parkinson's disease, (without getting the euphoria) wouldn't you? I know I would! But to do so is illegal in Florida.

OUR VETERANS DESERVE OUR IMMEDIATE ATTENTION:

The Dept. of Veteran Affairs tells us that one out of 22 veterans commits suicide EVERY DAY! 22 soldiers killing themselves every day. One an hour? We have NO current approved medical or psychological treatments that are successful for PTSD. None. Zero. We know that medical cannabis is amazingly effective for PTSD.

It works with the night terrors, the flashbacks, the fear extinctions and the exhausting insomnia. It works with the anxieties, depression and behavior issues as well. Combine medical cannabis, opiate reduction programs and the fact that cannabis can give hope for new cognitive pathways that were damaged in combat and IT IS THE ONLY THING THAT WE HAVE THAT WORKS!

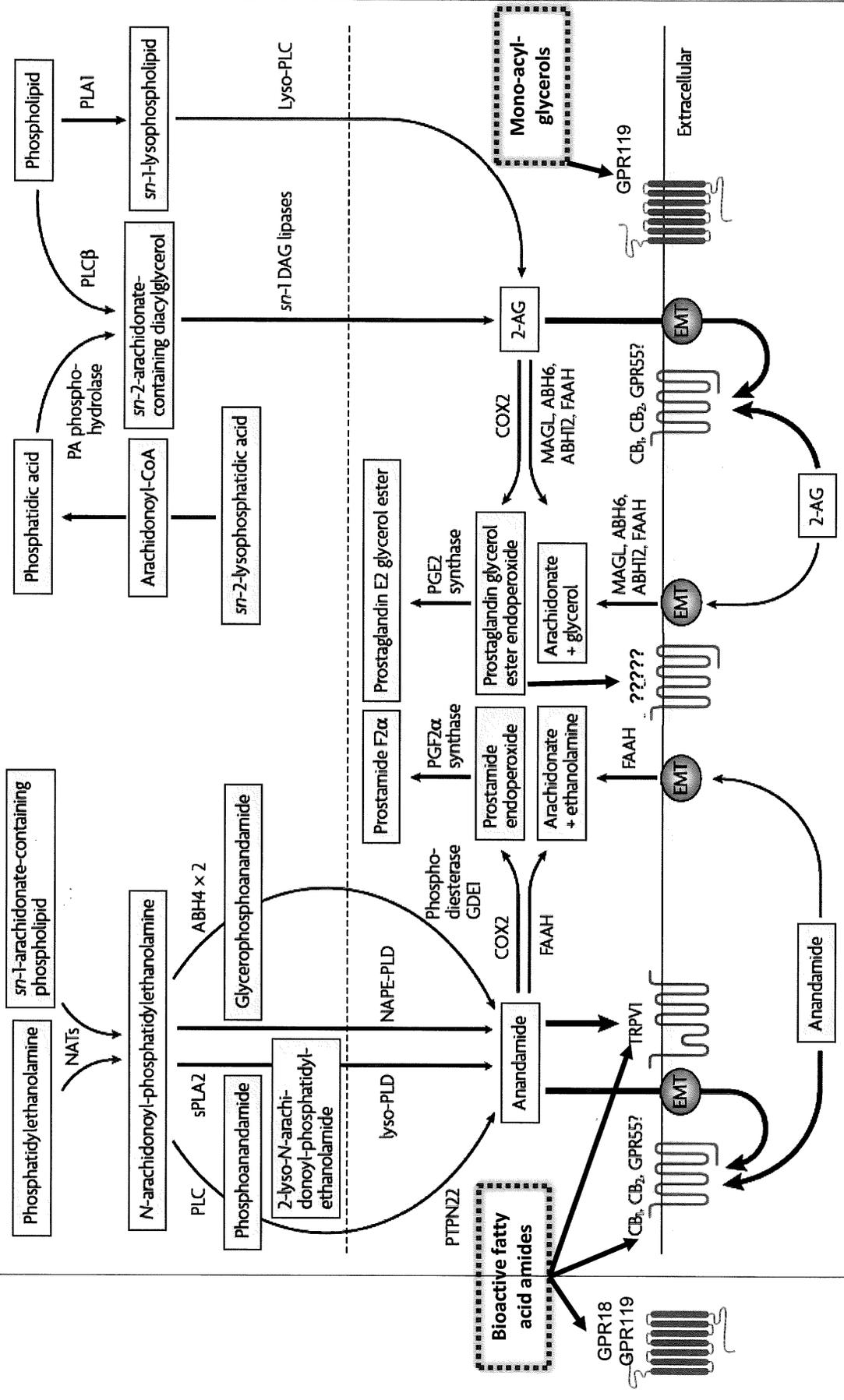
PLEASE GIVE OUR VETERANS WHAT THEY ARE ASKING FOR.....THEY ARE DYING HERE AT HOME WHERE THEY FOUGHT SO HARD TO PROTECT US!
To deny them the medicine that they need is unconscionable.

To make them criminals when all they want is to improve the lives that bled for us is unconscionable. To allow this to continue when you have it within your realm to make it happen NOW is unforgiveable.

Respectfully submitted,
Anne Lynn Morgan, M.D.

Thank you for your kind attention.

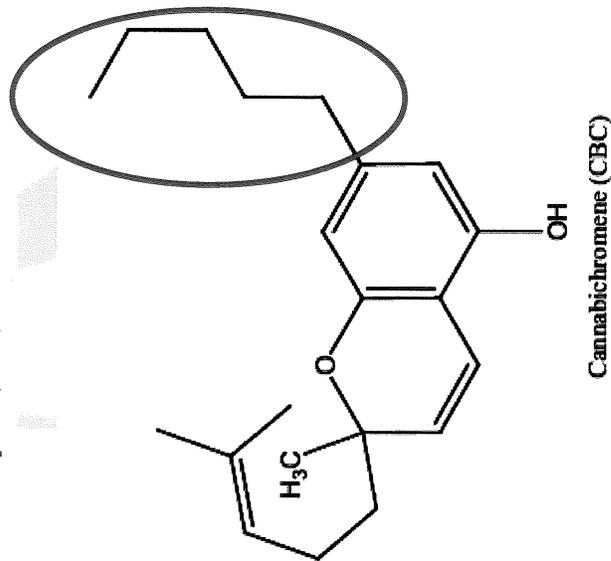
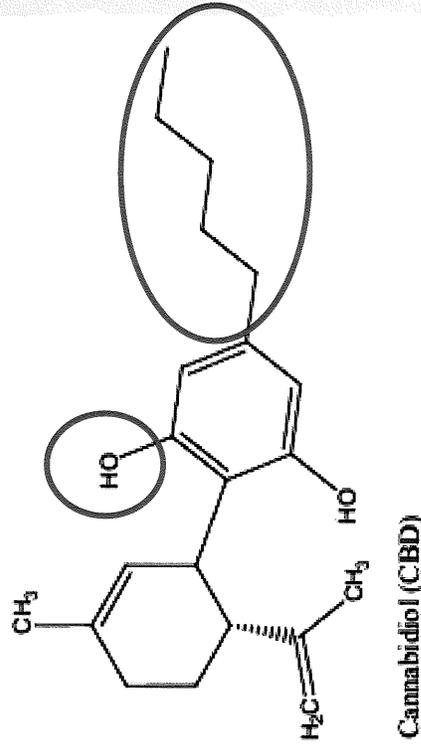
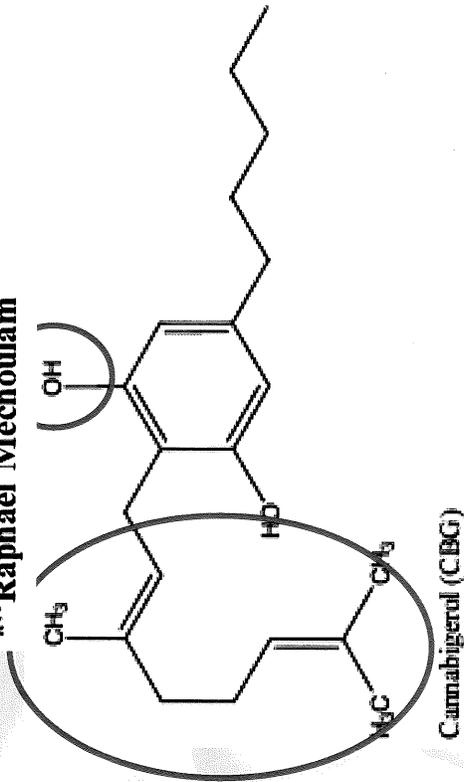
Complexity of the "Endocannabinoidome"



COMMENTARY

Plant cannabinoids: a neglected pharmacological treasure trove

*.1 Raphael Mechoulam

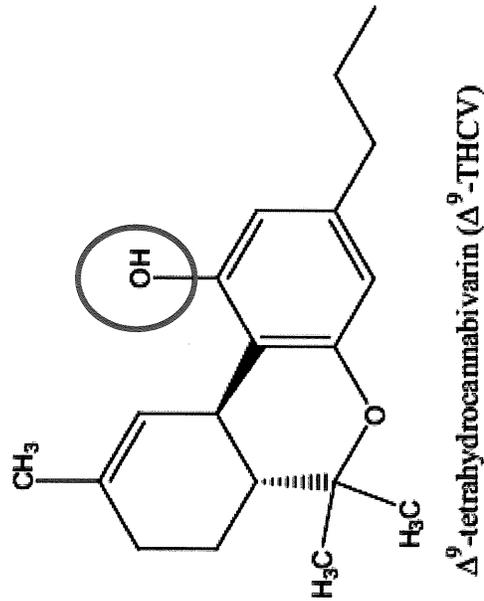


• Propyl analogues of CBD and CBG

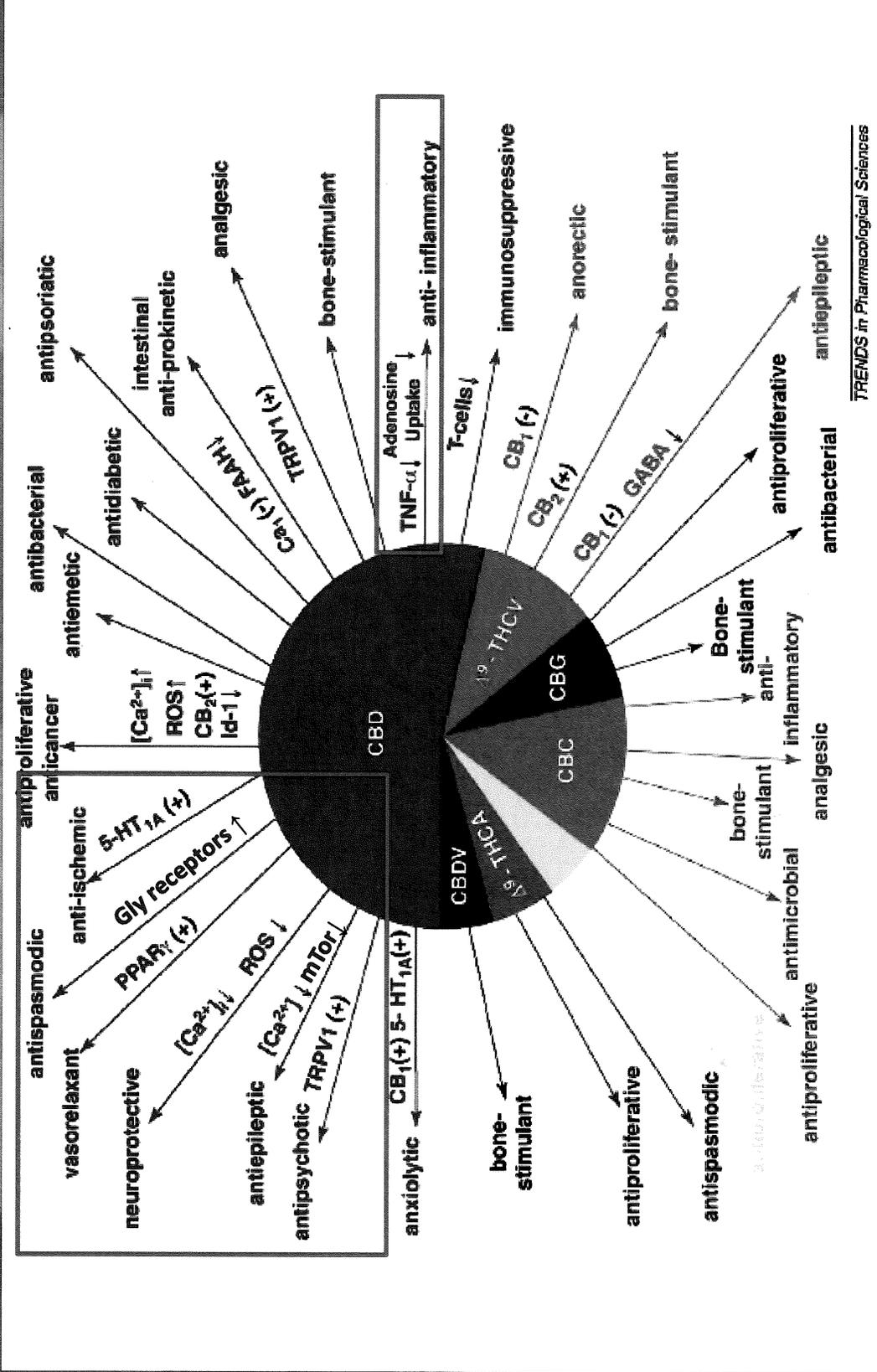
• Methyl analogue of THC

• Sesquiterpene analogue of CBG

• Acid precursors of most of these compounds



The "phytocannabinoidome": a new world of unravelled potential therapeutic properties



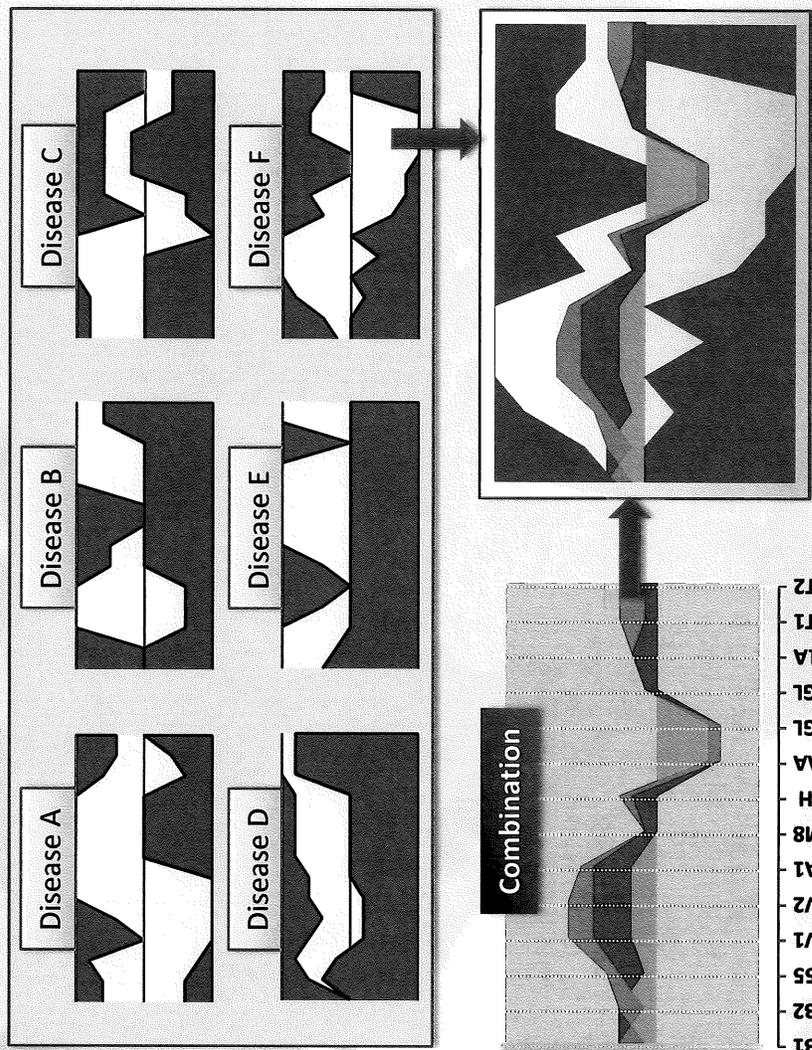
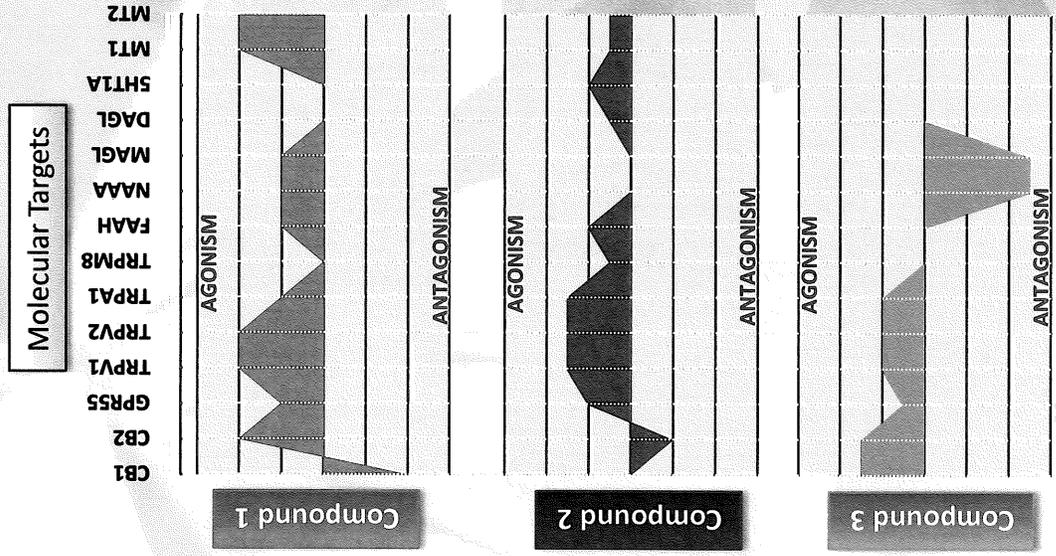
TRENDS in Pharmacological Sciences

Adapted from Izzo et al, Trends Pharmacol. Sci. 2009

Multi-pharmacology and the concept of “therapeutic handshake”

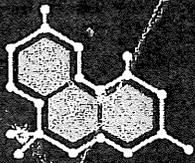
Pharmacological “Fingerprints”

Etiopathological “Fingerprints”



CB1
CB2
GPR55
TRPV1
TRPV2
TRPA1
TRPM8
FAH
NAA
MAGL
DAGL
SHT1A
MT1
MT2

Brodie, Di Marzo and Guy, in preparation

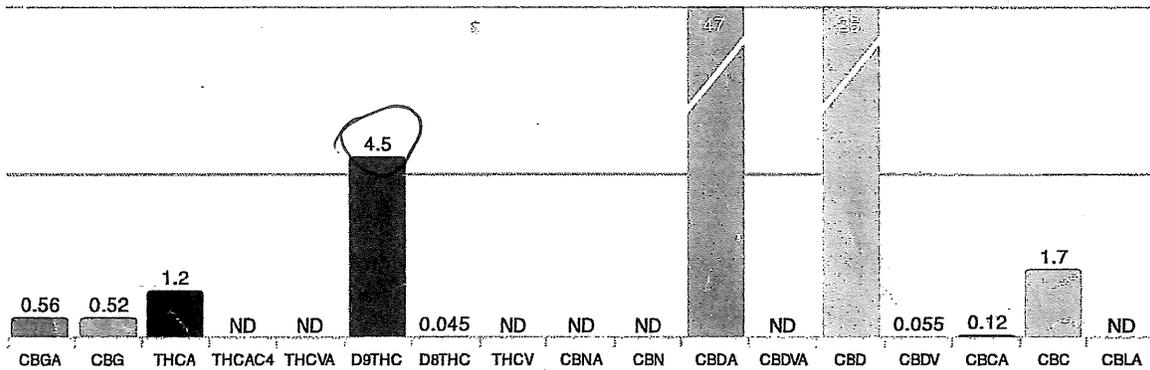


Ringos Gift

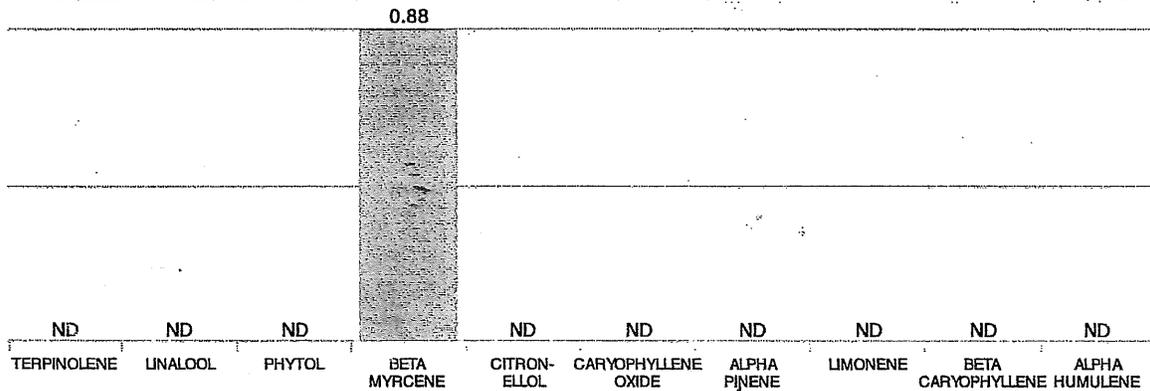
Caleb began 3/13
Christy is also on

Customer: Harborside Health Center	Test Site: SHL Oakland	Instrument: LCMSMS	
Test: Terpenoid/Cannabinoid Profile	Type: Concentrate	Customer's ID: -	Sample ID: CON-2075-R01
Submitted: -	Tested: 10/14/2014	Reported: 10/17/2014	Sample Mass: 99.7 mg

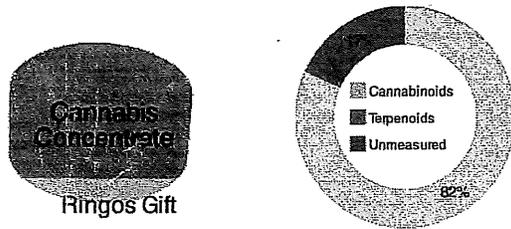
Cannabinoids as Percent of Total Sample Mass



Terpenoids as Percent of Total Sample Mass



Sample Overview



Sample Details

Mycotoxin	NOT REQUESTED
Pesticide	NOT REQUESTED

For more information about this report, including how to calculate your own approximate post-decarboxylate THC and CBD values, please visit www.steepphilllab.com/FAQ.

