

Tab 1	SB 714 by DiCeglie; (Similar to H 00833) Vacation Rentals					
699710	A	S	RCS	RI, DiCeglie	Delete L.115 - 129:	03/14 06:17 PM
Tab 2	SB 722 by Burton; (Identical to H 00719) Practice of Veterinary Medicine					
Tab 3	SB 658 by Burgess; (Identical to H 01459) Registration Fees for Malt Beverage Brands and Labels					
Tab 4	SB 556 by Hooper; (Similar to H 00395) Hurricane Protection for Condominium Associations					
Tab 5	SB 770 by Bradley; (Identical to H 00861) Residential Real Estate Listing Agreements					
Tab 6	SB 980 by Brodeur (CO-INTRODUCERS) Stewart; (Identical to H 00341) 911 Public Safety Telecommunicator Certifications					
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Gruters, Chair
Senator Hooper, Vice Chair

MEETING DATE: Tuesday, March 14, 2023

TIME: 4:00—6:00 p.m.

PLACE: James E. "Jim" King, Jr Committee Room, 401 Senate Building

MEMBERS: Senator Gruters, Chair; Senator Hooper, Vice Chair; Senators Bradley, Brodeur, Davis, Hutson, Jones, Osgood, Perry, and Simon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 714 DiCeglie (Similar H 833, Compare H 105, S 92)	Vacation Rentals; Requiring advertising platforms to collect and remit specified taxes for certain vacation rental transactions; defining the term "advertising platform"; revising the regulated activities of public lodging establishments and public food service establishments preempted to the state to include licensing; requiring advertising platforms to require that persons placing advertisements for vacation rentals include certain information in the advertisements and attest to certain information; authorizing the division to revoke, refuse to issue or renew, or suspend vacation rental licenses under certain circumstances, etc. RI 03/07/2023 Not Considered RI 03/14/2023 Fav/CS AEG FP	Fav/CS Yeas 5 Nays 2
2	SB 722 Burton (Identical H 719)	Practice of Veterinary Medicine; Exempting certain out-of-state veterinarians who provide specified services under the responsible supervision of a veterinarian licensed in this state from certain regulations governing veterinary medical practice; providing that the supervising licensed veterinarian is responsible for such services; specifying that such out-of-state veterinarians are ineligible for a premises permit, etc. RI 03/14/2023 Favorable AG RC	Favorable Yeas 9 Nays 0
3	SB 658 Burgess (Identical H 1459)	Registration Fees for Malt Beverage Brands and Labels; Providing that the annual registration fee is required only if labels or brands are sold to a distributor; specifying that no other registration fee is authorized, etc. RI 03/14/2023 Favorable AEG FP	Favorable Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Regulated Industries

Tuesday, March 14, 2023, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 556 Hooper (Similar H 395)	Hurricane Protection for Condominium Associations; Defining the term "hurricane protection"; requiring declarations to specify the entity responsible for the installation, maintenance, repair, or replacement of hurricane protection; authorizing, rather than requiring, certain hurricane protection specifications; authorizing the boards of residential and mixed-use condominiums to install or require the unit owners to install hurricane protection; prohibiting the boards of residential and mixed-use condominiums from refusing to approve certain hurricane protections; specifying when the cost of installation of hurricane protection is not a common expense, etc. RI 03/14/2023 Favorable CA RC	Favorable Yeas 9 Nays 0
5	SB 770 Bradley (Identical H 861)	Residential Real Estate Listing Agreements; Specifying a limitation on the term of an option to enter into a listing agreement for the disposition of residential real property; prohibiting a court from enforcing an option to enter into a listing agreement by certain means; requiring notice and a written agreement of the residential property owner before a broker may assign the option to enter into a listing agreement to another broker, etc. RI 03/14/2023 Favorable CM RC	Favorable Yeas 9 Nays 0
6	SB 980 Brodeur (Identical H 341)	911 Public Safety Telecommunicator Certifications; Increasing the timeframe within which an inactive 911 public safety telecommunicator certificate may be reactivated before it permanently expires, etc. RI 03/14/2023 Fav/CS CA RC	Fav/CS Yeas 7 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 714