This report and all information herein shall not be reproduced, except in its entirety, without the written consent of Steep Hill Halent. The report is for informational purposes only and should not be used to diagnose, treat, or prevent any medical related symptoms. Results are applicable only for samples tested, and for the specific tests conducted.



626 mg / 1mL

SONOMA

LAB WORKS

www.sonomalabworks.com

~~5 x 52~~

~~76 mg~~

~~0.05 ml~~

Customer:	Florida
Test Date	12/2/2014
Strain:	CBDiva
Identifier:	
Collection Location	Lab

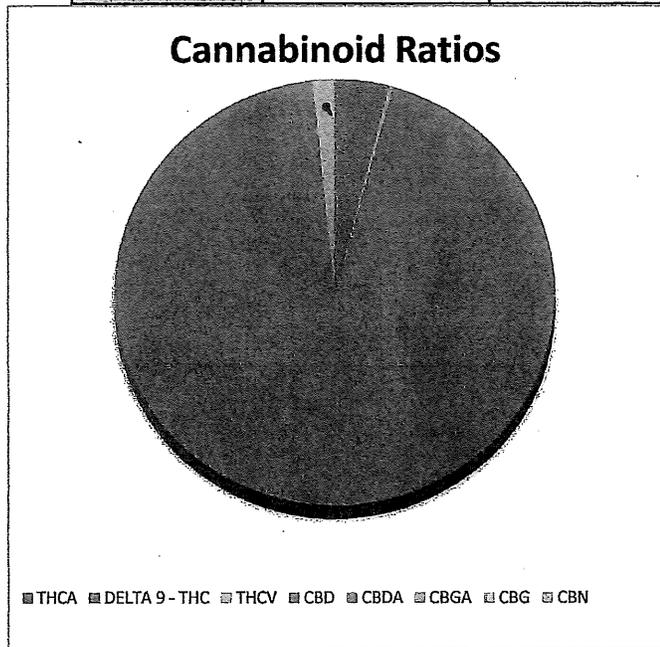
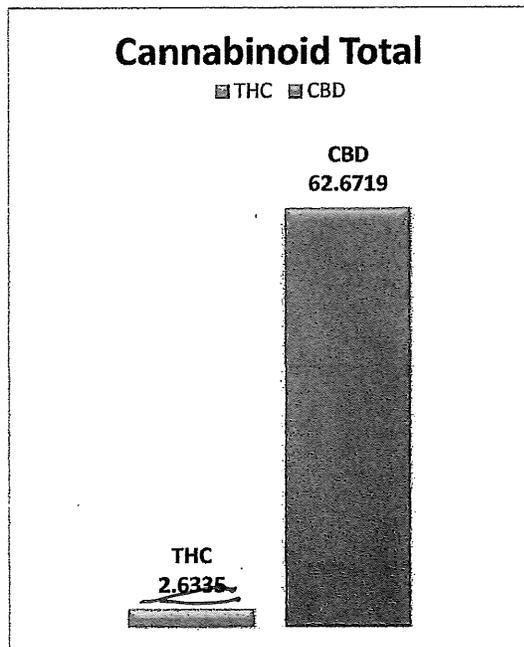
Sample Type	Applicator Oil
Sample Code	1517

Test Result

Compounds	% Test	mg/mL
THCA	ND	ND
DELTA 9 - THC	2.6335	26.3350
THCV	0.2270	2.2700
CBD	62.6719	626.7190
CBDA	ND	ND
CBGA	ND	ND
CBG	1.1082	11.0820
CBN	ND	ND
CBC	2.0290	20.2900

Test Summary

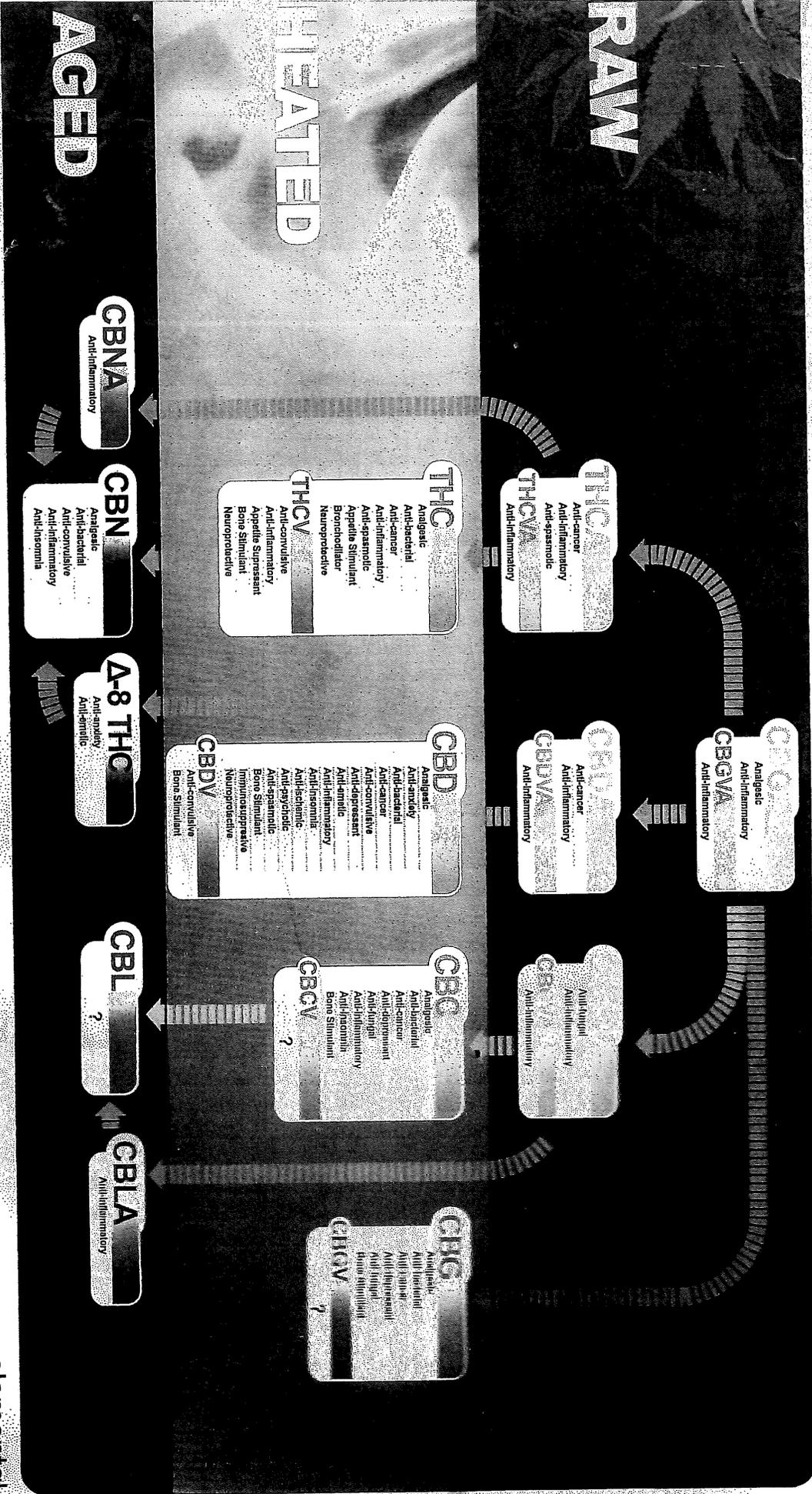
Name	Total (%)
Total THC	2.6335
Total CBD	62.6719
Total CBN	ND



Did not work for Caleb - tried for 3 weeks but only increased seizure activity - added THC to every dose to help even out.

UNDERSTANDING MEDICAL CANNABIS

Cannabinoids and Their Therapeutic Effects



Steep Hill Halent

THCa = 0.05 mg per lb. / per day
 1b x 0.05 mg = THCa per day

elemental
 wellness
 Caleb + Christy
 3 mg



SB 7066

❖ Smart Justice **supports** this new fix-it legislation:

1. It restricts the treatment to a succinct list of diseases
2. It will allow for more competition by allowing more winning applicants
3. The \$1 million performance and compliance bond “or other equivalent” is much more reasonable and attainable than SB 1030
4. It calls for “safety and efficacy research for Low-THC cannabis”

❖ We’d like to see these improvements:

✓ **RESEARCH** (Lines 690-94) – needs a higher financial commitment than the current \$1 million; it needs \$5 – 10 million annually for at least 5 years so that double-blind, longitudinal studies can be conducted in Florida

According to *Wall Street Journal*: Marijuana Extract for Children with Epilepsy is Questioned, March 24, 2015, the early research results show that while some children appeared to improve after taking CBD, others didn’t respond, or even worsened. Doctors say the findings underscore the need for more research on the extract. CBD also has been studied as a potential treatment for other conditions, including schizophrenia and anxiety.

“We don’t have enough data at this point to recommend marijuana products for families,” said Kevin Chapman, a neurologist at Children’s Hospital Colorado, outside of Denver, and co-author of a study released at an American Epilepsy Society meeting in December.

Dr. Chapman’s study, which involved a review of the health records of 75 children who took CBD, found that 33% of them had their seizures drop by more than half. However, 44% of the children experienced adverse effects after taking CBD, including increased seizures. Of the 30 patients whose records included the results of brain-wave tests, a less subjective measure of seizure activity, only three showed improvements in those exams.

“It really wasn’t the high numbers we were hoping for,” Dr. Chapman said.

Another study presented at the epilepsy meeting in December focused on a purified CBD extract called Epidiolex, made by GW Pharmaceuticals, which is seeking Food and Drug Administration approval for the medication. The FDA has granted it orphan drug status, a designation aimed to encourage drug development for rare conditions. Findings from the study, which were funded in part by GW, appeared more favorable than Dr. Chapman's study. Of the 58 patients, 40% saw seizures decline by more than half and 10% of them became seizure-free. One patient had an increase in seizures.

"We're certainly encouraged by it," said Orrin Devinsky, a neurologist at New York University leading the Epidiolex studies. But he added that it wasn't a classic double-blind, placebo-controlled trial. He said he expects to start such a study in the next month or so.

Other studies on CBD's effectiveness at treating seizures also are being launched this year, including at the University of Colorado and the University of Alabama at Birmingham. To encourage further research on marijuana, the American Academy of Pediatrics in January urged the Drug Enforcement Administration to reclassify marijuana to a less-restrictive category.

DISPENSING ORGANIZATIONS VEHICLES (Lines 434-36) – these vehicles MUST be air conditioned to prevent mold which is carcinogenic. If all deliveries are not made in same day, the Low-THC must be kept in an air conditioned vehicle or facility overnight. Drivers shouldn't be using medical marijuana.

RECALL OF PRODUCT (Lines 636-37) – there should be a plan for RAPID recall of Low-THC product that is tainted, spoiled or doesn't meet standards.

LAB TEST SHOULD BE FOR ALL CARCINOGENICS AND HEAVY METALS

Note to File:

SPB 7066 by Regulated Industries; relating to Low THC Cannabis

The attached was given to committee staff at the Regulated Industries Committee Meeting on March 24, 2015 by:

Robert Tornello
President, Owner, Tornello Landscape
3-Boys Farm
Post office 789
Ruskin, Florida 33570
813-917-8550

Because of the size of the document only the front and back cover is copied. You may go to the following website to download a copy:

www.herbal-ahp.org

831-461-6318

American Herbal Pharmacopoeia®

Cannabis Inflorescence *Cannabis* spp.

STANDARDS OF IDENTITY, ANALYSIS, AND
QUALITY CONTROL

Revision 2014

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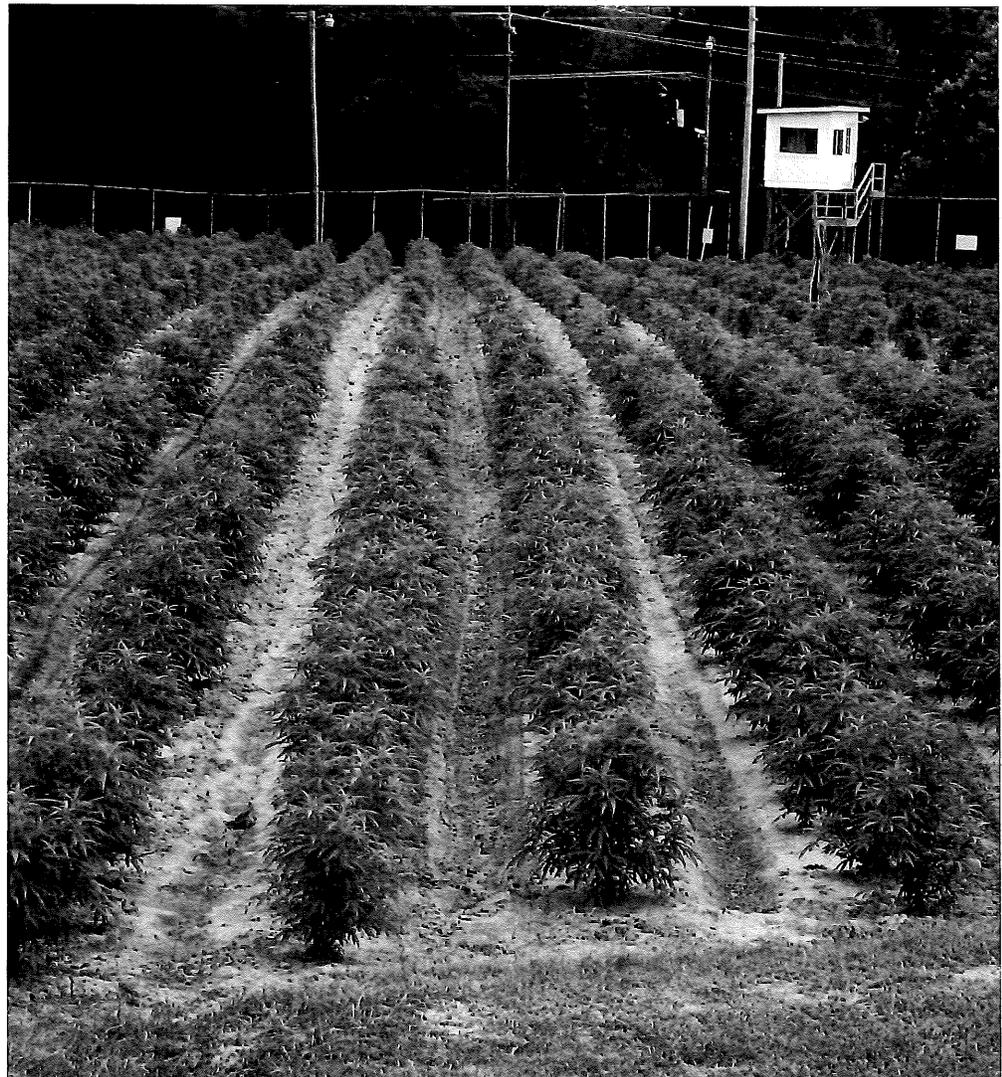
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ISBN 978-1-929425-37-2



9 781929 425372 >

KOON.LYNN

From: robert tornello <roberttornello@me.com>
Sent: Wednesday, March 25, 2015 2:36 PM
To: KOON.LYNN
Subject: Re: Material Submitted at Regulated Industries on 3/24/15

Lynn,

The submitted printed single-application/info from the Primus food safety website <http://www.primuslabs.com/services/standardgap.aspx> was to provide the senators the detailed requirements necessary by law if you wish to grow food and sell it to end use customers. This is the basic GAP not the highest level audit.

What applies is Greenhouse, harvest crew, and packing cold storage as all these are mandatory for cannabis production.

It is important for the Senators to understand that one of the recent challenges to SB1030 stated that the DOH rule-making committee went to far in making the requirements for an applicant too difficult.

This is pure nonsense. It is my opinion that while the application requirements are a great start they could have made the qualifications and submittals more difficult.

Applicants who could only succeed under a lottery are those complaining.

Once you see what is required to simply grow food conventionally (not organic) the testing and SOP's associated with it, and the scoring systems associated with all food safety protocols you will understand why my comment not far enough has relevance.

DOH in my opinion overall did a remarkable job with the application in finding a balance that worked for most applicants.

Why the food safety regulations are so important in this role is simple.

If you cant pass the minimum food safety audit requirements, then you have no business applying to grow botanical based pharmaceuticals to be supplied in concentrate form to children and adults with neurological disabilities.

Thank you Lynn,

Robert Tornello

On Mar 25, 2015, at 8:47 AM, KOON.LYNN wrote:

Mr. Tornello:

Can you provide me with websites for the information you submitted yesterday to staff at the Regulated Industries Committee relating to SPB 7066 - Low THC Cannabis.

I have the website for the book "American Herbal Pharmacopoeia".

Thank you .

Lynn Koon
Senior Admin. Assistant
Senate Regulated Industries Committee
330 Knott Building
Tallahassee, Florida 32399-1100
(850) 487-5937 or (850) 487-5957
Fax: (850) 410-5120

KOON.LYNN

From: robert tornello <roberttornello@me.com>
Sent: Wednesday, March 25, 2015 1:48 PM
To: KOON.LYNN
Subject: Fwd: Department of Agriculture

Lynn, This is the information I provided Senator Bradley verbally regarding the pesticides, fungicides, fertilizers that are not allowed for use on Cannabis for the reasons below. You can read the thread and provide it to him for future reference.

If there is anything else I can provide the Senator please let me know.

Robert

Can you provide me with websites for the information you submitted yesterday to staff at the Regulated Industries Committee relating to SPB 7066 - Low THC Cannabis.

I have the website for the book "American Herbal Pharmacopoeia".

Thank you .

Lynn Koon
Senior Admin. Assistant
Senate Regulated Industries Committee
330 Knott Building
Tallahassee, Florida 32399-1100
(850) 487-5937 or (850) 487-5957
Fax: (850) 410-5120

Begin forwarded message:

From: "Hayslip, George" <George.Hayslip@freshfromflorida.com>
Date: October 10, 2014 12:18:05 PM EDT
To: "roberttornello@me.com" <roberttornello@me.com>
Cc: "Daiker, Dave" <Davis.Daiker@freshfromflorida.com>, "Friend, Kelly" <Kelly.Friend@freshfromflorida.com>
Subject: RE: Department of Agriculture

Dear Mr. Tornello,

The specific sections of FIFRA and Chapter 487 that prohibit the application of a pesticide product to a target site or crop not listed on its label are shown below.

Chapter 487 Florida Statutes

487.031 Prohibited acts.—It is unlawful:

(10) For any person to use any pesticide, including a restricted-use pesticide, or to dispose of any pesticide containers in a manner other than as stated in the labeling or on the label or as specified by the department or the United States Environmental Protection Agency. However, it shall not be unlawful to:
(b) Apply a pesticide against any target pest not specified in the labeling if the application is to a crop, animal, or site specified on the label or labeling, provided that the label or labeling does not specifically prohibit the use on pests other than those listed on the label or labeling;

FIFRA

SEC. 12. [7 U.S.C. 136]] UNLAWFUL ACTS.

(a) IN GENERAL.—

(2) It shall be unlawful for any person—

(G) to use any registered pesticide in a manner inconsistent with its labeling;

SEC. 2. [7 U.S.C. 136] DEFINITIONS.

For purposes of this Act—

(ee) TO USE ANY REGISTERED PESTICIDE IN A MANNER INCONSISTENT WITH ITS LABELING.—

The term “to use any registered pesticide in a manner inconsistent with its labeling” means to use any registered pesticide in a manner not permitted by the labeling, except that the term shall not include (2) applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal, or site specified on the labeling, unless the Administrator has required that the labeling specifically state that the pesticide may be used only for the pests specified on the labeling after the Administrator has determined that the use of the pesticide against other pests would cause an unreasonable adverse effect on the environment

If you have any additional questions, please let me know.

Thanks, George

George Hayslip

Environmental Administrator

Division of Agricultural Environmental Services

Florida Department of Agriculture and Consumer Services

(850) 617-7880

(850) 617-7996 Fax

george.hayslip@freshfromflorida.com

Conner Laboratory Complex

3125 Conner Boulevard, Building 8

Tallahassee, Florida 32399-1650

www.FreshFromFlorida.com

Please note that Florida has a broad public records law (Chapter 119, Florida Statutes):

Most written communications to or from state employees are public records obtainable by the public upon request. Emails sent to me at this email address may be considered public and will only be withheld from disclosure if deemed confidential pursuant to the laws of the State of Florida.

From: robert tornello [roberttornello@me.com]

Sent: Thursday, October 09, 2014 5:53 PM

To: Daiker, Dave

Subject: Re: Department of Agriculture

Dave,

I have read the statute 487 twice until my eyes hurt and my mind numb. I have found several areas that may apply to this case.

Can you reference any of the subchapters that you see apply to the unregistered use of pesticides.

Thank you,

R

On Oct 9, 2014, at 3:42 PM, Daiker, Dave wrote:

Robert,

How long will the proposed rule be open for comment?

Davis

From: robert tornello [<mailto:roberttornello@me.com>]

Sent: Thursday, October 09, 2014 11:31 AM

To: Daiker, Dave

Subject: Re: Department of Agriculture

Davis,

Thank you very much for your time and discussing the attached information.

Again the purpose of my calls and advising you of my concerns was to advise Linda McMullen and Jennifer Tschetter, DOH General Council, that it is not advisable to elude that use of chemicals are acceptable on cannabis, and it would be safer to remove any wording about pesticide use on cannabis, as my thoughts were it creates potential liability to the state when no forms of inputs have been tested or registered for this product, and as agreed therefore under pesticide safety/use laws are thereby not legal to use.

After you read the toxicology report submitted to them and the last DOH rules for the Bill 1030 (C-web)

my only request to your department is that a letter outlining the legal issues outlined in Florida statute 487 is to advise DOH that there may be potential exposure they may wish to avoid by removing these sentences regarding pesticides fungicides and herbicides.