INTRODUCER: Regulated Industries Committee and Senator DiCeglie

SUBJECT: Vacation Rentals

DATE: March 15, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Fav/CS
2.			AEG	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 714 revises the regulation of vacation rentals. A vacation rental is a unit in a condominium or cooperative, or a single, two, three, or four family house that is rented to guests more than three times a year for periods of less than 30 days or one calendar month, whichever is shorter, or held out as regularly rented to guests. Vacation rentals are licensed by the Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (DBPR). Current law does not allow local laws, ordinances, or regulations that prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. However, this prohibition does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.

The bill permits “grandfathered” local laws, ordinances, or regulations adopted on or before June 1, 2011, to be amended to be less restrictive or to comply with local registration requirements. The bill does not affect vacation rental ordinances in jurisdictions located in an area of critical state concern.

Under the bill, a local government may require vacation rentals to be registered. The registration fee may not exceed \$50 for an individual or \$100 for a collective vacation rental registration. A local government may impose a fine for failure to register a vacation rental. The bill establishes limits for a local government registration program, including requiring a vacation rental owner to obtain any required tax registrations, pay all recorded municipal or county code liens, and designate a responsible person who is available 24/7 to respond to complaints. A local

government may adopt parking and garbage requirements so long as those standards are not imposed solely on vacation rentals. Additionally, the bill requires local governments to accept or deny a registration application within 15 days of receipt of an application. The bill authorizes the division to issue temporary licenses to permit the operation of the vacation rental while the license application is pending.

The bill permits a local government to terminate a local registration for violations of local registration requirements. The bill also authorizes the division to revoke or suspend state vacation rental licenses for violations of local registration requirements and violations of community association property restrictions.

The bill preempts the regulation of advertising platforms to the state. An advertising platform is a person who electronically advertises a vacation rental to rent for transient occupancy, maintains a marketplace, and a reservation or payment system.

The bill requires the owner or operator of a vacation rental offered for transient occupancy through an advertising platform to include the property's vacation rental license number issued by the DBPR and the local registration number on the vacation rental's advertisement, and attest that, to the best of their knowledge, those numbers are current, valid, and accurate. The vacation rental property owner or operator must display this tax and licensure information inside the vacation rental property.

The bill requires an advertising platform to display the vacation rental license number and the local registration number of each property that advertises on its platform. The advertising platform must verify the validity of the vacation rental's license number before it publishes the advertisement and must perform ongoing checks every calendar quarter thereafter. To facilitate this verification, the division must maintain vacation rental license information in a readily accessible electronic format by July 1, 2024. The advertising platform must remove from public view any advertisement or listing that fails to display a valid vacation rental license number.

Advertising platforms are required by the bill to collect and remit any taxes imposed under chapters 125, 205, and 212, F.S., that result from payment for the rental of a vacation rental property on its platform. The bill allows platforms to exclude service fees from the taxable amount if the platforms do not own, operate, or manage the vacation rental. It allows the division to take enforcement action for noncompliance.

Additionally, the bill:

- Authorizes the division to fine an advertising platform an amount not to exceed \$1,000 for a violation of the provisions in the bill or rules of the division;
- Requires advertising platforms to adopt anti-discrimination policies and to inform users of the public lodging discrimination prohibition found in section 509.092, F.S.;
- Provides that the advertising platform requirements in the bill do not create a private right of action against advertising platforms;
- Allows the Department of Revenue to adopt emergency rules for six months which may be renewed until permanent rules are adopted; and
- Provides that its terms do not supersede any current or future declaration or covenant for condominium, cooperative, or homeowners' associations.

The Revenue Estimating Conference determined that the provisions in the bill that require advertising platforms to collect and remit state and local sales taxes have no fiscal impact.

The bill takes July 1, 2023. However, the provisions relating to the regulation of advertising platforms take effect January 1, 2024.

II. Present Situation:

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation is the state agency charged with enforcing the provisions of ch. 509, F.S., relating to the regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare.

The term “public lodging establishments” includes transient and nontransient public lodging establishments.¹ The principal differences between transient and nontransient public lodging establishments are the number of times that the establishments are rented in a calendar year and the duration of the rentals.

A “transient public lodging establishment” is defined in s. 509.013(4)(a)1., F.S., as:

...any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings *which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month*, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests. (emphasis supplied)

A “nontransient public lodging establishment” is defined in s. 509.013(4)(a)2., F.S., as:

...any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings *which is rented to guests for periods of at least 30 days or 1 calendar month*, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month. (emphasis supplied)

Section 509.013(4)(b), F.S., exempts the following types of establishments from the definition of “public lodging establishment”:

1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors;
2. Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. 381.0072, F.S.;

¹ Section 509.013(4)(a), F.S.

3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients;
4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or one calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than one calendar month, provided that no more than four rental units within a single complex of buildings are available for rent;
5. Any migrant labor camp or residential migrant housing permitted by the Department of Health under ss. 381.008-381.00895, F.S.;
6. Any establishment inspected by the Department of Health and regulated by ch. 513 F.S.;
7. Any nonprofit organization that operates a facility providing housing only to patients, patients' families, and patients' caregivers and not to the general public;
8. Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department's behalf that is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the apartment building to attest in writing that such building meets the criteria provided in this subparagraph. The division may adopt rules to implement this requirement; and
9. Any roominghouse, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment under s. 509.242, F.S.

A public lodging establishment is classified as a hotel, motel, vacation rental, nontransient apartment, transient apartment, bed and breakfast inn, or timeshare project.²

A "vacation rental" is defined in s. 509.242(1)(c), F.S., as:

...any unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but is not a timeshare project.

The DBPR licenses vacation rentals as condominiums, dwellings, or timeshare projects.³ The division may issue a vacation rental license for "a single-family house, a townhouse, or a unit or group of units in a duplex, triplex, quadruplex, or other dwelling unit that has four or less units

² Section 509.242(1), F.S.

³ Fla. Admin. Code R. 61C-1.002(4)(a)1.

collectively.”⁴ The division does not license or regulate the rental of individual rooms within a dwelling unit based on the roominghouse and boardinghouse exclusion from the definition of public lodging establishment in s. 509.013(4)(b)9., F.S.⁵

The 63,690 public lodging establishment licenses issued by the division are distributed as follows:⁶

- Hotels – 2,308 licenses;
- Motels – 2,397 licenses;
- Nontransient apartments – 18,315 licenses;
- Transient apartments – 913 licenses;
- Bed and Breakfast Inns – 261 licenses;
- Vacation rental condominiums – 12,716 licenses;
- Vacation rental dwellings – 26,733 licenses; and
- Vacation rental timeshare projects – 47 licenses.

Inspections of Vacation Rentals

The division must inspect each licensed public lodging establishment at least biannually, but must inspect transient and nontransient apartments at least annually. However, the division is not required to inspect vacation rentals, but vacation rentals must be available for inspection upon a request to the division.⁷ The division conducts inspections of vacation rentals in response to a consumer complaint. In Fiscal Year 2020-2021, the division received 306 consumer complaints regarding vacation rentals. In response to the complaints, the division’s inspection confirmed a violation for 31 of the complaints.⁸

The division’s inspection of vacation rentals includes matters of safety (for example, fire hazards, smoke detectors, and boiler safety), sanitation (for example, safe water sources, bedding, and vermin control), consumer protection (for example, unethical business practices, compliance with the Florida Clean Air Act, and maintenance of a guest register), and other general safety and regulatory matters.⁹ The division must notify the local fire safety authority or

⁴ The division further classifies a vacation rental license as a single, group, or collective license. *See* Fla. Admin. Code R. 61C-1.002(4)(a)1. A single license may include one single-family house or townhouse, or a unit or group of units within a single building that are owned and operated by the same individual person or entity. A group license is a license issued by the division to a licensed agent to cover all units within a building or group of buildings in a single complex. A collective license is a license issued by the division to a licensed agent who represents a collective group of houses or units found on separate locations not to exceed 75 houses or units per license.