Specific areas in the bill were mentioned are;

64-4.001, definitions 19

64-4.006 paragraph D and sect 2 same section.

64-4.007 record-keeping, 6

My experience and organic growing practices are irrelevant, as it is the law only that should be precedent.

My intention was only to educate the DOH whom are not in agriculture that writing rules that include prohibited use without consulting the Department of Ag for a legal definition should be addressed.

Again, thank you.

Robert

On Oct 9, 2014, at 10:12 AM, Daiker, Dave wrote:

Mr. Tornello,

It was a pleasure speaking with you. Please send along the information you've referenced.

Thanks again,

Davis H. Daiker, Ph.D.

Bureau Chief
Bureau of Scientific Evaluation and Technical Assistance
Division of Agricultural Environmental Services
Florida Department of Agriculture and Consumer Services

(850) 617-7917
(850) 617-7949- Fax
(850) 528-5327- Cell
Davis.Daiker@FreshFromFlorida.com

Laboratory Building #6
3125 Conner Boulevard
Tallahassee, Florida 32399-1650

www.FreshFromFlorida.com

Please note that Florida has a broad public records law (Chapter 119, Florida Statutes). Most written communications to or from state employees are public records obtainable by the public upon request. Emails sent to me at this email address may be considered public and will only be withheld from disclosure if deemed confidential pursuant to the laws of the State of Florida.

robert tornello
roberttornello@me.com
3 Boys Farm
cell: 813 917 8550
office: 813 645 5445
fax: 813 645 4353
www.3boysfarm.com

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 736

INTRODUCER: Senators Stargel and Detert

SUBJECT: Residential Properties

DATE: March 23, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Pre-meeting
2.			JU	
3.			FP	

I. Summary:

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

The bill

- Reduces the period of time in which an association must respond to a request for an estoppel certificate from 15 days to 10 days;
- Requires that estoppel certificates must be delivered by mail, hand, or electronic means, dated as of the date it is delivered; and state all assessments and other moneys owed to the association by the unit owner, as reflected in the official records of the association, through at least 30 days after the date of the estoppel certificate.
- Provides that an association waives the right to collect any moneys owed in excess of the amounts set forth in the estoppel certificate from any person or entity who in good faith relies upon the certificate, or if the association fails to respond to a written request for a certificate;
- Establishes a maximum fee of \$100 for the preparation and delivery of an estoppel certificate. Authorizes additional supplemental fees of up to \$50 under limited circumstances; and
- Establishes maximum fees for simultaneous request for the estoppel certificate for multiple units owned by the unit or parcel owner.

The bill takes effect July 1, 2015.

II. Present Situation:

Condominium

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

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

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

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

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

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

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

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

Section 718.103(16), F.S., defines a developer as one “who creates a condominium or offers condominium [units] for sale or lease in the ordinary course of business” There are two

¹ Section 718.103(11), F.S.

² Section 718.104(2), F.S.

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

⁴ Section 718.104(5), F.S.

⁵ See s. 718.110(1)(a), F.S.

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

⁷ Section 718.103(4), F.S.

classes of developers: those who create the condominium by executing and recording the condominium documents and those who offer condominium units for sale or lease in the ordinary course of business. Current law excludes a bulk assignee and a bulk buyer from the definition of developer.

Condominium – Assessments and Foreclosures

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

“Special assessment” is defined to mean “any assessment levied against a unit owner other than the assessment required by a budget adopted annually.”⁸

A unit owner is jointly and severally liable with the previous owner for all unpaid assessments that come due up to the time of transfer of title.⁹ This liability is without prejudice to any right the owner may have to recover from the previous owner the amounts paid by the owner.¹⁰

If a first mortgagee, (e.g., the mortgage lending bank) or its successor or assignee, acquires title to a condominium unit by foreclosure or by deed in lieu of foreclosure, the first mortgagee’s liability for unpaid assessments is limited to the amount of assessments that came due during the 12 months immediately preceding the acquisition of title or one percent of the original mortgage debt, whichever is less.¹¹ However, this limitation applies only if the first mortgagee joined the association as a defendant in the foreclosure action.¹² This gives the association the right to defend its claims for unpaid assessments in the foreclosure proceeding. A first mortgagee who acquires title to a foreclosed condominium unit is exempt from liability for all unpaid assessments if the first mortgage was recorded prior to April 1, 1992.¹³ The successor or assignee, in respect to the first mortgagee, includes only a subsequent holder of the first mortgage.¹⁴

Section 718.116(3), F.S., provides for the accrual of interest on unpaid assessments. Unpaid assessments and installments on assessments accrue interest at the rate provided in the declaration from the due date until paid. The rate may not exceed the rate allowed by law.¹⁵ If no rate is specified in the declaration, the interest accrues at the rate of 18 percent per year. The association may also charge an administrative late fee of up to the greater of \$25 or 5 percent of each installment of the assessment for each delinquent installment for which the payment is late. Payments are applied first to the interest accrued, then the administrative late fee, then to any reasonable attorney’s fees incurred in collection, and then to the delinquent assessment.

⁸ Section 718.103(24), F.S.

⁹ Section 718.116(1)(a), F.S.

¹⁰ *Id.* The term “without prejudice” means “without loss of any rights; in a way that does not harm or cancel the legal rights or privileges of a party.” Black’s Law Dictionary 770 (2d pocket ed. 2001).

¹¹ Section 718.116(1)(b), F.S.

¹² *Id.*

¹³ Section 718.116(1)(e), F.S.

¹⁴ Section 718.116(1)(g), F.S.

¹⁵ Section 687.02(2), F.S., prohibits usurious interest rates that are higher than the equivalent of 18 percent per annum simple interest.

Section 718.111(4), F.S., permits condominium associations to make and collect assessments and to lease, maintain, repair, and replace the common elements or association property. The association may not charge a use fee against a unit owner for the use of common elements or association property. However, the association may charge a fee against the unit owners for use of common elements or association property if:

- The fee is provided for in the declaration of condominium;
- The fee is authorized by a majority vote of the association; and
- The charges relate to expenses incurred by an owner having exclusive use of the common elements or association property.

Estoppel Certificates

The association is required to keep accounting records for the association and separate accounting records for each condominium that it operates.¹⁶ All accounting records must be kept for at least 7 years. The accounting records must be accurate, itemized, and detailed records of all receipts and expenditures. They must contain a current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid on the account, and the balance due.¹⁷ Within 15 days after receiving a written request from a unit owner or his or her designee, or a unit mortgagee or his or her designee, the association is required to provide a certificate signed by an officer or agent of the association stating all assessments and other moneys owed to the association by the unit owner with respect to the condominium parcel.¹⁸

The certificate protects any person other than the owner who relies upon it.¹⁹

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

If the certificate is requested in conjunction with the sale or mortgage of a unit but the closing does not occur, the preparer of the certificate must refund the fee to a payor that is not a unit-owner within 30 days after receipt of the request for refund. A written request for a refund must be made no later than 30 days after the closing date for which the certificate was sought, and include reasonable documentation that the sale did not occur.²⁰

The refund is the obligation of the unit owner, and the association may collect it from that owner in the same manner as an assessment.²¹

¹⁶ Section 718.111(12)(a)11., F.S.

¹⁷ *Id.*

¹⁸ Section 718.116(8), F.S.

¹⁹ Section 718.116(8)(a), F.S.

²⁰ Section 718.116(8)(c), F.S.

²¹ Section 718.116(8)(d), F.S.

After a series of public meetings in 2014, the Community Association Living Study Council,²² by unanimous vote, made the following recommendations to the Legislature:

- That a reasonable cap be established for estoppel certificate fees and that such fees be tiered;
- The amount of the fee should depend on whether or not the owner is current in fees, delinquent in fees, or if it is a bulk purchase.²³

A unit or parcel owner may compel compliance with the provisions governing the issuance of an estoppel certificate from a homeowners' or condominium association by bringing a summary procedure pursuant to s. 51.011, F.S.²⁴ The prevailing party is entitled to recover reasonable attorney's fees and costs.²⁵

III. Effect of Proposed Changes:

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

Form and Delivery of Estoppel Certificates

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

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

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

The bill provides that an association waives the right to collect any moneys owed in excess of the amounts set forth in the estoppel certificate from any person or entity who in good faith relies upon the certificate.

²² The Community Association Living Study Council was created by the Legislature in 2008 to receive input from the public regarding issues of concern with respect to community association living and to advise the Legislature concerning revisions and improvements to the laws relating to community associations. The council consisted of 7 members appointed by the President of the Senate, the Speaker of the House Representatives, and the Governor. An ex officio nonvoting member was appointed by the Director of the Division of Florida Condominiums, Timeshares, and Mobile Homes. The Council was abolished by the Legislature in 2014. *See* Ch. 2014-133, L.O.F.

²³ *See* Community Association Living Study Council, *Final Report*, March 31, 2014, available at <http://www.myfloridalicense.com/Dbpr/lsc/documents/2014CALSCReport.pdf> (last visited March 21, 2015).

²⁴ Sections 718.116(8)(b) and 720.30851(2), F.S.; Section 51.011, F.S., specifies a summary procedure for actions that specifically provide for this procedure by statute or rule. Under the summary procedure, all defenses of law or fact are required to be contained in the defendant's answer which must be filed within five days after service of process of the plaintiff's complaint. If the answer incorporates a counterclaim, the plaintiff must include all defenses of law or fact in his or her answer to the counterclaim and serve it within five days after service of the counterclaim. (Fla. R. Civ. Pro. 1.140, requires an answer, including any counterclaims, within 20 days after service of the complaint.) No other pleadings are permitted, and all defensive motions, including motions to quash, are heard by the court prior to trial. Postponements are not permitted for discovery and the procedure also provides for an immediate trial, if requested.

²⁵ *Id.*

The bill provides that the association waives any claim if it fails to deliver an estoppel certificate upon a written request from a unit owner or his or her designee, or a unit mortgagee or his or her designee, or any person who would have in good faith relied upon that certificate had it been so delivered. This waiver includes any claim for its lien against the unit, and any moneys owed to the association by the unit owner with respect to the unit for 40 days after the date of receipt of the request.

The bill provides that when an estoppel certificate is requested in conjunction with the sale or refinancing of a unit or parcel, the fee and any supplemental fees are due and payable to an association no earlier than the closing and must be paid from the closing settlement proceeds. The bill prohibits the preparation and delivery of the estoppel certificate to be contingent on the payment of any other fees.

Because the fees must be paid from the closing settlement proceeds, the bill repeals the provision authorizing a refund of fees by a homeowners or condominium association to a non-owner payor as no fee will have previously been paid. It also repeals the requirement that, if the sale does not occur within 60 days after the estoppel certificate is delivered, the fee is the obligation of the owner and may be collected by an association in the same manner as an assessment.

Fees

The bill authorizes condominium and homeowners' associations to charge a fee for the delivery as well as the preparation of an estoppel certificate. The association may also collect any reasonable attorney fees and cost in connection with the collection of past due moneys.

The bill establishes a maximum fee of \$100 for the preparation and delivery of an estoppel certificate. An association may charge additional supplemental fees of up to \$50 under each of the following circumstances:

- The owner is delinquent with respect to moneys owed to the association and his or her account has been referred for collection;
- Expedited delivery of an estoppel certificate is requested and made; or
- An additional estoppel certificate is requested within 30 days after the most recently delivered estoppel certificate.

The association may not charge an additional fee if an estoppel certificate is issued to correct an error or omission in a previously issued estoppel certificate.

However, if a unit or parcel owner makes a simultaneous request for the estoppel certificate for multiple units owned by the unit or parcel owner and there are no past due monetary obligations, the association may charge the following maximum fees:

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

Effective Date

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

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

The bill provides the amount of maximum fees for estoppel certificates from condominium and homeowners' associations. It establishes a maximum fee of \$100 for the preparation and delivery of an estoppel certificate, and authorizes additional supplemental fees of up to \$50 under limited circumstances. It establishes maximum fees for simultaneous requests for the estoppel certificate for multiple units owned by the unit or parcel owner.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 718.116 and 720.30851 of the Florida Statutes.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Stargel

15-00547B-15

2015736__

A bill to be entitled

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

96 1. For 25 or fewer units, \$750.
 97 2. For 26 to 50 units, \$1,000.
 98 3. For 51 to 100 units, \$1,500.
 99 4. For more than 100 units, \$2,500.

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

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

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117 reasonable attorney fees.

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

120 720.30851 Estoppel certificates.—Within 10 ~~15~~ days after
121 the date on which a request for an estoppel certificate is
122 received from a parcel owner or mortgagee, or his or her
123 designee, the association shall deliver by mail, hand, or
124 electronic means an estoppel ~~provide~~ a certificate signed by an
125 officer or authorized agent of the association. The estoppel
126 certificate must be dated as of the date it is delivered and
127 must state ~~stating~~ all assessments and other moneys owed to the
128 association by the parcel owner or mortgagee with respect to the
129 parcel, as reflected in records maintained pursuant to s.
130 720.303(4), through a date that is at least 30 days after the
131 date of the estoppel certificate. An association may charge a
132 fee for the preparation of such certificate, and the amount of
133 such fee must be stated on the certificate.

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

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

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

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

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

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

177 (b) If a request to expedite delivery of the estoppel
 178 certificate is made and the estoppel certificate is delivered no
 179 later than the date requested, an additional fee not to exceed
 180 \$50 may be charged.

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

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

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

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

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

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

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

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

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

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

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

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

SENATOR KELLI STARGEL

15th District

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

February 17, 2015

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

Dear Chair Bradley:

I am respectfully requesting that SB 736, related to *Residential Properties*, be placed on the committee agenda at your earliest convenience.

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

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 15

Cc: Booter Imhof/ Staff Director
Lynn Koon/ AA

REPLY TO:

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

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/24/15

Meeting Date

SB 736

Bill Number (if applicable)

525938

Amendment Barcode (if applicable)

Topic Estoppels

Name Anthony Kalliche

Job Title Exec. VP/General Counsel - First Service Residential

Address 2950 N 28th Terrace

Street

Phone 954-378-2289

Hollywood FL 33020

City

State

Zip

Email tony.kalliche@fsresidential.com

Speaking: For Against Information

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

Representing First Service Residential

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.

APPEARANCE RECORD

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

3.24.15

Meeting Date

736

Bill Number (if applicable)

Topic Residential Properties - Condos/HOAs

Amendment Barcode (if applicable)

Name Trey Goldman

Job Title Legislative Counsel

Address 200 S. Monroe St

Phone 850/224-1400

Street

Tallahassee

City

FL

State

32301

Zip

Email treyg@floridarealtors.org

Speaking: For Against Information

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

Representing Florida Realtors

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3.24

Meeting Date

736

Bill Number (if applicable)

Topic Estoppel

Amendment Barcode (if applicable)

Name Ashley Kalifeh (ca-leafy)

Job Title Cap City Consult.

Address 101 E. College Ave

Phone 222-9075

Street

Tallahassee

City

State

FL 32301

Zip

Email akalifeh@capcityconsult.com

Speaking: For Against Information

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

Representing Old Republic National Title

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.

APPEARANCE RECORD

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

3-24-15

Meeting Date

736

Bill Number (if applicable)

Topic Estoppel certificates

Amendment Barcode (if applicable)

Name Beth A. Vecchioni

Job Title Sr. Policy Advisor

Address 3155. Calhoun St.

Phone 850-545-7991

Street Tallah State FL Zip 32301

Email beth.vecchioni@stewart.com

Speaking: For Against Information

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

Representing Stewart Title Guaranty Co.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/24

Meeting Date

736

Bill Number (if applicable)

Topic Estoppel - Residential Properties

✓
Amendment Barcode (if applicable)

Name Doug Bell

Job Title _____

Address 101 N. Monroe

Phone 681 4270

Street

Tall

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Westcor Land Title Ins Co.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/24/15

Meeting Date

SB 736

Bill Number (if applicable)

Topic SB 736 - Estoppel Certificates

Amendment Barcode (if applicable)

Name John Krueger

Job Title Vice President

Address 5401 N. Central Expwy, Suite 260

Phone 770-570-7871

Street

Dallas

TX

75205

City

State

Zip

Email john.krueger@associaonline.com

Speaking: For Against Information

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

Representing Associa

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3-24-15

Meeting Date

736

Bill Number (if applicable)

Topic Estoppel Certificates

Amendment Barcode (if applicable)

Name TRAVIS MOORE

Job Title _____

Address P.O. BOX 2020
Street

Phone 727.421.6902

St. Petersburg FL 33731
City State Zip

Email mooretatampa@tampa.bay.fl.com

Speaking: For Against Information

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

Representing Community Associations Institute (CAI) & FirstService Residential

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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APPEARANCE RECORD

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

3/24/15

Meeting Date

SB 736

Bill Number (if applicable)

Topic Estoppel Certificates (Residential Properties)

Amendment Barcode (if applicable)

Name Yellie Goin

Job Title Executive Director

Address 204 S. Monroe St Ste 203

Street

Phone 850-284-2460

Tallahassee

City

FL 32312

State

Zip

Email ygoin@bplegal.com

Speaking: For Against Information

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

Representing Community Association Leadership Lobby (CALL)

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)

3/24/15
Meeting Date

SB 736
Bill Number (if applicable)

Topic ESTOPPER PROCESS REFORM

Amendment Barcode (if applicable)

Name DAVIS DANIEL

Job Title _____

Address 311 EAST PARK AVENUE

Phone 224-5081

Street

TLH FL 32301

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing AGENTS SECTION - FLORIDA LAND TITLE ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/24/2015

Meeting Date

SB736

Bill Number (if applicable)

Topic Estoppel Certificate

Amendment Barcode (if applicable)

Name Jose Pazos

Job Title President - Pazos | Robaina Management / Community Association Manager

Address 4909 SW 74 Ct

Phone 305-338-4090

Street

Miami

Email jose@przmiami.com

City

State

Zip

Speaking: For Against Information

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

Representing Myself and 4000 units in community associations

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/24/15
Meeting Date

SB 736
Bill Number (if applicable)

525938
Amendment Barcode (if applicable)

Topic ESTOPPEL PROCESS REFORM

Name ALEX OVERHOFF

Job Title EXECUTIVE DIRECTOR

Address _____
Street

Phone 513-519-2121

City

State

Zip

Email alex@PITA.org

Speaking: For Against Information

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

Representing FLORIDA LAND TITLE ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/24/15

Meeting Date

SB 736
Bill Number (if applicable)

Topic RESIDENTIAL PRIVACY

Amendment Barcode (if applicable)

Name DOUBLAS MANS

Job Title

Address 1424 E. PIEDMONT DR

Phone

Street

TRUST BASSIE FL 32308

Email DMANS@MANSLAW.COM

City

State

Zip

Speaking: For Against Information

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

Representing FIRST AMERICAN TITLE INS

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)

Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic

Name STEVE BURGESS

Job Title INSURANCE CONSUMER ADVOCATE

Address 111 W. MADISON ST. Rm 776

Street

City

TALLAHASSEE

State

FL

Zip

32312

Phone 413-5923

Email STEVE.BURGESS@MYFLORIDACFO.COM

Speaking: For Against Information

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

Representing

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3-24-15

736

Meeting Date

Bill Number (if applicable)

Topic Residential Properties - Estoppel

Amendment Barcode (if applicable)

Name Shelley Stewart

Job Title President

Address 2335 Beville Road

Phone 386-760-9800

Street

Daytona Beach

FL

32119

Email sstewart@stitle.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Land Title Association & Florida HomeBuilders Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/24/15
Meeting Date

SB 736
Bill Number (if applicable)

Topic SB 736

Amendment Barcode (if applicable)

Name Mark Anderson

Job Title Lobbyist

Address 106 S. Monroe
Street

Phone 813-205-0658

Tallahassee FL 32301
City State Zip

Email mark@consultanderson.com

Speaking: For Against Information

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

Representing CEOMC

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/24/15

Meeting Date

SB 736

Bill Number (if applicable)

Topic SB 736

Amendment Barcode (if applicable)

Name Susan Sullivan

Job Title _____

Address 15450 SW 13th Cir.

Phone 216-780-6317

Street

Ocala

City

FL

State

34473

Zip

Email _____

Speaking: For Against Information

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

Representing Summer Glen HOA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/24/15

Meeting Date

SB 736

Bill Number (if applicable)

Topic SB 736

Amendment Barcode (if applicable)

Name Rhonda Kesting

Job Title _____

Address 15440 SW 13th Cir.

Phone 216-780-6347

Street

Ocala

City

FL

State

34473

Zip

Email _____

Speaking: For Against Information

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

Representing Summer Glen HOA

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)

3-24-15
Meeting Date

SB 736
Bill Number (if applicable)

Topic SB 736

Amendment Barcode (if applicable)

Name DAVID FELICE

Job Title PRES, TERRA MGMT SERVICES

Address 4809 EHRlich RD #105
Street

Phone 813-374-2363

Tampa FL 33624
City State Zip

Email dfelice@terrafl.com

Speaking: For Against Information

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

Representing TERRA MANAGEMENT SERVICES

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/24/15

Meeting Date

736

Bill Number (if applicable)

Topic Estoppe Letters

Amendment Barcode (if applicable)

Name Rusty Payton

Job Title COO/ Lobbyist

Address 2600 Centennial Place

Phone 850-567-1073

Street

Tallahassee, FL

State

Zip

Email rpayton@fhba.com

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

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

Representing Florida Home Builders Assoc.

Appearing at request of Chair: [] Yes [] 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)

3/24/15

Meeting Date

736
~~763~~

Bill Number (if applicable)

525938

Amendment Barcode (if applicable)

Topic ESTOPPEL BILL

Name ARNOLD (SKIP) STRAUS

Job Title CHAIRMAN FLTA Agents Section / TITLE AGENT

Address 10081 PINES BLVD

Street

Phone 954 435 2311

PEMBROKE PINES BLVD

City

State

Zip

Email SSTRAUS@STRAUSEISLER.COM

Speaking: For Against Information

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

Representing Florida Land Title Assoc (FLTA)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/24/15

Meeting Date

SB 736

Bill Number (if applicable)

525938

Topic ESTOPPEL CERTIFICATES FOR HOMEOWNERS ASSOC. Amendment Barcode (if applicable)

Name BEVERLY McREYNOLDS

Job Title REGIONAL PRESIDENT

Address 700 NW 107 AVE STE 100

Phone 305-588-5603

Street

MIAMI

City

FL 33172

State

Zip

Email bmc Reynolds@NAT.COM

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

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

Representing NORTH AMERICAN TITLE COMPANY + FLORIDA LAND TITLE ASSOC

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

Lobbyist registered with Legislature: [] Yes [X] 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.