⁵ *See* s. 509.242(1)(c), F.S., defining the term “vacation rental.”

⁶ Department of Business and Professional Regulation, Division of Hotels and Restaurants Annual Report for FY 2020-2021 at page 8, available at http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2021_22.pdf (last visited Mar. 2, 2023). The total number of vacation rental licenses for each classification include single licenses and group and collective licenses that cover multiple condominium units, dwellings, and timeshare projects.

⁷ Section 509.032(2)(a), F.S.

⁸ *Supra* at note 6.

⁹ *See* ss. 509.211 and 509.221, F.S., for the safety and sanitary regulations, respectively. *See also* Fla. Admin. Code R. 61C-1.002; *Lodging Inspection Report, DBPR Form HR 5022-014*, which details the safety and sanitation matters addressed in the course of an inspection. A copy of the Lodging Inspection Report is available at: <https://www.flrules.org/Gateway/reference.asp?No=Ref-07062> (last visited Feb. 28, 2023).

the State Fire Marshal of any readily observable violation of a rule adopted under ch. 633, F.S.,¹⁰ which relates to a public lodging establishment.¹¹ The rules of the State Fire Marshall provide fire safety standards for transient public lodging establishments, including occupancy limits for one and two family dwellings.¹²

Additionally, an applicant for a vacation rental license is required to submit with the license application a signed certificate evidencing the inspection of all balconies, platforms, stairways, railings, and railways, from a person competent to conduct such inspections.¹³

Preemption

Section 509.032(7)(a), F.S., provides that “the regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state.”

Current law does not preempt the authority of a local government or a local enforcement district to conduct inspections of public lodging establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206, F.S.¹⁴

Section 509.032(7)(b), F.S., does not allow local laws, ordinances, or regulations that prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. However, this prohibition does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.

Section 509.032(7)(c), F.S., provides that the prohibition in s. 509.032(7)(b), F.S., does not apply to local laws, ordinances, or regulations exclusively relating to property valuation as a criterion for vacation rental if the law, ordinance, or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation.¹⁵

Legislative History

In 2011, the Legislature preempted certain vacation rental regulation to the state. The preemption prevented local governments from enacting any law, ordinance, or regulation that:

- Restricted the use of vacation rentals;
- Prohibited vacation rentals; or

¹⁰ Chapter 633, F.S., relates to fire prevention and control, including the duties of the State Fire Marshal and the adoption of the Florida Fire Prevention Code.

¹¹ Section 509.032(2)(d), F.S.

¹² See Fla. Admin. Code R. 69A-43.018, relating one and two Family dwellings, recreational vehicles and mobile homes licensed as public lodging establishments.

¹³ See ss. 509.211(3) and 509.2112, F.S., and form *DBPR HR-7020, Division of Hotels and Restaurants Certificate of Balcony Inspection*, available at http://www.myfloridalicense.com/dbpr/hr/forms/documents/application_packet_for_vacation_rental_license.pdf (last visited Feb. 28, 2023).

¹⁴ Section 509.032(7)(a), F.S.

¹⁵ See s. 163.3164(43), F.S., which provides that the state land planning agency is the Department of Economic Opportunity.

- Regulated vacation rentals based solely on their classification, use, or occupancy.¹⁶

This legislation grandfathered any local law, ordinance, or regulation that was enacted by a local government on or before June 1, 2011.¹⁷

In 2014, the Legislature revised the preemption to its current form with an effective date of July 1, 2014.¹⁸ Chapter 2014-71, Laws of Fla., amended s. 509.032(7)(b), F.S., and repealed the portions of the preemption of local laws, ordinances, and regulations which prohibited “restrict[ing] the use of vacation rentals” and which prohibited regulating vacation rentals “based solely on their classification, use, or occupancy.”¹⁹

Attorney General Opinions

The office of the Attorney General issued an Informal Legal Opinion on October 22, 2013, regarding whether Flagler County could intercede and stop vacation rental operations in private homes that were zoned, prior to June 1, 2011, for single-family residential use.²⁰ According to the opinion, “due to an increase in the number of homes being used as vacation rentals in Flagler County, many permanent residents in neighborhoods with vacation rentals have raised concerns about the negative effects such rentals have on their quality of life and the character of their neighborhood.” Flagler County had no regulation governing vacation rentals before the grandfather date of June 1, 2011, established in s. 509.032(7)(b), F.S. The Attorney General concluded that the county’s local zoning ordinance for single-family homes that predated June 1, 2011, did not restrict the rental of such property as a vacation rental and that the zoning ordinances could not now be interpreted to restrict vacation rentals.