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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/26/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

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



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

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

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



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

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



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

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

74 719.108 Rents and assessments; liability; lien and
75 priority; interest; collection; cooperative ownership.-

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

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

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



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

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

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

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



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127 720.30851 Estoppel certificates.—Within 10 ~~15~~ days after
128 receiving the date on which a written request for an estoppel
129 certificate is received from a parcel owner or his or her
130 designee, or a parcel mortgagee, or his or her designee, the
131 association shall deliver by mail, hand, or electronic means an
132 estoppel ~~provide a~~ certificate signed by an officer or
133 ~~authorized~~ agent of the association. The estoppel certificate
134 must be dated as of the date it is delivered, must be valid for
135 at least 30 days, and must state ~~stating~~ all assessments and
136 other moneys owed to the association by the parcel owner or
137 parcel mortgagee with respect to the parcel, as reflected in
138 records maintained pursuant to s. 720.303(4), through a date
139 that is at least 30 days after the date of the estoppel
140 certificate. An association may charge a fee for the preparation
141 of such certificate, and the amount of such fee must be stated
142 on the certificate.

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

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



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

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

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



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

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

193
194 ===== T I T L E A M E N D M E N T =====

195 And the title is amended as follows:

196 Delete everything before the enacting clause
197 and insert:

198 A bill to be entitled

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1032

INTRODUCER: Committee on Regulated Industries and Senator Richter and others

SUBJECT: Point-of-sale Terminals

DATE: March 25, 2015

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1032 allows limited use of “point-of-sale terminals” for the sale of lottery tickets or games. A “point-of-sale terminal” is a charge card reader, like those consumers use at a retail counter, self-service fuel pump, or self-service checkout lane. The bill authorizes the Department of the Lottery (department), approved vendors, and approved retailers to use point-of-sale terminals to facilitate sales of lottery tickets or games, provided that the purchaser is verified to be 18 years of age or older and the terminal does not dispense lottery winnings. A point-of-sale terminal does not reveal winning numbers and may not be used to redeem a winning ticket. Lottery ticket sales revenue generated from point-of-sale terminals must be used to enhance instructional technology resources for students and teachers in Florida.

II. Present Situation:

The Florida Lottery

Section 15 of Article X of the State Constitution (1968) allows lotteries to be operated by the state. Section 24.102(2), F.S., provides:

- The net proceeds of lottery games shall be used to support improvements in public education;
- Lottery operations shall be undertaken as an entrepreneurial business enterprise; and
- The department shall be accountable through audits, financial disclosure, open meetings, and public records laws.

The department operates the state lottery to maximize revenues “consonant with the dignity of the state and the welfare of its citizens,”¹ for the benefit of public education.² The department contracts with retailers (e.g., supermarkets, convenience stores, gas stations, and newsstands) to provide adequate and convenient availability of lottery tickets.³ Retailers receive commissions of 5 percent of the ticket price, 1 percent of the prize value for redeeming winning tickets, and bonus and performance incentive payments.⁴ Retailers are eligible to receive bonuses for selling select winning tickets and performance incentive payments.⁵

The department selects retailers based on financial responsibility, integrity, reputation, accessibility, convenience, security of the location, and estimated sales volume, with special consideration for small businesses.⁶ Retailers must be at least 18 years old, and the sale of lottery tickets must occur as part of an ongoing retail business. There is a general prohibition against contracting with a retailer with a felony criminal history,⁷ and the authority to act as a retailer for lottery sales may not be transferred.⁸ Retailer contracts may be suspended or terminated for: (1) violating lottery laws and regulations; (2) committing any act that undermines public confidence in the lottery; (3) improper accounting for lottery tickets, revenues, or prizes; or (4) insufficient ticket sales. Every retailer contract must provide for a payment of liquidated damages for any contract breach by the retailer.⁹

Retailers may not extend credit or lend money to a person to purchase a lottery ticket, however, the prohibition does not include the use of a credit or charge card or other instrument issued by a bank, savings association, credit union, charge card company, or by a retailer (for installment sales of goods), provided that the lottery ticket purchase is in addition to the purchase of other goods and services with a cost of not less than \$20.¹⁰

Section 24.115, F.S., authorizes the department to establish by rule a system to verify and pay winning lottery tickets:¹¹

- Any lottery retailer, as well as any lottery department office, may redeem a winning ticket valued at less than \$600.¹² Payments less than \$50 are generally paid by a retailer in cash, depending on store policy or local ordinance. Higher amounts may be paid by cash, check, or money order at no cost to the winner.

¹ See s. 24.104, F.S.

² See s. 24.121(2), F.S.

³ See s. 24.105(17), F.S.

⁴ See *Lottery Transfers Have Recovered; Options Remain to Enhance Transfers*, Report No. 14-06, Office of Program Policy Analysis and Gov't Accountability, Florida Legislature, (January 2014), (hereinafter referred to as *OPPAGA Report 14-06*) at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1406rpt.pdf> at page 2 (last accessed March 25, 2015).

⁵ OPPAGA Report 2015-03, at page 1 (footnote 3).

⁶ See Section 24.112(2), F.S., which also includes a statement of legislative intent that retailer selections be based on business considerations and public convenience, without regard to political affiliation.

⁷ Section 24.112(3)(c), F.S.

⁸ Section 24.112(4), F.S.

⁹ Section 24.112(10), F.S.

¹⁰ Section 24.118(1), F.S.

¹¹ See Rule 53ER13-31, F.A.C.

¹² The winner has the option of presenting a winning ticket in person to any lottery retailer, any of the 9 lottery district offices, or to lottery headquarters in Tallahassee.

- Only a lottery department office may redeem a winning ticket valued at \$600 or more.¹³ Winning tickets are paid at the claimant's option in a combination of cash, check or lottery tickets (with a limitation of \$200 payable in cash).

Prizes must be claimed within certain time limits, depending on the type of game played. Instant lottery tickets (e.g., scratch-off tickets), must be redeemed within 60 days after the end of that lottery game.¹⁴ Other lottery tickets (e.g., tickets for drawings) must be redeemed within 180 days after the drawing or the end of the lottery game in which the prize was won.

If a valid claim is not timely made, 80% of the unclaimed prize amount is deposited in the Educational Enhancement Trust Fund,¹⁵ and the remainder may be used for future prizes or special prize promotions.¹⁶

Section 24.105(9)(a), F.S., authorizes the department to adopt rules governing the types of lottery games to be conducted, including lottery terminals or devices that “may be operated solely by the player without the assistance of the retailer.”¹⁷

The department introduced full service vending machines (FSVMs) in retail stores across the state in November 2013, and estimated that it earned more than \$29 million from the use of player-activated FSVMs in Fiscal Year 2012-2013.¹⁸ In its most recent Financial Audit,¹⁹ the department stated when 500 FSVMs were installed at its top scratch-off ticket sales locations, allowing both terminal and scratch-off tickets to be sold, total FSVMs sales were over \$248 million.

The Seminole Gaming Compact

On April 7, 2010, the Governor and the Seminole Tribe of Florida (Tribe) executed a compact governing gambling (Gaming Compact) at the Tribe's seven tribal facilities in Florida.²⁰ The

¹³ Mega Millions® and Powerball® prizes up to \$1 million may be claimed at any lottery district office. All other prizes greater than \$250,000 must be claimed at lottery headquarters.

¹⁴ See s. 24.115(1)(f), F.S.

¹⁵ Section 24.115(2)(a), F.S., provides that such funds may be used, subject to legislative appropriation, to match private contributions received under specified post-secondary matching grant programs.

¹⁶ See s. 24.115(2)(b), F.S.

¹⁷ Prior to 1996, there was no provision for player-activated lottery terminals or devices. Section 4 of ch. 96-341, L.O.F., authorized such machines, subject to restrictions that they be: (1) designed solely for dispensing of instant lottery tickets; (2) activated by coin or currency; (3) in the direct line of sight of on-duty retail employees; (4) capable of being electronically deactivated for 5 minutes or more; and (5) incapable of redeeming winning tickets, though they may dispense change. Chapter 2012-130, Laws of Fla., moved the restrictions on player-activated machines from s. 24.105(9)(a)4., F.S., to s. 24.112(15), F.S. As amended, the law (1) authorizes lottery vending machines to dispense “online lottery tickets, instant lottery tickets, or both,” and (2) prohibits use of mechanical reels or video depictions of slot machine or casino game themes or titles (but does not prohibit use of casino game themes or titles on lottery tickets, signage, or advertising displays on the vending machines).

¹⁸ *OPPAGA Report 14-06* at page 2.

¹⁹ See *Financial Audit of the Department of the Lottery, for the Fiscal Years Ended June 30, 2014, and 2013*, Report No. 2015-092, State of Florida Auditor General (January 2015), at page 4 (2015 Financial Audit) at http://www.myflorida.com/audgen/pages/pdf_files/2015-092.pdf (last accessed Mar. 25, 2015).

²⁰ The Tribe has three gaming facilities in Broward County (The Seminole Indian Casinos at Coconut Creek and Hollywood, and the Seminole Hard Rock Hotel & Casino-Hollywood), and gaming facilities in Collier County (Seminole Indian Casino-

Gaming Compact authorizes the Tribe to conduct Class III gaming.²¹ It was ratified by the Legislature, with an effective date of July 6, 2010.²² The Gaming Compact has a 20-year term.

The Gaming Compact provides that in exchange for the its exclusive right to offer slot machine gaming outside of Miami-Dade and Broward counties and banked card games at five of its seven²³ casinos, the Tribe will make revenue sharing payments to the state. The state's share increases incrementally from 12% for the first \$2 billion in annual net win, to 25% for annual net win greater than \$4.5 billion. In Fiscal Year 2013-2014, the Tribe paid \$237 million.²⁴

The Gaming Compact specifically acknowledges operation by the Florida Lottery of the types of lottery games authorized under chapter 24, F.S., on February 1, 2010, and it specifically excludes from such authorized games any “player-activated or operated machine or device other than a Lottery Vending Machine.”²⁵ The Gaming Compact also includes language about not using a lottery vending machine to redeem winning tickets, which is consistent with similar language in s. 24.112(15)(c), F.S.²⁶

Immokalee), Glades County (Seminole Indian Casino-Brighton), Hendry County (Seminole Indian Casino-Big Cypress), and Hillsborough County (Seminole Hard Rock Hotel & Casino-Tampa). The *Gaming Compact Between the Seminole Tribe of Florida and the State of Florida* (Gaming Compact) was approved by the U.S. Department of the Interior effective July 6, 2010, 75 Fed. Reg. 38833. See http://www.myfloridalicense.com/dbpr/pmw/documents/2010_Compact-Signed1.pdf (last accessed March 25, 2015). Gambling on Indian lands is regulated by the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100-497, 102 Stat. 2467, codified at 18 U.S.C. ss. 1166-1168 and 25 U.S.C. s. 2701 *et seq.*

²¹ The Indian Gaming Regulatory Act of 1988 divides gaming into three classes: **Class I** means social games for minimal value or traditional forms of Indian gaming engaged in by individuals for tribal ceremonies or celebrations. **Class II** includes bingo and pull-tabs, lotto, punch boards, tip jars, instant bingo, other games similar to bingo, and certain non-banked card games if not explicitly prohibited by the laws of the state and if played in conformity with state law. **Class III** includes all forms of gaming that are not Class I or Class II, such as house-banked card games, casino games such as craps and roulette, electronic or electromechanical facsimiles of games of chance, slot machines, and pari-mutuel wagering.

²² See Chapter 2010-29, L.O.F.

²³ See the executed Gaming Compact at http://www.myfloridalicense.com/dbpr/pmw/documents/2010_Compact-Signed1.pdf (last accessed Mar. 25, 2015). Banking or banked card games may not be offered at the Brighton or Big Cypress facilities unless and until the state allows any other person or entity to offer those games, as set forth in paragraph F.2. of Part III of the Gaming Compact, at page 4.

²⁴ See the Executive Summary and Conference results from the Revenue Estimating Conference (Feb. 20, 2015) at <http://edr.state.fl.us/Content/conferences/Indian-gaming/IndianGamingSummary.pdf> and <http://edr.state.fl.us/Content/conferences/Indian-gaming/IndianGamingResults.pdf> (last accessed Mar. 25, 2015).

²⁵ In particular, the Gaming Compact acknowledges: “operation by the Florida Department of Lottery of those types of lottery games authorized under chapter 24, Florida Statutes, on February 1, 2010, but not including (i) any player-activated or operated machine or device other than a lottery vending machine or (ii) any banked or banking card or table game.” The Gaming Compact further excludes: (iii) more than ten lottery vending machines at any or location or (iv) any lottery vending machine that dispenses electronic instant tickets at any licensed pari-mutuel location. See subparagraph 8 of paragraph B of Part XII of Gaming Compact at page 42. The Gaming Compact describes three types of lottery vending machines, none of which may allow a player to redeem a ticket: (1) a machine to dispense pre-printed paper instant lottery tickets (e.g., scratch-off tickets); (2) a machine to dispense pre-determined electronic instant lottery tickets and reveal the outcome; or (3) a machine to dispense paper lottery tickets with numbers selected by the player or randomly by the machine, with the winning number selected in a drawing by the department. See paragraph R of Part III of Gaming Compact at page 10.

²⁶ Section 24.112(15)(c), F.S., provides that a vending machine that dispenses a lottery ticket “may dispense change to a purchaser but may not be used to redeem any type of winning lottery ticket.”

The Gaming Compact provides that any expanded gaming (beyond what is specifically acknowledged) relieves the Tribe of its obligations to make substantial revenue sharing payments.²⁷

OPPAGA Recommendations to Enhance Lottery Earnings

Section 24.123, F.S., requires the Legislature's Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct an annual financial audit of the Department of the Lottery and provide recommendations to enhance the state lottery's earning capability and operational efficiency.²⁸ In the last two years, OPPAGA has issued Report No. 14-06, concerning options available to the department to enhance revenues,²⁹ and Report No. 15-03, concerning increases in lottery revenues, further enhancement options, and options to increase efficiency.³⁰

No monies from the General Revenue Fund are appropriated to the department, which is supported solely by game ticket sales. For Fiscal Year 2013-2014, the Legislature appropriated \$163.5 million for operations from lottery revenue, with 420 positions authorized.³¹ In Fiscal Year 2014-2015, the department allocated approximately 75 percent, or \$122.5 million, of its \$163.5 million appropriation to produce and advertise online and scratch-off games.³²

In addition to funding the operational appropriation, lottery revenue is used to pay prizes and retailer commissions.³³ In Fiscal Year 2013-2014, prizes totaled \$3.43 billion and retailer commissions totaled \$297.3 million.³⁴

Lottery Ticket Sales at Gas Pumps and ATMs

Noting that expanding product distribution could increase revenues, OPPAGA reported that in October 2012, the Minnesota Lottery implemented new technology and processes for sales at gas stations and ATMs.³⁵ Players use a debit card and select the option to purchase at least three lottery tickets as part of a transaction to purchase gas or use an ATM. The player's age is verified by a scan of a driver's license, and the lottery purchase shows on the receipt. Tickets may be printed, or a player may opt to receive lottery numbers in a text or email message. Players may track ticket purchases on the lottery's website.³⁶ For prizes less than \$600, the lottery credits the

²⁷ See last sentence in paragraph B of Part XII of Gaming Compact at page 43.

²⁸ See <http://www.oppaga.state.fl.us/ReportsByAgency.aspx?agency=Lottery.%20Department%20of%20the> (last visited March 25, 2015) for a list of OPPAGA reports related to the Department of the Lottery.

²⁹ See *OPPAGA Report 14-06*, at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1406rpt.pdf> (last accessed March 25, 2015).

³⁰ See *Lottery Transfers Continue to Increase; Options Remain to Enhance Transfers and Increase Efficiency*, Report No. 15-03, Office of Program Policy Analysis and Gov't Accountability, Florida Legislature, (January 2015), (hereinafter referred to as *OPPAGA Report 15-03*) at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1503rpt.pdf> (last accessed Mar. 25, 2015).

³¹ *Id.* at page 10.

³² *Id.* at page 2.

³³ See s. 24.121(2) and (3), F.S.

³⁴ *Id.* at page 1.

³⁵ See *OPPAGA Report 14-06* at page 11.

³⁶ See <https://mnlottery-etickets.com/> (last visited Mar. 25, 2015).

bank account associated with the debit card; no visit to a retailer is required for redemption of a winning ticket.

The Missouri Lottery implemented similar technology in late 2013 with retailers already selling lottery tickets. The lottery website displays rules and restrictions for this type of purchase.³⁷ Purchases are limited to quick-pick (random) plays³⁸ for a single game drawing. Lottery tickets are payable by debit card, but credit cards may not be used. Each cardholder can purchase up to \$100 in lottery tickets per week, per debit card, but each transaction incurs a transaction fee. Prizes of \$600 or less are automatically credited to the debit card account of the purchaser, but larger prizes must be claimed at lottery headquarters by the cardholder who must in possession of the debit card and photo identification.

The OPPAGA report considered whether the convenience of purchasing lottery tickets “at the pump” or at similar point-of-sale terminals might cause in-store sales to decline. OPPAGA found that during the short period this option has been available in Minnesota, there has been no negative effect on in-store sales.³⁹ The report noted that “offering this option at ATMs may help expand the retailer network to non-traditional locations.”⁴⁰

In its most recent report on Florida Lottery revenues and operations,⁴¹ OPPAGA notes:

As of December 2014, Play at the Pump is offered [in Minnesota] at 53 gas locations, with 452 pump screens and 131 ATM locations. Minnesota’s total sales through these distribution points were \$20,000 in Fiscal Year 2013-14. . . . The Missouri Lottery began offering Play at the Pump and ATM sales in fall 2013 in select locations, followed by the California Lottery in fall 2014. California’s Play at the Pump sales are limited to participating gas stations in Sacramento and Los Angeles counties.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 24.103, F.S., to add the term “point-of sale terminal.” A point-of-sale terminal is another type of lottery vending machine to be used to purchase lottery tickets at retail locations under certain conditions. Payments for lottery tickets at a point-of-sale terminal may be paid by credit card, debit card, or retailer-issued charge cards.

Section 2 of the bill amends s. 24.105, F.S., and authorizes the department to create a program and adopt rules for the purchase of lottery tickets at point-of-sale terminals by persons over 18 years of age. A point-of-sale terminal has multiple uses (e.g., purchase of lottery tickets incidental to the purchase of other retail goods or services), while current lottery vending machines dispense lottery tickets only.

³⁷ See http://www.molottery.com/numbers/alternative_distribution.shtml (last visited March 25, 2015).

³⁸ Teleconference with S. Goedde at Missouri Lottery (Mar. 17, 2014). Purchasers may select packages for Powerball® of 3, 5 or 10 plays only and for MegaMillions® of 5, 10 or 20 plays only.

³⁹ See *OPPAGA REPORT 14-06* at page 14.

⁴⁰ *Id.*

⁴¹ See *OPPAGA Report 15-03*, note 30 *supra*.

Section 3 of the bill amends s. 24.112, F.S., to provide that point-of-sale terminals may be used by the department, approved vendors, and approved retailers to facilitate the sale of lottery tickets or games. The bill tracks the following requirements stated in the Gaming Compact for lottery vending machines, providing that a point-of-sale terminal:

- Must dispense a paper lottery ticket with numbers selected by the player or randomly by the machine;
- Does not reveal the winning numbers (which are selected at a later time and a different location, through a drawing held by the Florida Lottery);
- May not make use of mechanical reels or video depictions of slot machine or casino game themes or titles; and
- May not be used to redeem winning tickets.

Lottery ticket sales revenue generated from point-of-sale terminals must be used to enhance instructional technology resources for students and teachers in Florida.

The bill takes effect upon becoming a law.

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:

B. Private Sector Impact:

The bill will allow retailers and vendors approved by the Department of the Lottery department to use point-of-sale terminals for sales of lottery products. The convenience of purchasing lottery tickets “at the pump” or at similar point-of-sale terminals might increase retailer commissions (5% of lottery ticket sales) by an indeterminate amount; it also might reduce in-store sales by an indeterminate amount.⁴²

⁴² See *OPPAGA Report*, No. 14-06 at page 14.

C. Government Sector Impact:

The bill authorizes the Department of the Lottery to establish, at its option, procedures for using point-of-sale terminals to sell lottery tickets. The convenience of purchasing lottery tickets “at the pump” or at similar point-of-sale terminals may increase lottery ticket sales by an indeterminate amount.

VI. Technical Deficiencies:

None.

VII. Related Issues:

CS/SB 1032 provides the requirements for a point-of-sale terminal to “facilitate the sales of a lottery ticket or game.” The terminal must “dispense a paper lottery ticket,” utilize a platform that is certified or approved by the department, must not reveal the winning numbers, and the winning numbers are selected at a subsequent time and different location through a drawing by the Florida Lottery. The point-of-sale terminal may not be used to redeem a winning ticket. The point-of-sale terminal or any device linked to the terminal may not include or make use of video reels or mechanical reels or other video depictions of slot machine or casino game themes or titles on the lottery ticket, signs, or advertising.

Under the Gaming Compact between the State of Florida and the Seminole Tribe of Florida, the Florida Lottery may conduct lottery games through player-activated or operated machines that meet the definition of “Lottery Vending Machine” in the Gaming Compact,⁴³ without violating the exclusivity provisions of the Gaming Compact.⁴⁴ There are three types of Lottery Vending Machines. The third type of machine is defined as:

3. A machine to dispense a paper lottery ticket with numbers selected by the player or randomly by the machine. The machine does not reveal the winning numbers and the winning numbers are selected at a subsequent time and different location through a drawing by the Florida Lottery. The machine, or any machine or device linked to the machine, may not include or make use of video reels or mechanical reels or other video depictions of slot machine or casino game themes or titles for game play. The machine may not be used to redeem a winning ticket. This does not preclude the use of casino game themes or titles for signage or advertising displays on the machine.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 24.103, 24.105, and 24.112.

⁴³ See the executed Gaming Compact at http://www.myfloridalicense.com/dbpr/pmw/documents/2010_Compact-Signed1.pdf (last accessed Mar. 25, 2015), at pages 10-11 (paragraphs 1-3 of Part III, Section R).

⁴⁴ *Id.* at page 42 (paragraph 8 of Part XII, Section B).

IX. Additional Information:

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

CS by Regulated Industries Committee on March 24, 2015:

The committee substitute requires lottery ticket sales revenue generated from point-of-sale terminals to be used to enhance instructional technology resources for students and teachers in Florida.

- B. **Amendments:**

None.

By Senator Richter

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A bill to be entitled

An act relating to point-of-sale terminals; amending s. 24.103, F.S.; defining the term "point-of-sale terminal"; amending s. 24.105, F.S.; authorizing the Department of the Lottery to create a program that authorizes certain persons to purchase a ticket or game at a point-of-sale terminal; authorizing the department to adopt rules; amending s. 24.112, F.S.; authorizing the department, a retailer operating from one or more locations, or a vendor approved by the department to use a point-of-sale terminal to sell a lottery ticket or game; requiring a point-of-sale terminal to perform certain functions; specifying that the point-of-sale terminal may not reveal winning numbers; prohibiting a point-of-sale terminal from including video depictions of slot machine or casino game themes or titles for game play; prohibiting a point-of-sale terminal from being used to redeem a winning ticket; providing an effective date.

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

Section 1. Section 24.103, Florida Statutes, is reordered and amended to read:

24.103 Definitions.—As used in this act, the term:

(1) "Department" means the Department of the Lottery.

~~(6)~~~~(2)~~ "Secretary" means the secretary of the department.

(3) "Person" means any individual, firm, association, joint adventure, partnership, estate, trust, syndicate, fiduciary,

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corporation, or other group or combination and includes an ~~shall include any~~ agency or political subdivision of the state.

(4) "Point-of-sale terminal" means an electronic device used to process credit card, debit card, or other similar charge card payments at retail locations which is supported by networks that enable verification, payment, transfer of funds, and logging of transactions.

~~(2)~~~~(4)~~ "Major procurement" means a procurement for a contract for the printing of tickets for use in any lottery game, consultation services for the startup of the lottery, any goods or services involving the official recording for lottery game play purposes of a player's selections in any lottery game involving player selections, any goods or services involving the receiving of a player's selection directly from a player in any lottery game involving player selections, any goods or services involving the drawing, determination, or generation of winners in any lottery game, the security report services provided for in this act, or any goods and services relating to marketing and promotion which exceed a value of \$25,000.

(5) "Retailer" means a person who sells lottery tickets on behalf of the department pursuant to a contract.

~~(7)~~~~(6)~~ "Vendor" means a person who provides or proposes to provide goods or services to the department, but does not include an employee of the department, a retailer, or a state agency.

Section 2. Present subsections (19) and (20) of section 24.105, Florida Statutes, are redesignated as subsections (20) and (21), respectively, and a new subsection (19) is added to that section, to read:

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59 24.105 Powers and duties of department.—The department
60 shall:

61 (19) Have the authority to create a program that allows a
62 person who is 18 years of age or older to purchase a lottery
63 ticket or game at a point-of-sale terminal. The department may
64 adopt rules to administer the program.

65 Section 3. Section 24.112, Florida Statutes, is amended to
66 read:

67 24.112 Retailers of lottery tickets; ~~authorization of~~
68 ~~vending machines; point-of-sale terminals to dispense lottery~~
69 ~~tickets.—~~

70 (1) The department shall promulgate rules specifying the
71 terms and conditions for contracting with retailers who will
72 best serve the public interest and promote the sale of lottery
73 tickets.

74 (2) In the selection of retailers, the department shall
75 consider factors such as financial responsibility, integrity,
76 reputation, accessibility of the place of business or activity
77 to the public, security of the premises, the sufficiency of
78 existing retailers to serve the public convenience, and the
79 projected volume of the sales for the lottery game involved. In
80 the consideration of these factors, the department may require
81 the information it deems necessary of any person applying for
82 authority to act as a retailer. However, the department may not
83 establish a limitation upon the number of retailers and shall
84 make every effort to allow small business participation as
85 retailers. It is the intent of the Legislature that retailer
86 selections be based on business considerations and the public
87 convenience and that retailers be selected without regard to

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88 political affiliation.

89 (3) The department may ~~shall~~ not contract with any person
90 as a retailer who:

91 (a) Is less than 18 years of age.

92 (b) Is engaged exclusively in the business of selling
93 lottery tickets; however, this paragraph may ~~shall~~ not preclude
94 the department from selling lottery tickets.

95 (c) Has been convicted of, or entered a plea of guilty or
96 nolo contendere to, a felony committed in the preceding 10
97 years, regardless of adjudication, unless the department
98 determines that:

99 1. The person has been pardoned or the person's civil
100 rights have been restored;

101 2. Subsequent to such conviction or entry of plea the
102 person has engaged in the kind of law-abiding commerce and good
103 citizenship that would reflect well upon the integrity of the
104 lottery; or

105 3. If the person is a firm, association, partnership,
106 trust, corporation, or other entity, the person has terminated
107 its relationship with the individual whose actions directly
108 contributed to the person's conviction or entry of plea.

109 (4) The department shall issue a certificate of authority
110 to each person with whom it contracts as a retailer for purposes
111 of display pursuant to subsection (6). The issuance of the
112 certificate may ~~shall~~ not confer upon the retailer any right
113 apart from that specifically granted in the contract. The
114 authority to act as a retailer may ~~shall~~ not be assignable or
115 transferable.

116 (5) A ~~Any~~ contract executed by the department pursuant to

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117 this section shall specify the reasons for any suspension or
 118 termination of the contract by the department, including, but
 119 not limited to:

120 (a) Commission of a violation of this act or rule adopted
 121 pursuant thereto.

122 (b) Failure to accurately account for lottery tickets,
 123 revenues, or prizes as required by the department.

124 (c) Commission of any fraud, deceit, or misrepresentation.

125 (d) Insufficient sale of tickets.

126 (e) Conduct prejudicial to public confidence in the
 127 lottery.

128 (f) Any material change in any matter considered by the
 129 department in executing the contract with the retailer.

130 (6) Each ~~Every~~ retailer shall post and keep conspicuously
 131 displayed in a location on the premises accessible to the public
 132 its certificate of authority and, with respect to each game, a
 133 statement supplied by the department of the estimated odds of
 134 winning a ~~some~~ prize for the game.

135 (7) A ~~No~~ contract with a retailer may not ~~shall~~ authorize
 136 the sale of lottery tickets at more than one location, and a
 137 retailer may sell lottery tickets only at the location stated on
 138 the certificate of authority.

139 (8) With respect to any retailer whose rental payments for
 140 premises are contractually computed, in whole or in part, on the
 141 basis of a percentage of retail sales, and where such
 142 computation of retail sales is not explicitly defined to include
 143 sales of tickets in a state-operated lottery, the compensation
 144 received by the retailer from the department shall be deemed to
 145 be the amount of the retail sale for the purposes of such

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146 contractual compensation.

147 (9) (a) The department may require each ~~every~~ retailer to
 148 post an appropriate bond as determined by the department, using
 149 an insurance company acceptable to the department, in an amount
 150 not to exceed twice the average lottery ticket sales of the
 151 retailer for the period within which the retailer is required to
 152 remit lottery funds to the department. For the first 90 days of
 153 sales of a new retailer, the amount of the bond may not exceed
 154 twice the average estimated lottery ticket sales for the period
 155 within which the retailer is required to remit lottery funds to
 156 the department. This paragraph does ~~shall~~ not apply to lottery
 157 tickets that ~~which~~ are prepaid by the retailer.

158 (b) In lieu of such bond, the department may purchase
 159 blanket bonds covering all or selected retailers or may allow a
 160 retailer to deposit and maintain with the Chief Financial
 161 Officer securities that are interest bearing or accruing and
 162 that, with the exception of those specified in subparagraphs 1.
 163 and 2., are rated in one of the four highest classifications by
 164 an established nationally recognized investment rating service.
 165 Securities eligible under this paragraph shall be limited to:

166 1. Certificates of deposit issued by solvent banks or
 167 savings associations organized and existing under the laws of
 168 this state or under the laws of the United States and having
 169 their principal place of business in this state.

170 2. United States bonds, notes, and bills for which the full
 171 faith and credit of the government of the United States is
 172 pledged for the payment of principal and interest.

173 3. General obligation bonds and notes of any political
 174 subdivision of the state.

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175 4. Corporate bonds of any corporation that is not an
 176 affiliate or subsidiary of the depositor.
 177
 178 Such securities shall be held in trust and shall have at all
 179 times a market value at least equal to an amount required by the
 180 department.
 181 (10) ~~Each~~ Every contract entered into by the department
 182 pursuant to this section shall contain a provision for payment
 183 of liquidated damages to the department for any breach of
 184 contract by the retailer.
 185 (11) The department shall establish procedures by which
 186 each retailer shall account for all tickets sold by the retailer
 187 and account for all funds received by the retailer from such
 188 sales. The contract with each retailer shall include provisions
 189 relating to the sale of tickets, payment of moneys to the
 190 department, reports, service charges, and interest and
 191 penalties, if necessary, as the department shall deem
 192 appropriate.
 193 (12) ~~No~~ Payment by a retailer to the department for tickets
 194 may not shall be in cash. All such payments shall be in the form
 195 of a check, bank draft, electronic fund transfer, or other
 196 financial instrument authorized by the secretary.
 197 (13) Each retailer shall provide accessibility for disabled
 198 persons on habitable grade levels. This subsection does not
 199 apply to a retail location ~~that which~~ has an entrance door
 200 threshold more than 12 inches above ground level. As used in
 201 ~~herein and for purposes of~~ this subsection ~~only~~, the term
 202 "accessibility for disabled persons on habitable grade levels"
 203 means that retailers shall provide ramps, platforms, aisles and

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

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204 pathway widths, turnaround areas, and parking spaces to the
 205 extent these are required for the retailer's premises by the
 206 particular jurisdiction where the retailer is located.
 207 Accessibility shall be required to only one point of sale of
 208 lottery tickets for each lottery retailer location. The
 209 requirements of this subsection shall be deemed to have been met
 210 if, in lieu of the foregoing, disabled persons can purchase
 211 tickets from the retail location by means of a drive-up window,
 212 provided the hours of access at the drive-up window are not less
 213 than those provided at any other entrance at that lottery
 214 retailer location. Inspections for compliance with this
 215 subsection shall be performed by those enforcement authorities
 216 responsible for enforcement pursuant to s. 553.80 in accordance
 217 with procedures established by those authorities. Those
 218 enforcement authorities shall provide to the Department of the
 219 Lottery a certification of noncompliance for any lottery
 220 retailer not meeting such requirements.
 221 (14) The secretary may, after filing with the Department of
 222 State his or her manual signature certified by the secretary
 223 under oath, execute or cause to be executed contracts between
 224 the department and retailers by means of engraving, imprinting,
 225 stamping, or other facsimile signature.
 226 (15) A vending machine may be used to dispense online
 227 lottery tickets, instant lottery tickets, or both online and
 228 instant lottery tickets.
 229 (a) The vending machine must:
 230 1. Dispense a lottery ticket after a purchaser inserts a
 231 coin or currency in the machine.
 232 2. Be capable of being electronically deactivated for a

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233 period of 5 minutes or more.

234 3. Be designed to prevent its use for any purpose other
235 than dispensing a lottery ticket.

236 (b) In order to be authorized to use a vending machine to
237 dispense lottery tickets, a retailer must:

238 1. Locate the vending machine in the retailer's direct line
239 of sight to ensure that purchases are only made by persons at
240 least 18 years of age.

241 2. Ensure that at least one employee is on duty when the
242 vending machine is available for use. However, if the retailer
243 has previously violated s. 24.1055, at least two employees must
244 be on duty when the vending machine is available for use.

245 (c) A vending machine that dispenses a lottery ticket may
246 dispense change to a purchaser but may not be used to redeem any
247 type of winning lottery ticket.

248 (d) The vending machine, or any machine or device linked to
249 the vending machine, may not include or make use of video reels
250 or mechanical reels or other video depictions of slot machine or
251 casino game themes or titles for game play. This does not
252 preclude the use of casino game themes or titles on such tickets
253 or signage or advertising displays on the machines.

254 (16) The department, a retailer operating from one or more
255 locations, or a vendor approved by the department may use a
256 point-of-sale terminal to facilitate the sale of a lottery
257 ticket or game.

258 (a) A point-of-sale terminal must:

259 1. Dispense a paper lottery ticket with numbers selected by
260 the purchaser or selected randomly by the machine after the
261 purchaser uses a credit card, debit card, charge card, or other

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262 similar card issued by a bank, savings association, credit
263 union, or charge card company or issued by a retailer pursuant
264 to part II of chapter 520 for payment;

265 2. Recognize a valid driver license or use another age
266 verification process approved by the department to ensure that
267 only persons at least 18 years of age may purchase a lottery
268 ticket or game;

269 3. Process a lottery transaction through a platform that is
270 certified or otherwise approved by the department; and

271 4. Be in compliance with all applicable department
272 requirements related to the lottery ticket or game offered for
273 sale.

274 (b) A point-of-sale terminal does not reveal winning
275 numbers, which are selected at a subsequent time and different
276 location through a drawing by the Florida Lottery.

277 (c) A point-of-sale terminal, or any machine or device
278 linked to the point-of-sale terminal, may not include or make
279 use of video reels or mechanical reels or other video depictions
280 of slot machine or casino game themes or titles for game play.
281 This does not preclude the use of casino game themes or titles
282 on a lottery ticket or game or on the signage or advertising
283 displays on the terminal.

284 (d) A point-of-sale terminal may not be used to redeem a
285 winning ticket.

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



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Regulated Industries

Steven Richardson, Chief Legislative Assistant

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

Subject: Committee Agenda Request

Date: March 3, 2015

I respectfully request that **Senate Bill #1032**, relating to Point-of-sale Terminals, be placed on the:

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

A handwritten signature in cursive script, appearing to read "Garrett Richter".

Senator Garrett Richter
Florida Senate, District 23

SEMINOLE TRIBE OF FLORIDA

JAMES E. BILLIE
Chairman
6300 Stirling Road Suite 420
Hollywood, Florida 33024
(954) 966-6300 Ext. 11390
E-MAIL:
jamesbillie@seminoletribe.com
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Tribal Officers:

TONY SANCHEZ, JR.
Vice-Chairman

LAVONNE KIPPENBERGER
Secretary

PETER HAHN
Treasurer

March 23, 2015

Senator Garrett Richter
President Pro Tempore
Florida Senate
404 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Re: SB 1032 - Potential Violation of Compact Exclusivity

Dear Senator Richter:

I am writing on behalf of the Seminole Tribe of Florida to bring to your attention the fact that SB 1032, as currently drafted, would appear to authorize gaming devices that would violate the exclusivity that the Tribe negotiated with the State of Florida in the 2010 Gaming Compact. As you know, the Tribe agreed to pay the State a significant amount of money, currently over \$250 million per year, in exchange for the right to operate its gaming facilities with substantial exclusivity within the State. One aspect of this agreement is important limitations on the types of "player-activated or operated machine[s]" that can be offered by the Florida Lottery.

During the 2010 negotiations, the parties, including representatives of the Florida Lottery, agreed that the Lottery would be permitted to offer only Lottery Vending Machines that meet one of three negotiated definitions. Compact, Part VII.B.8. Those definitions include certain dispensers of pre-printed instant lottery tickets, dispensers of pre-determined electronic lottery tickets, and dispensers of paper lottery tickets with numbers selected by the player or the machine. Compact, Part III.R.1-3. However, the devices that would be authorized by SB 1032 would not meet any of those definitions. Instead, the bill would allow credit/debit card-activated player terminals for the play of wholly electronic draw lottery games. While the bill indicates that a "paper ticket" would be dispensed, based on other provisions of the bill, the Tribe understands that this "ticket" would only be a receipt for the sale. Unlike a lottery ticket, the receipt would not be used to play the game or redeem winnings.

Wholly electronic draw lottery games simply are not one of the three types of Lottery Vending Machines that the parties agreed would be an exception to the Tribe's exclusivity. As a result, SB 1032 could open the door to a significant expansion of gaming machines beyond what the parties agreed to in the 2010 Gaming Compact. Were such games to be authorized and put

"BUT I HAVE PROMISES TO KEEP & MILES TO GO BEFORE I SLEEP"



SEMINOLE TRIBE OF FLORIDA

into operation, the Tribe would be permitted to reduce or end its payments to the State in accordance with Part XII of the Compact. However, the Tribe has no interest in ending its payments to the State, which is why we are providing you with advance notice of the Tribe's concerns.

Should you have any questions, please contact Jim Shore, the Tribe's General Counsel, at 954-967-3950.

Shonabish,

James E. Billie
Chairman, Tribal Council

cc: Governor Rick Scott
Jim Shore, Esq.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/24/15
Meeting Date

SB1032
Bill Number (if applicable)

Topic Point of sale

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N Adams St
Street

Phone 224-7173

Tallahassee FL 3230
City State Zip

Email bbevis@aif.com

Speaking: For Against Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3/24/2015

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

Meeting Date

1032

Bill Number (if applicable)

Topic POINT OF SALE

Amendment Barcode (if applicable)

Name CARLOS MUNIZ

Job Title Attorney

Address 215 S. Monroe Suite 602

Phone 850-570-0178

Street

Tallahassee FL 32301

City

State

Zip

Email CMUNIZ@jwllc.com

Speaking: For Against Information

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

Representing ASSOCIATED INDUSTRIES 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.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3 / 24 / 2015

Meeting Date

Topic _____ Bill Number 1032
(if applicable)

Name BRIAN PITTS Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291

Street

SAINT PETERSBURG

FLORIDA

33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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)



215246

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 285 and 286
insert:

(17) Revenue generated from a point-of-sale terminal under this section shall be used to enhance instructional technology resources for students and teachers in this state.

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

And the title is amended as follows:



215246

11 Delete line 19
12 and insert:
13 winning ticket; providing that revenue generated by a
14 point-of-sale-terminal shall be used to enhance
15 instructional technology resources for students and
16 teachers in this state; providing an effective date.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1172

INTRODUCER: Regulated Industries and Senator Latvala

SUBJECT: Termination of a Condominium Association

DATE: March 24, 2015

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1172 revises the requirements for the optional termination of condominiums. Current law permits a condominium to be terminated at any time if a plan of termination is approved by 80 percent of the condominium's total voting interests and no more than 10 percent of the total voting interests reject the termination.

The bill provides that, if more than 10 percent of the voting interests of a condominium reject a plan of termination, another termination may not be considered for 18 months.

The bill prohibits condominiums that have been created pursuant to the condominium conversion procedures in Part VI of ch. 718, F.S., from undertaking an optional plan of termination until 7 years after the conversion.

The bill provides the following conditions and limitations for the termination of a condominium if at the time the plan of termination is recorded at least 80 percent of the total voting interests are owned by a bulk owner which would be considered an insider under s. 726.102, F.S., and no sale of the terminated condominium property to an unrelated third party is contemplated:

- Unit owners must be allowed to retain possession of units and lease their former units;
- Any unit owner whose unit was granted homestead exemption must be paid a relocation payment equal to 1 percent of the termination proceeds allocated to the unit;
- Unit owners other than the developer must be paid at least 100 percent of the fair market value of their units as determined by one or more independent appraisers;

- Dissenting or objecting owners must be paid 110 percent of the purchase price, or 110 percent of fair market value, whichever is greater; and
- The outstanding first mortgages of all third-party unit owners must be satisfied in full.

The bill provides timeframes for objections to the plan of termination, including plans approved at a meeting and plans approved by a written consent or joinder.

The bill permits unit owners to contest a plan of termination by petitioning the Division of Florida Condominiums, Timeshares, and Mobile Homes for mandatory nonbinding arbitration. It deletes the unit owners' right to contest the plan of termination in a court by initiating a summary procedure pursuant to s. 51.011, F.S. It provides that unit owners may contest the fairness and reasonableness of the apportionment of the proceeds from the sale, that the first mortgages of unit owners will not be fully satisfied, or that the required vote was not obtained.

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

II. Present Situation:

Condominium

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

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

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

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

¹ Section 718.103(11), F.S.

² Section 718.104(2), F.S.

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

⁴ Section 718.104(5), F.S.

⁵ See s. 718.110(1)(a), F.S.

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

⁷ Section 718.103(4), F.S.

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

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

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

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

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

Section 718.103(10), F.S., defines “voting interests” to mean

the voting rights distributed to the association members pursuant to s. 718.104(4)(j).⁸ In a multicondominium association, the voting interests of the association are the voting rights distributed to the unit owners in all condominiums operated by the association. On matters related to a specific condominium in a multicondominium association, the voting interests of the condominium are the voting rights distributed to the unit owners in that condominium.

Community Associations – Penalties and Suspension of Voting Right

Condominium associations may levy fines against members of the association who violate the association's rules or other governing documents.⁹ After consideration by a committee of other members who are not board members or persons residing in the board member's household, the association may issue a fine that may not exceed \$100 per violation, or \$1000 in the aggregate. If a member is more than 90 days delinquent on a monetary obligation, which may include a fine, unpaid assessments, or other monetary obligation, the association may suspend the unit owner's right to use common elements, facilities, or areas and may also suspend his or her voting rights.¹⁰

⁸ Section 718.104(4)(j), F.S., requires the declaration of condominium to include unit owners' membership and voting rights in the association.

⁹ Sections 718.303(3), F.S.

¹⁰ *Id.*

Termination of a Condominium

Termination Because of Economic Waste or Impossibility

Section 718.117, F.S., provides for the termination of condominiums when the continued operation of the condominium would constitute economic waste or would be impossible to operate or reconstruct a condominium. To terminate the condominium, the required vote is the lesser of the lowest percentage of voting interests needed to amend the declaration or as otherwise provided in the declaration for termination of the condominium.¹¹ The criteria for economic waste or impossibility are:

- The total estimated cost of repairs necessary to restore the improvements to their former condition or bring them into compliance with applicable laws or regulations exceeds the combined fair market value of all units in the condominium after completion of the repairs; or
- It becomes impossible to operate or reconstruct a condominium in its prior physical configuration because of land-use laws or regulations.

If 75 percent or more of the condominium units are timeshare units, the condominium may be terminated by a plan of termination that is approved by 80 percent of the total voting interests of the association and the holders of 80 percent of the original principal amount of outstanding recorded mortgage liens of timeshare estates in the condominium, unless the declaration provides for a lower voting percentage.¹²

Optional Termination

Section 718.117(3), F.S., provides an optional termination procedure with a lower vote threshold. Regardless of whether continued operation would constitute economic waste or would be impossible, the condominium may be terminated if approved by at least 80 percent of the total voting interests of the condominium, provided that not more than 10 percent of the total voting interests of the condominium have rejected the plan of termination by negative vote or by providing written objections thereto.

Exemption

Section 718.117(4), F.S., provides that a plan of termination is not an amendment subject to s. 718.110(4), F.S., which relates to amendments that may change the configuration or size of any unit in any material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the unit owner shares the common expenses of the condominium and owns the common surplus of the condominium.

Plan of Termination

Section 718.117(9), F.S., provides the plan for termination must be a written document executed by unit owners having the requisite percentage of voting interests to approve the plan and by the termination trustee. The plan may provide that each unit owner retains the exclusive right of possession to the portion of the real estate that formerly constituted the unit, in which case the

¹¹ Section 718.117(2)(a), F.S.

¹² Section 718.117(2)(b), F.S.

plan must specify the conditions of possession.¹³ In the case of a conditional termination, the plan must specify the conditions for termination. A conditional plan will not vest title in the termination trustee until the plan and a certificate executed by the association with the formalities of a deed have been recorded that confirm the conditions in the conditional plan have been satisfied or waived by the requisite percentage of the voting interests.¹⁴ The provisions required in the plan of termination are provided in ss. 718.117(10) and (11), F.S.

The plan of termination must be recorded before it can take effect and is effective only when recorded or at a later date specified in the plan.

A plan of termination that fails to receive the required approval cannot be recorded and a new attempt to terminate the condominium may not be proposed at a meeting or by solicitation for joinder and consent for 180 days after the date that the failed plan of termination was first given to all unit owners.

Allocation of Proceeds of Sale of Condominium Property

Section 718.117(12), F.S, provides for the distribution of the proceeds of sale. Unless the declaration expressly provides for the allocation of the proceeds of sale of condominium property, the plan must first apportion the proceeds between the aggregate value of all units and the value of the common elements, based on their respective fair-market values immediately before the termination. The market values are to be determined by one or more independent appraisers selected by the association or termination trustee. The value of the common elements is to be paid to the owners according to their proportionate share in the common elements.

Right to Contest

Section 718.117(16), F.S., provides that a unit owner or lienor may contest a plan of termination by initiating a summary procedure pursuant to s. 51.011, F.S.,¹⁵ within 90 days after the date the plan is recorded. If not contested within 90 days, a unit owner or lienor is barred from asserting or prosecuting a claim against the association, the termination trustee, any unit owner, or any successor in interest to the condominium property.

The person contesting the plan has the burden of pleading and proving that the apportionment of the proceeds from the sale among the unit owners was not fair and reasonable. The apportionment of sale proceeds is presumed fair and reasonable if it was determined pursuant to the methods prescribed in s. 718.117(12), F.S. The court is required to determine the rights and interests of the parties and order the plan of termination to be implemented if it is fair and reasonable. If the court determines that the plan of termination is not fair and reasonable, it may

¹³ Section 718.117(11)(a), F.S.

¹⁴ Section 718.117(11)(b), F.S.

¹⁵ Section 51.011, F.S., specifies a summary procedure for actions that specifically provide for this procedure by statute or rule. Under the summary procedure, all defenses of law or fact are required to be contained in the defendant's answer which must be filed within 5 days after service of process of the plaintiff's complaint. If the answer incorporates a counterclaim, the plaintiff must include all defenses of law or fact in his or her answer to the counterclaim and serve it within 5 days after service of the counterclaim. (Fla. R. Civ. Pro. 1.140, requires an answer, including any counterclaims, within 20 days after service of the complaint.) No other pleadings are permitted, and all defensive motions, including motions to quash, are heard by the court prior to trial. Postponements are not permitted for discovery, and the procedure also provides for an immediate trial, if requested.

void the plan or may modify the plan to apportion the proceeds in a fair and reasonable manner. The prevailing party is entitled to recover reasonable attorney's fees and costs.

Distressed Condominium Relief Act

The "Distressed Condominium Relief Act"¹⁶ in part VII of ch. 718, F.S., defines the extent to which successors to the developer, including the construction lender after a foreclosure and other bulk buyers and bulk assignees of condominium units, may be responsible for implied warranties. Enacted in 2010,¹⁷ the act was intended to relieve developers, lenders, unit owners, and condominium associations from specified provisions of ch. 718, F.S., including warranty provisions, in order to enable economic opportunities for successor purchasers of distressed condominiums.¹⁸

Section 718.703(1), F.S., defines the term "bulk assignee" to mean a person who acquires more than seven condominium parcels in a single condominium as provided in s. 718.707, F.S., and receives an assignment of some or substantially all of the rights of the developer as an exhibit in the deed, as a separate instrument recorded in the public records in the county where the condominium is located, or pursuant to a final judgment or certificate of title at a foreclosure sale.

Section 718.703(2), F.S., defines the term "bulk buyer" as a person who acquires more than seven condominium parcels in a single condominium but who does not receive an assignment of developer rights other than the rights specified in this section.

Section 718.704(1), F.S., provides that a bulk assignee assumes all the duties and responsibilities of the developer, and specifies obligations for which the bulk assignee is not liable.

Section 718.707, F.S., specifies a time limit for classification as a bulk assignee or bulk buyer. A person acquiring condominium parcels may not be classified as a bulk assignee or a bulk buyer unless the parcels are acquired prior to July 1, 2016. The date of acquisition is based on the date that the deed or other instrument of conveyance is recorded.

Division of Florida Condominiums, Timeshares, and Mobile Homes

Condominiums and cooperatives are regulated by the Division of Florida Condominiums, Timeshares, and Mobile Homes (division) in accordance with ch. 718, F.S., and ch. 719, F.S. The division is afforded complete jurisdiction to investigate complaints and enforce compliance with ch. 718, F.S., and ch. 719, F.S., with respect to associations that are still under developer control.¹⁹ The division also has the authority to investigate complaints against developers involving improper turnover or failure to turnover control to the association, pursuant to s. 718.301, F.S., and 719.301, F.S., respectively.²⁰ After control of the condominium or cooperative is transferred from the developer to the unit owners, the division's jurisdiction is

¹⁶ Sections 718.701 – 718.708, F.S.

¹⁷ Chapter 2010-174, L.O.F.

¹⁸ See s. 718.702, F.S.

¹⁹ Section 718.501(1), F.S., s. 719.501(1), F.S.

²⁰ *Id.*

limited to investigating complaints related to financial issues, elections, and unit owner access to association records.²¹

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

III. Effect of Proposed Changes:

The bill amends s. 718.117, F.S., to revise the requirements for the optional termination of condominiums.

Optional Termination

The bill amends s. 718.117(3)(a), F.S., to provide that, in a vote on a plan of termination, the total voting interests of the condominium include all voting interests for the purpose of considering a plan of termination, and a voting interest of the condominium may not be suspended during the consideration of a plan of termination.

It provides that if more than 10 percent of the total voting interests of the condominium reject a plan of termination, another optional plan of termination may not be considered for 18 months after the date of rejection.

The bill deletes the provision in s. 718.117(3)(c), F.S., that optional termination provisions do not apply to condominiums in which 75 percent or more of the units are timeshare units.

Optional Terminations Following a Condominium Conversion

Section 718.117(3)(c), F.S., prohibits a condominium that has been created pursuant to the condominium conversion procedures in Part VI of ch. 718, F.S.,²² (conversion condominium) from undertaking an optional plan of termination until 7 years after the conversion.

Optional Terminations and Bulk Owners

Section 718.117(3)(d), F.S., define the term "bulk owner" to mean the single owner of such voting interests or an owner with a related entity or entities that would be considered insiders, as defined in s. 726.102, F.S.²³

²¹ *Id.*

²² Part VI of ch. 718, F.S., provides the process for converting real property into the condominium form of ownership.

²³ Section 726.102, F.S., defines an "Insider" to include: "(a) If the debtor is an individual: 1. A relative of the debtor or of a general partner of the debtor; 2. A partnership in which the debtor is a general partner; 3. A general partner in a partnership described [above]. A corporation of which the debtor is a director, officer, or person in control; (b) If the debtor is a corporation: 1. A director of the debtor; 2. An officer of the debtor; 3. A person in control of the debtor; 4. A partnership in which the debtor is a general partner; 5. A general partner in a partnership described [above]. A relative of a general partner, director, officer, or person in control of the debtor. (c) If the debtor is a partnership: 1. A general partner in the debtor; 2. A relative of a general partner in, a general partner of, or a person in control of the debtor; 3. Another partnership in which the

Sections 718.117(3)(d)1. – 5., F.S., provide the conditions and limitation in a plan of termination of a condominium if at least 80 percent of the total voting interests at the time of recording the plan of termination are owned by a bulk owner. The conditions and limitations include the former unit owner's right to:

- Possess and lease the former unit;
- Relocation payments for homestead property;
- Compensation at fair market value as determined by an independent appraiser; and
- Mandated disclosures in the plan of termination.

Right of Possession and Lease Former Unit

Section 718.117(3)(d)1., F.S., provided procedures that permit a unit owner to maintain possession of their unit after a plan of termination has been approved. After the termination, if the units are offered for lease, each unit owner may lease his or her former unit and remain in possession of the unit for 12 months after the termination. The unit owner must make a written request to the termination trustee to rent the former unit. Any unit owner who fails to make a written request and sign a lease within 90 days after the approved plan of termination is recorded waives his or her right to retain possession of the unit. The unit owner must also sign the lease within 15 days after being presented with the lease or he or she also waives their right to retain possession of the unit, unless otherwise provided in the plan of termination.

Relocation Payments for Homestead Property

Section 718.117(3)(d)2., F.S., provides that any former unit owner whose unit was granted homestead exemption as of the date of the recording of the plan of termination must be paid a relocation payment equal to 1 percent of the termination proceeds allocated to the owner's former unit. The relocation payment must be paid by the single entity or related entities owning at least 80 percent of the voting interests. The relocation payment is in addition to any termination proceeds and must be paid within 10 days after the unit owner vacates the unit.

It is not clear whether this provision applies if the unit owners retains possession after termination as provided in s. 718.117(3)(b)1., F.S., in which case the relocation payments would be due within 10 days after the end of the unit owners post-termination lease.

Compensation

Section 718.117(3)(d)3., F.S., requires that all unit owners other than the bulk owner must be compensated at least 100 percent of the fair market value of their units.

The allocation of the proceeds of the sale of condominium property to dissenting or objecting owners must be 110 percent of the original purchase price, or 110 percent of fair market value, whichever is greater. The bill does not define the term "third-party unit owners." The fair market value must be determined by an independent appraiser. The independent appraiser must be selected by the termination trustee as of a date that is no earlier than 90 days before the date that the plan of termination is recorded.

debtor is a general partner; 4. A general partner in a partnership described [above]. A person in control of the debtor. (d) An affiliate, or an insider of an affiliate as if the affiliate were the debtor. (e) A managing agent of the debtor."

The bill defines “fair market value” to mean the price of a unit that a seller is willing to accept and a buyer is willing to pay on the open market in an arms-length transaction based on similar units sold in other condominiums, including units sold in bulk purchases but excluding units sold at wholesale or distressed prices.

Section 718.117(3)(d)4., F.S., provides that a plan of termination is not effective unless the outstanding first mortgages of all third-party unit owners are satisfied in full before, or simultaneously with, the termination.

Mandated Disclosures in the Plan of Termination

The bill creates s. 718.117(3)(d)5., F.S., to require, before the plan of termination is presented to the unit owners, a written and sworn statement that includes the following disclosures:

- The identity of the person or entity that owns 50 percent or more of the units;
- The identity of the person or entity who owns, directly or indirectly, 20 percent or more of the bulk owners;
- The units acquired by any bulk owner, the date of their acquisition, and the total amount of compensation paid to each prior unit owner by the bulk owner, regardless of whether attributed to the purchase price of the unit; and
- The relationship of any board member to the bulk owner or any person or entity affiliated with the bulk owner whose identity must be disclosed.

Exemption

Section 718.117(3)(b)4., F.S., provides that an amendment to a declaration to conform the declaration to s. 718.117, F.S., is an amendment subject to the notice and vote requirements in s. 718.110(4), F.S., and may be approved by the lesser of 80 percent of the voting interests or the percentage of the voting interests required to amend the declaration.

Plan of Termination Objecting to the Plan of Condominium

The bill amends s. 718.117(9), F.S., to provide the process for a unit owner to reject or object to a plan of termination.

If the vote on the plan of termination is at a meeting of the unit owners, a vote to reject the plan must be made in person or by proxy, or by delivering a written rejection to the association before or at the meeting.

If the plan of termination is approved by written consent or joinder without a meeting of the unit owners, and objection to the plan must be made by written objection within 20 days after the date the association notifies the non-consenting owners that the plan of termination was approved by written action in lieu of a unit owner meeting.

The bill amends s. 718.117(11), F.S., to provide that, unless the plan of termination expressly authorizes a unit owner or other person to retain the exclusive right to possess the unit or to use the common elements of the condominium after termination, all such rights in the unit or common elements automatically terminate on the effective date of termination. All leases,

occupancy agreements, subleases, licenses, or other agreements for the use or occupancy of any unit or common elements of the condominium automatically terminate on the effective date of termination unless the plan expressly provides otherwise. The plan must specify the terms and conditions of occupancy if the plan expressly authorizes a unit owner or other person to retain exclusive right of possession after termination.

The bill deletes the provision that, in a partial termination, title to the surviving units and common elements that remain part of the condominium property and vested in the ownership shown in the public records and do not vest in the termination trustee.

The bill creates s. 718.117(11)(c), F.S., to permit a plan of termination to be withdrawn or amended by the same percentage required for approval.

The bill creates s. 718.117(11)(c), F.S., to permit a termination trustee to correct a scrivener's error in the plan of termination, and to require that the amended plan must be executed in the same manner as a deed.

Allocation of Proceeds of Sale

The bill amends s. 718.117(12)(a), F.S., to provide that the plan of termination may require separate valuations for the common elements. It deletes the requirement that the declaration must expressly provide for the allocation of the proceeds of sale of condominium property and apportion the proceeds between the aggregate value of all units and the value of the common elements, based on their respective fair market values immediately before the termination by an independent appraiser. It provides that if the common elements are not separated, it is presumed that the common elements have no independent value and are included in the valuation of the unit.

The bill amends s. 718.117(12)(d), F.S., to require the lienholder of a unit to provide the termination trustee, within 30 days of the trustee's written request, with a statement confirming the outstanding obligations of the unit owner secured by the lien.

The bill amends s. 718.117(12)(e), F.S., to permit the termination trustee to setoff against and reduce the share of, termination proceeds allocated to a unit by the following amounts, which may include attorney fees and costs:

- Unpaid assessments, taxes, late fees, interest, fines, charges, and other amounts owed for the unit;
- Costs of clearing title to the unit;
- Costs of removing persons from the unit;
- Costs related to breaches of the plan of termination by the owner and others related to the owner;
- Costs related to the removal of personal property; and
- Costs related to the appointment of a receiver or attorney ad litem acting for the unit owner if the unit owner cannot be located.

Right to Contest a Plan of Termination

Section 718.117(16), F.S., permit unit owners contest a plan of termination by petitioning the division for mandatory nonbinding arbitration pursuant s. 718.1255, F.S., which provides for the mediation and arbitration of disputes between the condominium association and unit owners.

The bill deletes the option for unit owners to contest the termination by initiating a summary procedure pursuant to s. 51.011, F.S.

The bill provides that a unit owner or lienor's right to contest a plan of termination is limited to contesting only the fairness and reasonableness of the apportionment of the proceeds from the sale, that the first mortgages of all unit owners have not or will not be fully satisfied at the time of termination, or that the required vote to approve the plan was not obtained. The contesting party bears the burden of proof.

Current law permits the court in a summary procedure to apportion the proceeds if it determines that the plan of termination is not fair and reasonable. The bill permits the arbitrator to void a plan of termination if it is determined that the plan was not properly approved. Any challenge to a plan, other than a challenge that the required vote was not obtained, does not affect title to the property or the vesting of the condominium property in the trustee. Challenges to the plan are limited to claims against the proceeds of the plan.

The bill amends s. 718.1255(1)(a), F.S., to include a plan of termination under s. 718.117, F.S., within the types of disputes that the division may arbitrate.

Effective Date

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

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Section 718.117(3)(d)2., F.S., entitles any former unit owner whose unit was granted homestead exemption as of the date of the recording of the plan of termination to be paid a relocation payment equal to 1 percent of the termination proceeds allocated to the owner's former unit. Section 718.117(3)(d)3., F.S., requires that all unit owners who are not a bulk owner must be compensated at least 100 percent of the fair market value of their units. The allocation of the proceeds of the sale of condominium property to dissenting or objecting owners must be 110 percent of the purchase price, or 110 percent of fair market value, whichever is greater.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 718.117 and 718.11255 of the Florida Statutes.

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

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

CS by Regulated Industries on March 24, 2015:

The committee substitute (CS):

- Revises the title of the bill from an “act relating to condominiums” to an “act relating to termination of a condominium association;”
- Amend s. 718.117(3), F.S., to provide that, if more than 10 percent of the voting interests of a condominium to reject a plan of termination, another termination may not be considered for 18 months instead of 36 months in the bill;
- Deletes the provision in s. 718.117(3)(c), F.S., that optional termination provisions do not apply to condominiums in which 75 percent or more of the units are timeshare units;
- Creates s. 718.117(3)(d), F.S., to define the term bulk owner;
- Amends s. 718.117(3)(d), F.S., to provide conditions for the termination of a condominium if at least 80 percent of the total voting interests at the time of recording the plan of termination are owned by a bulk owner. It does not limit the condition to when at least 80 percent of the voting interests are owned by bulk buyer

- or assignee or a related entity which would be considered an insider under and no sale of the terminated condominium property to an unrelated third party is contemplated;
- Amends s. 718.117(3)(d)3., F.S., to require that all unit owners other than the bulk owner must be compensated at least 100 percent of the fair market value of their units. It deletes the reference to third-party unit owners;
 - Amends s. 718.117(3)(d)3., F.S., to require that the fair market value must be determined by an independent appraiser, selected by the termination trustee, as of a date that is no earlier than 90 days before the date that the plan of termination is recorded;
 - Creates s. 718.117(3)(d)5., F.S., to require a written and sworn statement of disclosures before the plan of termination is presented to the unit owners;
 - Amends s. 718.117(9), F.S., and does not amend s. 718.117(3), F.S., to provide the process for a unit owner to reject or object to a plan of terminations;
 - Amends s. 718.117(11), F.S., to provide for the termination of possession rights by the former unit owner, including occupancy agreements, subleases, licenses, or other agreements, after the approval of a plan of termination, unless expressly authorized in the plan of termination. It also deletes the provision that, in a partial termination, title to the surviving units and common elements that remain part of the condominium property and vested in the ownership shown in the public records and do not vest in the termination trustees;
 - Creates s. 718.117(11)(c), F.S., to permit a plan of termination to be withdrawn or amended by the same percentage required for approval;
 - Creates s. 718.117(11)(c), F.S., to permit a termination trustee to correct a scrivener's error in the plan of termination, and to require that the amended plan must be executed in the same manner as a deed;
 - Amends s. 718.117(12), F.S., to provide that the plan of termination may require separate valuations for the common elements. It deletes the requirement that the declaration must expressly provide for the allocation of the proceeds of sale of condominium property and apportion the proceeds between the aggregate value of all units and the value of the common elements, based on their respective fair market values immediately before the termination by an independent appraiser;
 - Amends s. 718.117(12)(d), F.S., to require the lienholder of a unit to provide the termination trustee, within 30 days of the trustee's written request, with a statement confirming the outstanding obligations of the unit owner secured by the lien;
 - Amends s. 718.117(12)(e), F.S., to permit the termination trustee to setoff against and reduce the share of, termination proceeds allocated to a unit by the amounts provided, which may include attorney fees and costs;
 - Amends s. 718.117(16), F.S., to permit unit owners to contest a plan of termination by petitioning the division for mandatory nonbinding arbitration pursuant s. 718.1255, F.S. It deletes the option for unit owners to contest the termination by initiating a summary procedure pursuant to s. 51.011, F.S.; and
 - Amends s. 718.1255(1)(a), F.S., to include a plan of termination under s. 718.117, F.S., within the types of disputes that the division may arbitrate.

B. Amendments:

None.

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

By Senator Latvala

20-00783A-15

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1 A bill to be entitled
 2 An act relating to condominiums; amending s. 718.117,
 3 F.S.; providing and revising procedures and
 4 requirements for termination of a condominium
 5 property; providing requirements for the rejection of
 6 a plan of termination; providing a definition;
 7 providing applicability; providing requirements
 8 relating to partial termination of a condominium
 9 property; revising requirements relating to the right
 10 to contest a plan of termination; providing an
 11 effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Subsections (3), (4), and (16) of section
 16 718.117, Florida Statutes, are amended to read:

17 718.117 Termination of condominium.—

18 (3) OPTIONAL TERMINATION.—Except as provided in subsection
 19 (2) or unless the declaration provides for a lower percentage,
 20 and subject to the limitations in paragraph (b), the condominium
 21 form of ownership may be terminated for all or a portion of the
 22 condominium property pursuant to a plan of termination approved
 23 by at least 80 percent of the total voting interests of the
 24 condominium if no more than 10 percent of the total voting
 25 interests of the condominium have rejected the plan of
 26 termination by negative vote or by providing written objections.
 27 Total voting interests of the condominium include all voting
 28 interests for the purpose of considering a plan of termination,
 29 and a voting interest of the condominium may not be suspended

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30 for such consideration. If more than 10 percent of the total
 31 voting interests of the condominium reject the plan of
 32 termination, a plan of termination pursuant to this subsection
 33 may not be considered for 36 months after the date of the
 34 rejection. This subsection does not apply to condominiums in
 35 which 75 percent or more of the units are timeshare units. This
 36 subsection also does not apply to any condominium created
 37 pursuant to part VI until 7 years after the recording of the
 38 declaration of condominium for the condominium and thereafter is
 39 applicable to the condominium pursuant to paragraph (b).

40 (a)1. If the plan of termination is voted on at a meeting
 41 of the unit owners called in accordance with subsection (9), any
 42 unit owner desiring to reject the plan must do so by either
 43 voting to reject the plan in person or by proxy, or by
 44 delivering a written rejection to the association before or at
 45 the meeting.

46 2. If the plan of termination is approved by written
 47 consent or joinder without a meeting of the unit owners, any
 48 unit owner desiring to object to the plan must deliver a written
 49 objection to the association within 20 days after the date that
 50 the association notifies the nonconsenting owners, in the manner
 51 provided in paragraph (15)(a), that the plan of termination has
 52 been approved by written action in lieu of a unit owner meeting.

53 (b) Seven years after the recording of a declaration of
 54 condominium for a condominium created pursuant to part VI, this
 55 subsection may be used to terminate the condominium. If, at the
 56 time of recording of the plan of termination, at least 80
 57 percent of the total voting interests are owned by a bulk buyer
 58 or assignee or a related entity which would be considered an

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59 insider under s. 726.102, and no sale of the terminated
 60 condominium property as a whole to an unrelated third party is
 61 contemplated in the plan of termination, the plan of termination
 62 is subject to the following conditions and limitations:

63 1. After the termination, if the former condominium units
 64 are offered for lease to the public, each unit owner in
 65 occupancy immediately before the date of recording of the plan
 66 of termination may lease his or her former unit and remain in
 67 possession of the unit for 12 months after the effective date of
 68 the termination on the same terms as similar unit types within
 69 the property are being offered to the public. In order to obtain
 70 a lease and exercise the right to retain exclusive possession of
 71 the unit owner's former unit, the unit owner must make a written
 72 request to the termination trustee to rent the former unit
 73 within 90 days after the date the plan of termination is
 74 recorded. Any unit owner who fails to timely make such written
 75 request and sign a lease within 15 days after being presented
 76 with a lease is deemed to have waived his or her right to retain
 77 possession of his or her former unit and shall be required to
 78 vacate the former unit upon the effective date of the
 79 termination, unless otherwise provided in the plan of
 80 termination.

81 2. Any former unit owner whose unit was granted homestead
 82 exemption status by the applicable county property appraiser as
 83 of the date of the recording of the plan of termination shall be
 84 paid a relocation payment in an amount equal to 1 percent of the
 85 termination proceeds allocated to the owner's former unit. Any
 86 relocation payment payable under this subparagraph shall be paid
 87 by the single entity or related entities owning at least 80

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88 percent of the total voting interests. Such relocation payment
 89 shall be in addition to the termination proceeds for such
 90 owner's former unit and shall be paid no later than 10 days
 91 after the former unit owner vacates his or her former unit.

92 3. For their respective units, all third-party unit owners
 93 must be compensated at least 100 percent of the fair market
 94 value of their units as of a date that is no earlier than 90
 95 days before the date the plan of termination is recorded as
 96 determined by an independent appraiser selected by the
 97 termination trustee. Notwithstanding subsection (12), the
 98 allocation of the proceeds of the sale of condominium property
 99 to owners of units dissenting or objecting to the plan of
 100 termination shall be 110 percent of the purchase price, or 110
 101 percent of fair market value, whichever is greater. For purposes
 102 of this subparagraph, the term "fair market value" means the
 103 price of a unit that a seller is willing to accept and a buyer
 104 is willing to pay on the open market in an arms-length
 105 transaction based on similar units sold in other condominiums,
 106 including units sold in bulk purchases but excluding units sold
 107 at wholesale or distressed prices. The purchase price of units
 108 acquired in bulk following a bankruptcy or foreclosure shall not
 109 be considered for purposes of determining fair market value.

110 4. A plan of termination is not effective unless the
 111 outstanding first mortgages of all third-party unit owners are
 112 satisfied in full before, or simultaneously with, the
 113 termination.

114 (4) EXEMPTION.—A plan of termination is not an amendment
 115 subject to s. 718.110(4). In a partial termination, a plan of
 116 termination is not an amendment subject to s. 718.110(4) if the

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117 ownership share of the common elements of a surviving unit in
 118 the condominium remains in the same proportion to the surviving
 119 units as it was before the partial termination. An amendment to
 120 a declaration to conform the declaration to this section is not
 121 an amendment subject to s. 718.110(4) and may be approved by the
 122 lesser of 80 percent of the voting interests or the percentage
 123 of the voting interests required to amend the declaration.

124 (16) RIGHT TO CONTEST.—A unit owner or lienor may contest a
 125 plan of termination by initiating a summary procedure pursuant
 126 to s. 51.011 within 90 days after the date the plan is recorded.
 127 A unit owner or lienor may only contest the fairness and
 128 reasonableness of the apportionment of the proceeds from the
 129 sale among the unit owners, that the first mortgages of all unit
 130 owners have not or will not be fully satisfied at the time of
 131 termination as required by subsection (3), or that the required
 132 vote to approve the plan was not obtained. A unit owner or
 133 lienor who does not contest the plan within the 90-day period is
 134 barred from asserting or prosecuting a claim against the
 135 association, the termination trustee, any unit owner, or any
 136 successor in interest to the condominium property. In an action
 137 contesting a plan of termination, the person contesting the plan
 138 has the burden of pleading and proving that the apportionment of
 139 the proceeds from the sale among the unit owners was not fair
 140 and reasonable or that the required vote was not obtained. The
 141 apportionment of sale proceeds is presumed fair and reasonable
 142 if it was determined pursuant to the methods prescribed in
 143 subsection (12). The court shall determine the rights and
 144 interests of the parties in the apportionment of the sale
 145 proceeds and order the plan of termination to be implemented if

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146 ~~it is fair and reasonable.~~ If the court determines that the
 147 apportionment of sales proceeds plan of termination is not fair
 148 and reasonable, the court may ~~void the plan or~~ may modify the
 149 plan to apportion the proceeds in a fair and reasonable manner
 150 pursuant to this section based upon the proceedings and order
 151 the modified plan of termination to be implemented. If the court
 152 determines that the plan was not properly approved, it may void
 153 the plan or grant other relief it deems just and proper. Any
 154 challenge to a plan, other than a challenge that the required
 155 vote was not obtained, does not affect title to the condominium
 156 property or the vesting of the condominium property in the
 157 trustee, but shall only be a claim against the proceeds of the
 158 plan. In any such action, the prevailing party shall recover
 159 reasonable attorney attorney's fees and costs.

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

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

SENATOR JACK LATVALA
20th District

March 2, 2015

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

Dear Chairman Bradley:

I respectfully request consideration of Senate Bill 1172/Condominiums by the Senate Regulated Industries Committee at your earliest convenience.

This bill will curtail the disagreeable practices of bulk buyers of condominiums as they attempt to convert them to apartments and will provide condo owners with equitable relief.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Jack".

Jack Latvala
State Senator
District 20

Cc: Booter Imhof, Staff Director; Lynn Koon, Administrative Assistant

REPLY TO:

- 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
- 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-24-15

Meeting Date

1172

Bill Number (if applicable)

Topic Condo Terminations

Amendment Barcode (if applicable)

Name TRAVIS MOORE

Job Title _____

Address P.O. Box 2020
Street

Phone 727.421.6902

St. Petersburg FL 33781
City State Zip

Email mooret@tampabay.fl.gov

Speaking: For Against Information

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

Representing Community Associations Institute (CAI)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)



363030

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (3), (4), (11), (12), and (16) of
section 718.117, Florida Statutes, are amended to read:

718.117 Termination of condominium.—

(3) OPTIONAL TERMINATION.—Except as provided in subsection
(2) or unless the declaration provides for a lower percentage,
the condominium form of ownership may be terminated for all or a



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11 portion of the condominium property pursuant to a plan of
12 termination approved by at least 80 percent of the total voting
13 interests of the condominium if no more than 10 percent of the
14 total voting interests of the condominium have rejected the plan
15 of termination by negative vote or by providing written
16 objections, subject to the following conditions:

17 (a) The total voting interests of the condominium must
18 include all voting interests for the purpose of considering a
19 plan of termination. A voting interest of the condominium may
20 not be suspended for any reason when voting on termination
21 pursuant to this subsection.

22 (b) If more than 10 percent of the total voting interests
23 of the condominium reject a plan of termination, a subsequent
24 plan of termination pursuant to this subsection may not be
25 considered for 18 months after the date of the rejection.

26 (c) This subsection does not apply to condominiums in which
27 75 percent or more of the units are timeshare units. This
28 subsection also does not apply to any condominium created
29 pursuant to part VI of this chapter until 7 years after the
30 recording of the declaration of condominium for the condominium.

31 (d) For purposes of this paragraph, the term "bulk owner"
32 means the single holder of such voting interests or an owner
33 together with a related entity that would be considered an
34 insider, as defined in s. 726.102, holding such voting
35 interests. If the condominium association is a residential
36 association proposed for termination pursuant to this section
37 and, at the time of recording the plan of termination, at least
38 80 percent of the total voting interests are owned by a bulk
39 owner:



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40 1. If the plan of termination is voted on at a meeting of
41 the unit owners called in accordance with subsection (9), any
42 unit owner desiring to reject the plan must do so by either
43 voting to reject the plan in person or by proxy, or by
44 delivering a written rejection to the association before or at
45 the meeting.

46 2. If the plan of termination is approved by written
47 consent or joinder without a meeting of the unit owners, any
48 unit owner desiring to object to the plan must deliver a written
49 objection to the association within 20 days after the date that
50 the association notifies the nonconsenting owners, in the manner
51 provided in paragraph (15) (a), that the plan of termination has
52 been approved by written action in lieu of a unit owner meeting.

53 3. Unless the terminated condominium property is sold as a
54 whole to an unrelated third party, the plan of termination is
55 subject to the following conditions and limitations:

56 a. If the former condominium units are offered for lease to
57 the public after the termination, each unit owner in occupancy
58 immediately before the date of recording of the plan of
59 termination may lease his or her former unit and remain in
60 possession of the unit for 12 months after the effective date of
61 the termination on the same terms as similar unit types within
62 the property are being offered to the public. In order to obtain
63 a lease and exercise the right to retain exclusive possession of
64 the unit owner's former unit, the unit owner must make a written
65 request to the termination trustee to rent the former unit
66 within 90 days after the date the plan of termination is
67 recorded. Any unit owner who fails to timely make such written
68 request and sign a lease within 15 days after being presented



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69 with a lease is deemed to have waived his or her right to retain
70 possession of his or her former unit and shall be required to
71 vacate the former unit upon the effective date of the
72 termination, unless otherwise provided in the plan of
73 termination.

74 b. Any former unit owner whose unit was granted homestead
75 exemption status by the applicable county property appraiser as
76 of the date of the recording of the plan of termination shall be
77 paid a relocation payment in an amount equal to 1 percent of the
78 termination proceeds allocated to the owner's former unit. Any
79 relocation payment payable under this sub-subparagraph shall be
80 paid by the single entity or related entities owning at least 80
81 percent of the total voting interests. Such relocation payment
82 shall be in addition to the termination proceeds for such
83 owner's former unit and shall be paid no later than 10 days
84 after the former unit owner vacates his or her former unit.

85 c. For their respective units, all unit owners other than
86 the bulk owner must be compensated at least 100 percent of the
87 fair market value of their units. The fair market value shall be
88 determined as of a date that is no earlier than 90 days before
89 the date that the plan of termination is recorded and shall be
90 determined by an independent appraiser selected by the
91 termination trustee. Notwithstanding subsection (12), the
92 allocation of the proceeds of the sale of condominium property
93 to owners of units dissenting or objecting to the plan of
94 termination shall be 110 percent of the original purchase price,
95 or 110 percent of fair market value, whichever is greater. For
96 purposes of this sub-subparagraph, the term "fair market value"
97 means the price of a unit that a seller is willing to accept and



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98 a buyer is willing to pay on the open market in an arms-length
99 transaction based on similar units sold in other condominiums,
100 including units sold in bulk purchases but excluding units sold
101 at wholesale or distressed prices. The purchase price of units
102 acquired in bulk following a bankruptcy or foreclosure shall not
103 be considered for purposes of determining fair market value.

104 d. A plan of termination is not effective unless the
105 outstanding first mortgages of all unit owners other than the
106 bulk owner are satisfied in full before, or simultaneously with,
107 the termination.

108 4. Before presenting a plan of termination to the unit
109 owners for consideration pursuant to this paragraph, the plan
110 must include the following written disclosures in a sworn
111 statement:

112 a. The identity of any person that owns or controls 50
113 percent or more of the units in the condominium and, if the
114 units are owned by an artificial entity, a disclosure of the
115 natural person or persons who, directly or indirectly, manage or
116 control the entity and the natural person or persons who,
117 directly or indirectly, own or control 20 percent or more of the
118 artificial entity or entities that constitute the bulk owner.

119 b. The units acquired by any bulk owner, the date each unit
120 was acquired, and the total amount of compensation paid to each
121 prior unit owner by the bulk owner, regardless of whether
122 attributed to the purchase price of the unit.

123 c. The relationship of any board member to the bulk owner
124 or any person or entity affiliated with the bulk owner subject
125 to disclosure pursuant to this subparagraph.

126 5. If the members of the board of administration are



127 elected by the bulk owner, unit owners other than the bulk owner
128 may elect at least one-third of the members of the board of
129 administration before the approval of any plan of termination by
130 the board.

131 (4) EXEMPTION.—A plan of termination is not an amendment
132 subject to s. 718.110(4). In a partial termination, a plan of
133 termination is not an amendment subject to s. 718.110(4) if the
134 ownership share of the common elements of a surviving unit in
135 the condominium remains in the same proportion to the surviving
136 units as it was before the partial termination. An amendment to
137 a declaration to conform the declaration to this section is not
138 an amendment subject to s. 718.110(4) and may be approved by the
139 lesser of 80 percent of the voting interests or the percentage
140 of the voting interests required to amend the declaration.

141 (11) PLAN OF TERMINATION; OPTIONAL PROVISIONS; CONDITIONAL
142 TERMINATION; WITHDRAWAL; ERRORS.—

143 (a) Unless the plan of termination expressly authorizes a
144 may provide that each unit owner or other person to retain
145 retains the exclusive right to possess that of possession to the
146 portion of the real estate which formerly constituted the unit
147 after termination or to use the common elements of the
148 condominium after termination, all such rights in the unit or
149 common elements automatically terminate on the effective date of
150 termination. Unless the plan expressly provides otherwise, all
151 leases, occupancy agreements, subleases, licenses, or other
152 agreements for the use or occupancy of any unit or common
153 elements of the condominium automatically terminate on the
154 effective date of termination. If the plan expressly authorizes
155 a unit owner or other person to retain exclusive right of



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156 possession for that portion of the real estate which formerly
157 constituted the unit or to use the common elements of the
158 condominium after termination, the plan must specify the terms
159 and if the plan specifies the conditions of possession. In a
160 partial termination, the plan of termination as specified in
161 subsection (10) must also identify the units that survive the
162 partial termination and provide that such units remain in the
163 condominium form of ownership pursuant to an amendment to the
164 declaration of condominium or an amended and restated
165 declaration. In a partial termination, title to the surviving
166 units and common elements that remain part of the condominium
167 property specified in the plan of termination remain vested in
168 the ownership shown in the public records and do not vest in the
169 termination trustee.

170 (b) In a conditional termination, the plan must specify the
171 conditions for termination. A conditional plan does not vest
172 title in the termination trustee until the plan and a
173 certificate executed by the association with the formalities of
174 a deed, confirming that the conditions in the conditional plan
175 have been satisfied or waived by the requisite percentage of the
176 voting interests, have been recorded. ~~In a partial termination,~~
177 ~~the plan does not vest title to the surviving units or common~~
178 ~~elements that remain part of the condominium property in the~~
179 ~~termination trustee.~~

180 (c) Unless otherwise provided in the plan of termination,
181 at any time before the sale of the condominium property, a plan
182 may be withdrawn or modified by the affirmative vote or written
183 agreement of at least the same percentage of voting interests in
184 the condominium as that which was required for the initial



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185 approval of the plan.

186 (d) Upon the discovery of a scrivener's error in the plan
187 of termination, the termination trustee may record an amended
188 plan or an amendment to the plan for the purpose of correcting
189 the error, and the amended plan or amendment to the plan must be
190 executed by the termination trustee in the same manner as
191 required for the execution of a deed.

192 (12) ALLOCATION OF PROCEEDS OF SALE OF CONDOMINIUM
193 PROPERTY.—

194 (a) Unless the declaration expressly provides for the
195 allocation of the proceeds of sale of condominium property, the
196 plan of termination may require separate valuations for ~~must~~
197 ~~first apportion the proceeds between the aggregate value of all~~
198 ~~units and the value of the common elements.~~ However, in the
199 absence of such provision, it is presumed that the common
200 elements have no independent value but rather that their value
201 is incorporated into the valuation of the units ~~based on their~~
202 ~~respective fair market values immediately before the~~
203 ~~termination, as determined by one or more independent appraisers~~
204 ~~selected by the association or termination trustee.~~ In a partial
205 termination, the aggregate values of the units and common
206 elements that are being terminated must be separately
207 determined, and the plan of termination must specify the
208 allocation of the proceeds of sale for the units and common
209 elements being terminated.

210 (b) The portion of proceeds allocated to the units shall be
211 ~~further~~ apportioned among the individual units. The
212 apportionment is deemed fair and reasonable if it is ~~so~~
213 ~~determined by the unit owners, who may approve the plan of~~



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214 ~~termination~~ by any of the following methods:

215 1. The respective values of the units based on the fair
216 market values of the units immediately before the termination,
217 as determined by one or more independent appraisers selected by
218 the association or termination trustee;

219 2. The respective values of the units based on the most
220 recent market value of the units before the termination, as
221 provided in the county property appraiser's records; or

222 3. The respective interests of the units in the common
223 elements specified in the declaration immediately before the
224 termination.

225 (c) The methods of apportionment in paragraph (b) do not
226 prohibit any other method of apportioning the proceeds of sale
227 allocated to the units or any other method of valuing the units
228 agreed upon in the plan of termination. Any ~~The~~ portion of the
229 proceeds separately allocated to the common elements shall be
230 apportioned among the units based upon their respective
231 interests in the common elements as provided in the declaration.

232 (d) Liens that encumber a unit shall, unless otherwise
233 provided in the plan of termination, be transferred to the
234 proceeds of sale of the condominium property and the proceeds of
235 sale or other distribution of association property, common
236 surplus, or other association assets attributable to such unit
237 in their same priority. In a partial termination, liens that
238 encumber a unit being terminated must be transferred to the
239 proceeds of sale of that portion of the condominium property
240 being terminated which are attributable to such unit. The
241 proceeds of any sale of condominium property pursuant to a plan
242 of termination may not be deemed to be common surplus or



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243 association property. The holder of a lien that encumbers a unit
244 at the time of recording a plan must, within 30 days after the
245 written request from the termination trustee, deliver a
246 statement to the termination trustee confirming the outstanding
247 amount of any obligations of the unit owner secured by the lien.

248 (e) The termination trustee may setoff against, and reduce
249 the share of, the termination proceeds allocated to a unit by
250 the following amounts, which may include attorney fees and
251 costs:

252 1. All unpaid assessments, taxes, late fees, interest,
253 finances, charges, and other amounts due and owing to the
254 association associated with the unit, its owner, or the owner's
255 family members, guests, tenants, occupants, licensees, invitees,
256 or other persons.

257 2. All costs of clearing title to the owner's unit,
258 including, but not limited to, locating lienors, obtaining
259 statements from such lienors confirming the outstanding amount
260 of any obligations of the unit owner, and paying all mortgages
261 and other liens, judgments, and encumbrances and filing suit to
262 quiet title or remove title defects.

263 3. All costs of removing the owner or the owner's family
264 members, guests, tenants, occupants, licensees, invitees, or
265 other persons from the unit in the event such persons fail to
266 vacate a unit as required by the plan.

267 4. All costs arising from, or related to, any breach of the
268 plan by the owner or the owner's family members, guests,
269 tenants, occupants, licensees, invitees, or other persons.

270 5. All costs arising out of, or related to, the removal and
271 storage of all personal property remaining in a unit, other than



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272 personal property owned by the association, so that the unit may
273 be delivered vacant and clear of the owner or the owner's family
274 members, guests, tenants, occupants, licensees, invitees, or
275 other persons as required by the plan.

276 6. All costs arising out of, or related to, the appointment
277 and activities of a receiver or attorney ad litem acting for the
278 owner in the event that the owner is unable to be located.

279 (16) RIGHT TO CONTEST.—A unit owner or lienor may contest a
280 plan of termination by initiating a summary procedure pursuant
281 to s. 51.011 within 90 days after the date the plan is recorded.
282 A unit owner or lienor may only contest the fairness and
283 reasonableness of the apportionment of the proceeds from the
284 sale among the unit owners, that the first mortgages of all unit
285 owners have not or will not be fully satisfied at the time of
286 termination as required by subsection (3), or that the required
287 vote to approve the plan was not obtained. A unit owner or
288 lienor who does not contest the plan within the 90-day period is
289 barred from asserting or prosecuting a claim against the
290 association, the termination trustee, any unit owner, or any
291 successor in interest to the condominium property. In an action
292 contesting a plan of termination, the person contesting the plan
293 has the burden of pleading and proving that the apportionment of
294 the proceeds from the sale among the unit owners was not fair
295 and reasonable or that the required vote was not obtained. The
296 apportionment of sale proceeds is presumed fair and reasonable
297 if it was determined pursuant to the methods prescribed in
298 subsection (12). The court shall determine the rights and
299 interests of the parties in the apportionment of the sale
300 proceeds and order the plan of termination to be implemented if



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301 ~~it is fair and reasonable.~~ If the court determines that the
302 apportionment of sales proceeds ~~plan of termination~~ is not fair
303 and reasonable, the court may ~~void the plan or may~~ modify the
304 plan to apportion the proceeds in a fair and reasonable manner
305 pursuant to this section based upon the proceedings and order
306 the modified plan of termination to be implemented. If the court
307 determines that the plan was not properly approved, it may void
308 the plan or grant other relief it deems just and proper. Any
309 challenge to a plan, other than a challenge that the required
310 vote was not obtained, does not affect title to the condominium
311 property or the vesting of the condominium property in the
312 trustee, but shall only be a claim against the proceeds of the
313 plan. In any such action, the prevailing party shall recover
314 reasonable attorney ~~attorney's~~ fees and costs.

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

316
317 ===== T I T L E A M E N D M E N T =====

318 And the title is amended as follows:

319 Delete everything before the enacting clause
320 and insert:

321 A bill to be entitled

322 An act relating to termination of a condominium
323 association; amending s. 718.117, F.S.; providing and
324 revising procedures and requirements for termination
325 of a condominium property; providing requirements for
326 the rejection of a plan of termination; defining
327 terms; providing applicability; providing and revising
328 requirements relating to partial termination of a
329 condominium property; authorizing a plan of



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330 termination to be withdrawn, modified, or amended
331 under certain conditions; revising and providing
332 requirements relating to the allocation of proceeds of
333 the sale of condominium property; revising
334 requirements relating to the right to contest a plan
335 of termination; providing an effective date.



912268

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2015	.	
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The Committee on Regulated Industries (Latvala) recommended the following:

Senate Amendment to Amendment (363030)

Delete lines 26 - 30
and insert:

(c) This subsection also does not apply to any condominium created pursuant to part VI of this chapter until 7 years after the recording of the declaration of condominium for the condominium ~~This subsection does not apply to condominiums in which 75 percent or more of the units are timeshare units.~~



287860

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2015	.	
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	.	

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

Senate Amendment to Amendment (363030)

Delete lines 33 - 130
and insert:
together with a related entity or entities that would be
considered insiders, as defined in s. 726.102, holding such
voting interests. If the condominium association is a
residential association proposed for termination pursuant to
this section and, at the time of recording the plan of
termination, at least 80 percent of the total voting interests



287860

11 are owned by a bulk owner, the plan of termination is subject to
12 the following conditions and limitations:

13 1. If the former condominium units are offered for lease to
14 the public after the termination, each unit owner in occupancy
15 immediately before the date of recording of the plan of
16 termination may lease his or her former unit and remain in
17 possession of the unit for 12 months after the effective date of
18 the termination on the same terms as similar unit types within
19 the property are being offered to the public. In order to obtain
20 a lease and exercise the right to retain exclusive possession of
21 the unit owner's former unit, the unit owner must make a written
22 request to the termination trustee to rent the former unit
23 within 90 days after the date the plan of termination is
24 recorded. Any unit owner who fails to timely make such written
25 request and sign a lease within 15 days after being presented
26 with a lease is deemed to have waived his or her right to retain
27 possession of his or her former unit and is required to vacate
28 the former unit upon the effective date of the termination,
29 unless otherwise provided in the plan of termination.

30 2. Any former unit owner whose unit was granted homestead-
31 exemption status by the applicable county property appraiser as
32 of the date of the recording of the plan of termination shall be
33 paid a relocation payment in an amount equal to 1 percent of the
34 termination proceeds allocated to the owner's former unit. Any
35 relocation payment payable under this subparagraph shall be paid
36 by the single entity or related entities owning at least 80
37 percent of the total voting interests. Such relocation payment
38 is in addition to the termination proceeds for such owner's
39 former unit and shall be paid no later than 10 days after the



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40 former unit owner vacates his or her former unit.

41 3. All unit owners other than the bulk owner shall be
42 compensated at least 100 percent of the fair market value of
43 their respective units. The fair market value shall be
44 determined by an independent appraiser, selected by the
45 termination trustee, as of a date that is no earlier than 90
46 days before the date that the plan of termination is recorded.
47 Notwithstanding subsection (12), the allocation of the proceeds
48 of the sale of condominium property to owners of units
49 dissenting or objecting to the plan of termination must be 110
50 percent of the original purchase price, or 110 percent of fair
51 market value, whichever is greater. For purposes of this
52 subparagraph, the term "fair market value" means the price of a
53 unit that a seller is willing to accept and a buyer is willing
54 to pay on the open market in an arms-length transaction based on
55 similar units sold in other condominiums, including units sold
56 in bulk purchases but excluding units sold at wholesale or
57 distressed prices. The purchase price of units acquired in bulk
58 following a bankruptcy or foreclosure may not be considered for
59 purposes of determining fair market value.

60 4. A plan of termination is not effective unless the plan
61 provides that outstanding first mortgages of all unit owners
62 other than the bulk owner are satisfied in full before, or
63 simultaneously with, the termination.

64 5. Before presenting a plan of termination to the unit
65 owners for consideration pursuant to this paragraph, the plan
66 must include the following written disclosures in a sworn
67 statement:

68 a. The identity of any person or entity that owns or



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69 controls 50 percent or more of the units in the condominium and,
70 if the units are owned by an artificial entity or entities, a
71 disclosure of the natural person or persons who, directly or
72 indirectly, manage or control the entity or entities and the
73 natural person or persons who, directly or indirectly, own or
74 control 20 percent or more of the artificial entity or entities
75 that constitute the bulk owner.

76 b. The units acquired by any bulk owner, the date each unit
77 was acquired, and the total amount of compensation paid to each
78 prior unit owner by the bulk owner, regardless of whether
79 attributed to the purchase price of the unit.

80 c. The relationship of any board member to the bulk owner
81 or any person or entity affiliated with the bulk owner subject
82 to disclosure pursuant to this subparagraph.

83 (e) If the members of the board of administration are
84 elected by the bulk owner, unit owners other than the bulk owner
85 may elect at least one-third of the members of the board of
86 administration before the approval of any plan of termination by
87 the board.



563180

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2015	.	
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The Committee on Regulated Industries (Latvala) recommended the following:

1 **Senate Amendment to Amendment (363030) (with directory**
2 **amendment)**

3
4 Between lines 140 and 141
5 insert:

6 (9) PLAN OF TERMINATION.—The plan of termination must be a
7 written document executed in the same manner as a deed by unit
8 owners having the requisite percentage of voting interests to
9 approve the plan and by the termination trustee. A copy of the
10 proposed plan of termination shall be given to all unit owners,



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11 in the same manner as for notice of an annual meeting, at least
12 14 days prior to the meeting at which the plan of termination is
13 to be voted upon or prior to or simultaneously with the
14 distribution of the solicitation seeking execution of the plan
15 of termination or written consent to or joinder in the plan. A
16 unit owner may document assent to the plan by executing the plan
17 or by consent to or joinder in the plan in the manner of a deed.
18 A plan of termination and the consents or joinders of unit
19 owners and, if required, consents or joinders of mortgagees must
20 be recorded in the public records of each county in which any
21 portion of the condominium is located. The plan is effective
22 only upon recordation or at a later date specified in the plan.
23 If the plan of termination fails to receive the required
24 approval, the plan shall not be recorded and a new attempt to
25 terminate the condominium may not be proposed at a meeting or by
26 solicitation for joinder and consent for 180 days after the date
27 that such failed plan of termination was first given to all unit
28 owners in the manner as provided in this subsection.

29 (a) If the plan of termination is voted on at a meeting of
30 the unit owners called in accordance with this subsection, any
31 unit owner desiring to reject the plan must do so by either
32 voting to reject the plan in person or by proxy, or by
33 delivering a written rejection to the association before or at
34 the meeting.

35 (b) If the plan of termination is approved by written
36 consent or joinder without a meeting of the unit owners, any
37 unit owner desiring to object to the plan must deliver a written
38 objection to the association within 20 days after the date that
39 the association notifies the nonconsenting owners, in the manner



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40 provided in paragraph (15)(a), that the plan of termination has
41 been approved by written action in lieu of a unit owner meeting.

42
43 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

44 And the directory clause is amended as follows:

45 Delete line 5

46 and insert:

47 Section 1. Subsections (3), (4), (9), (11), (12), and (16)

48 of



171906

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2015	.	
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The Committee on Regulated Industries (Latvala) recommended the following:

Senate Amendment to Amendment (363030)

Delete lines 176 - 179
and insert:
voting interests, have been recorded. In a partial termination,
the plan does not vest title to the surviving units or common
elements that remain part of the condominium property in the
termination trustee.



533798

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2015	.	
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The Committee on Regulated Industries (Latvala) recommended the following:

Senate Amendment to Amendment (363030)

Delete lines 280 - 314
and insert:
plan of termination by initiating a petition for mandatory
nonbinding arbitration summary procedure pursuant to s. 718.1255
~~s. 51.011~~ within 90 days after the date the plan is recorded. A
unit owner or lienor may only contest the fairness and
reasonableness of the apportionment of the proceeds from the
sale among the unit owners, that the first mortgages of all unit



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11 owners other than the bulk owner have not or will not be fully
12 satisfied at the time of termination as required by subsection
13 (3), or that the required vote to approve the plan was not
14 obtained. A unit owner or lienor who does not contest the plan
15 within the 90-day period is barred from asserting or prosecuting
16 a claim against the association, the termination trustee, any
17 unit owner, or any successor in interest to the condominium
18 property. In an action contesting a plan of termination, the
19 person contesting the plan has the burden of pleading and
20 proving that the apportionment of the proceeds from the sale
21 among the unit owners was not fair and reasonable or that the
22 required vote was not obtained. The apportionment of sale
23 proceeds is presumed fair and reasonable if it was determined
24 pursuant to the methods prescribed in subsection (12). The
25 arbitrator court shall determine the rights and interests of the
26 parties in the apportionment of the sale proceeds and order the
27 plan of termination to be implemented if it is fair and
28 reasonable. If the arbitrator court determines that the
29 apportionment of sale proceeds plan of termination is not fair
30 and reasonable, the arbitrator court may void the plan or may
31 modify the plan to apportion the proceeds in a fair and
32 reasonable manner pursuant to this section based upon the
33 proceedings and order the modified plan of termination to be
34 implemented. If the arbitrator determines that the plan was not
35 properly approved, or that the procedures to adopt the plan were
36 not properly followed, it may void the plan or grant other
37 relief it deems just and proper. The arbitrator shall
38 automatically void the plan upon a finding that any of the
39 disclosures required in subparagraph (3)(d)4. are omitted,



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40 misleading, incomplete, or inaccurate. Any challenge to a plan,
41 other than a challenge that the required vote was not obtained,
42 does not affect title to the condominium property or the vesting
43 of the condominium property in the trustee, but shall only be a
44 claim against the proceeds of the plan. In any such action, the
45 prevailing party shall recover reasonable attorney ~~attorney's~~
46 fees and costs.



111290

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2015	.	
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The Committee on Regulated Industries (Latvala) recommended the following:

1 **Senate Amendment to Amendment (363030) (with title**
2 **amendment)**

3
4 Between lines 314 and 315
5 insert:

6 Section 2. Subsection (1) of section 718.1255, Florida
7 Statutes, is amended to read:

8 718.1255 Alternative dispute resolution; voluntary
9 mediation; mandatory nonbinding arbitration; legislative
10 findings.—



111290

11 (1) DEFINITIONS.—As used in this section, the term
12 “dispute” means any disagreement between two or more parties
13 that involves:

14 (a) The authority of the board of directors, under this
15 chapter or association document to:

16 1. Require any owner to take any action, or not to take any
17 action, involving that owner’s unit or the appurtenances
18 thereto.

19 2. Alter or add to a common area or element.

20 (b) The failure of a governing body, when required by this
21 chapter or an association document, to:

22 1. Properly conduct elections.

23 2. Give adequate notice of meetings or other actions.

24 3. Properly conduct meetings.

25 4. Allow inspection of books and records.

26 (c) A plan of termination pursuant to s. 718.117.

27
28 “Dispute” does not include any disagreement that primarily
29 involves: title to any unit or common element; the
30 interpretation or enforcement of any warranty; the levy of a fee
31 or assessment, or the collection of an assessment levied against
32 a party; the eviction or other removal of a tenant from a unit;
33 alleged breaches of fiduciary duty by one or more directors; or
34 claims for damages to a unit based upon the alleged failure of
35 the association to maintain the common elements or condominium
36 property.

37
38 ===== T I T L E A M E N D M E N T =====

39 And the title is amended as follows:



111290

40 Delete line 335
41 and insert:
42 of termination; amending s. 718.1255, F.S.; revising
43 the term "dispute"; providing an effective date.

Amended



RICK SCOTT
GOVERNOR

15 FEB 25 PM 1:16

DIVISION OF ELECTIONS
SECRETARY OF STATE

February 24, 2015

Secretary Kenneth W. Detzner
Department of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have amended the following appointment under the provisions of Section 20.317, Florida Statutes:

Secretary Cynthia O'Connell
1505 O'Connell Lane
Tallahassee, Florida 32317

As Secretary of the Florida Lottery, subject to confirmation by the Senate. This appointment is effective January 6, 2015, for a term ending at the pleasure of the Governor.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/vh

Amended

A black and white copy of this document is not official

1405

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Ken Detzner, Secretary of State,
do hereby certify that

Cynthia F. O'Connell

is duly appointed

**Secretary,
Department of Lottery**

for a term beginning on the
Sixth day of January, A.D., 2015,
to serve at the pleasure of the Governor
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Twenty-Fifth day of February, A.D., 2015*



Ken Detzner

Secretary of State

DSDE 99 (3/03)

The original document has a reflective line mark in paper. Hold at an angle to view when checking.

If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8 1/2 x 11" document.

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED
DEPARTMENT OF STATE
2015 FEB 10 AM 11:27

DIVISION OF ELECTIONS
TALLAHASSEE, FL

STATE OF FLORIDA

County of Leon

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Secretary of the Department of the Lottery

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

[Signature]
Signature

Sworn to and subscribed before me this 10th day of February, 2015.

[Signature]
Signature of Officer Administering Oath or of Notary Public



[Signature]
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification

Type of Identification Produced _____

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

250 Marriott Drive
Street or Post Office Box
Tallahassee, FL 32301
City, State, Zip Code

Cynthia F. O'Connell
Print name as you desire, commission issued
[Signature]
Signature

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

2/9/2015

Date Completed

1. Name: Mrs. O'Connell Cynthia Faye
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 250 Marriott Drive Tallahassee
Street Office # City
Florida 32301 (850) 487-7728
Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: 1505 OConnell Lane Tallahassee Leon
Street City County
Florida 32317
Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business Residence Fax # (850) 487-7709
(optional)

4. A. List all your places of residence for the last five (5) years.

<u>Address</u>	<u>City & State</u>	<u>From</u>	<u>To</u>
1505 OConnell Lane	Tallahassee, FL	1997	Current

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

<u>Address</u>	<u>City & State</u>	<u>From</u>	<u>To</u>
Peachtree Towers, Peachtree St.	Atlanta, GA	1995	1996

5. Date of Birth: _____ Place of Birth: _____

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain

Cynthia F. Bowling (maiden name)

RECEIVED
 DEPARTMENT OF STATE
 DIVISION OF ELECTIONS
 TALLAHASSEE, FL
 2015 FEB 10 AM 11:27

9. Are you a United States citizen? Yes No If "No" explain:

Not applicable

If you are a naturalized citizen, date of naturalization: Not applicable

10. Since what year have you been a continuous resident of Florida? 1959-1960. Moved from Roanoke, VA at age of 2

11. Are you a registered Florida voter? Yes No If "Yes" list:

A. County of Registration: Leon

B. Current Party Affiliation: Republican

12. Education

A. High School: Columbia High School

Year Graduated: 1974

(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
Lake City Community College	1974-1976	Associate of Arts
Florida State University	1976-1978	Bachelor of Science
Louisiana State University	1982-84/86	Graduate Institute of Bank Marketing (continuing education program)

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: Not applicable

B. Branch or Component: Not applicable

C. Date & type of discharge: Not applicable

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
None / not applicable			

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
Florida Lottery	Lottery Industry	Secretary	2/9/11 - Current
Hill & Knowlton	Public Relations/Communications	Partner/Owner	2004 - 2009

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
Secretary	Florida Lottery	2/9/11 - Current
Director of Promotions	Florida Lottery	1988 - 1991

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

As a member of the Florida Lottery start-up team, I witnessed firsthand the excitement of Florida citizens to this
then new entertainment vehicle. From 1991 to 2011, my career was filled with consumer branding and marketing
programs. Notably, my long-standing relationship with UF and the state's university system has given me a unique
perspective on the role higher education plays in stimulating our economy. This background, coupled with my experience
over the last 4 years as Secretary of the Florida Lottery - when we have successfully attained four consecutive
years of record sales and record transfers to education - distinctively qualifies me for this position.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

My academic credentials including a BS in Communications from Florida State University, a graduate level
certification in financial marketing from Louisiana State University, and my various statewide leadership positions
and volunteer assignments have individually and collectively reinforced by abilities in this appointment.

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes No If "Yes", list:

Florida Lottery North American Association of State and Provincial Lotteries (NASPL) Awards/Recognitions:
-One Batchy Award, 2013, "Year of the Flamingo", online newsletter; Two Batchy Awards, 2014, "Education/Shadows", (Print Ad); Margaritaville/Scratch", (TV/Radio Spot)
-Two Batchy Finalists, 2014, "Flamingo Las Vegas-Crooner" (Original must for TV/Radio); "Education/When I Grow Up" (TV Ad)
Honorary member Florida Blue Key, UF; Honorary member of UF Alumni Association; Outstanding Alumni 2001, Lake City Comm. College

D. Identify all association memberships and association offices held by you that relate to this appointment:

Member of Multi-State Lottery Association (MUSL) Board of Directors
Chair, MUSL Marketing and Promotions Committee
Member of North American Association of State and Provincial Lotteries (NASPL)

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes No If "Yes", list:

None / not applicable

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
<u>UF Board of Trustees</u>	<u>2001</u>	<u>2001 - 2011</u>	<u>Executive/Gubernatorial Appointment</u>

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: at least quarterly

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
<u>All University of Florida Board of Trustees' meetings have been attended from 2001 - 2011, with the exception of two. Those meetings missed were on 4/28/2003 and 9/5/2003, due to professional work assignments.</u>		

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>
<u>None</u>		

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: Not applicable C. Reason for suspension: Not applicable
B. Date of suspension: Not applicable D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No If "Yes", list:

A. Title of Office: Secretary, Florida Lottery; UF Board of Trustees inaugural term
B. Term of Appointment: 2/9/2011 - Present; 7/1/2001 - 1/6/2006, 6/23/2003 - 1/1/2006, 1/6/2006 - 1/6/2011
C. Confirmation results: Confirmed (four times)

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes No If "Yes", explain:

Not applicable

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title & Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
<u>None</u>			

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
<u>None</u>		

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>
City of Lake City	mother	Assistant City Manager	Admin position in city government
DCA Court of Appeals	Husband	Marshall (constitutional officer)	None

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>
Florida Lottery as Secretary	Florida Lottery

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
The Honorable Wayne Mixon			
Mr. Fred Dobbins,			
Martha Barnett, I			
W. Crit Smith			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
The Florida House	Number One Second St., NE, Washington DC	Board of Dir/Past Chair	1999 - Current
Governor's Club	202 1/2 S. Adams Street, Tallahassee, FL	Member	2010 - Current
Economic Club of FL	2952 Wellington Cr., Tallahassee, FL	Brd of Directors/Member	2008-2013 / Current
University of Florida	PO Box 113125, Gainesville, FL	Board of Trustees	2001 - 2011
The O'Connell Society, UF	PO Box 118505, Gainesville, FL	Board of Directors	2008 - Current
Leadership Florida	201 E Park Ave, Tallahassee	Member	2008 - Current

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

None

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

CERTIFICATION

STATE OF FLORIDA

COUNTY OF Leon

Before me, the undersigned Notary Public of Florida, personally appeared

Cynthia F. O'Connell

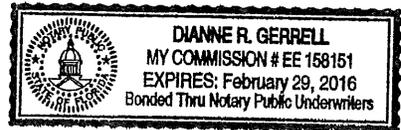
who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

[Handwritten Signature]
Signature of Applicant-Affiant

Sworn to and subscribed before me this 10th day of February, 2015.

[Handwritten Signature]
Signature of Notary Public-State of Florida

(Print, Type, or Stamp Commissioned Name of Notary Public)



My commission expires:

Personally Known [checked] OR Produced Identification []

Type of Identification Produced

(seal)

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Cynthia F. O'Connell
Secretary of the Department of the Lottery

NOTICE OF HEARING

TO: Mrs. Cynthia F. O'Connell

YOU ARE HEREBY NOTIFIED that the Committee on Regulated Industries of the Florida Senate will conduct a hearing on your executive appointment on Tuesday, March 24, 2015, in the Toni Jennings Committee Room, 110 Senate Office Building, commencing at 1:30 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 20th day of March, 2015

Committee on Regulated Industries



Senator Rob Bradley
As Chair and by authority of the committee

cc: Members, Committee on Regulated Industries
Office of the Sergeant at Arms

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/24/15

Meeting Date

N/A

Bill Number (if applicable)

N/A

Amendment Barcode (if applicable)

Topic CONFIRMATION HEARING

Name CYNTHIA F. O'CONNELL

Job Title SECRETARY OF FLORIDA LOTTERY

Address 250 MARCOTT DR.

Street

Phone 850 487-7728

TALLAHASSEE

FL

32301

City

State

Zip

Email

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

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

Representing THE FLORIDA LOTTERY

Appearing at request of Chair: [X] Yes [] 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

APPEARANCE RECORD

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

3/27/2015

Meeting Date

Topic Secretary of lottery

Bill Number

(if applicable)

Name BRIAN PITTS

Amendment Barcode

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: [] For [] Against [x] Information

Representing JUSTICE-2-JESUS

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

Lobbyist registered with Legislature: [] Yes [x] 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.

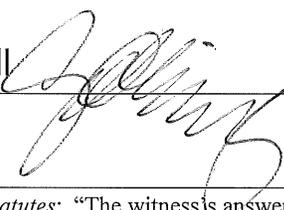
THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: Cynthia F. O'Connell 

ANSWER: I DO

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Regulated Industries

DATE: March 24, 2015