The Attorney General also issued an opinion on November 13, 2014, to the City of Wilton Manors, concluding that s. 509.032(7)(b), F.S., does not permit the city to regulate the location of vacation rentals through zoning, and the city may not prohibit vacation rentals that fail to comply with the registration and licensing requirements in s. 509.241, F.S., which requires public lodging establishments to obtain a license from the division.²¹

In addition, the Attorney General issued an advisory opinion on October 5, 2016, addressing whether a municipality could limit the spacing and concentration of vacation rentals through a proposed zoning ordinance.²² The Attorney General concluded that the preemption in s. 509.032, F.S., allows local governments some regulation of vacation rentals, but prevents local governments from prohibiting vacation rentals. Consequently, the Attorney General noted that a

¹⁶ Chapter 2011-119, Laws of Fla.

¹⁷ *Id.*

¹⁸ Chapter 2014-71, Laws of Fla. (codified in s. 509.032(7)(b), F.S.).

¹⁹ *Id.*

²⁰ Florida Attorney General, *Informal Legal Opinion to Mr. Albert Hadeed, Flagler County Attorney, regarding Vacation Rental Operation-Local Ordinances*, Oct. 22, 2013, (on file with the Senate Committee on Regulated Industries).

²¹ Op. Att’y Gen. Fla. 2014-09, *Vacation Rentals - Municipalities - Land Use* (November 13, 2014), available at <http://www.myfloridalegal.com/ago.nsf/printview/5DFB7F27FB483C4685257D900050D65E> (last visited Feb. 28, 2023).

²² Op. Att’y Gen. Fla. 2016-12, *Municipalities - Vacation Rentals – Preemption* - <http://www.myfloridalegal.com/ago.nsf/Opinions/1F9A7D9219CF89A3852587AB006DDC58> (last visited Feb. 28, 2023).

municipality may not impose spacing or proportional regulations that would have the effect of preventing eligible housing from being used as a vacation rental.²³

The Attorney General also opined that amending an ordinance that was enacted prior to June 1, 2011 will not invalidate the grandfather protection for the parts of the ordinance that are reenacted.²⁴ The new provisions would be preempted by state law if they revise an ordinance in a manner that would regulate the duration or frequency of rental of vacation rentals, even when the new regulation would be considered “less restrictive” than the prior local law.

Public Lodging Non-Discrimination Law

Section 509.092, F.S., prohibits an operator of a public lodging establishment from denying service or offering lesser quality accommodations to a person based upon his or her race, creed, color, sex, pregnancy, physical disability, or national origin. An aggrieved person may file a complaint pursuant to s. 760.11, F.S., of the Florida Civil Rights Act. Such complaints are mediated, investigated, and determined by the Florida Commission on Human Relations.²⁵

III. Effect of Proposed Changes:

Preemptions

The bill amends s. 509.032(7), F.S., to preempt the regulation of advertising platforms to the state. The bill also amends s. 509.032(7), F.S., to preempt the licensing of vacation rentals to the state.

The bill permits any “grandfathered” local law, ordinance, or regulation adopted on or before June 1, 2011, to be amended to be less restrictive or to comply with local registration requirements. Additionally, a local government that had such a grandfathered regulation on June 1, 2011, may pass a new, less restrictive ordinance.

Definition of “Advertising Platform”

The bill creates s. 509.013(17), F.S., to define the term “advertising platform.” Under the bill, an advertising platform:

- Provides an online application, software, website, or system through which a vacation rental located in this state is advertised or held out to the public as available to rent for transient occupancy;
- Provides or maintains a marketplace for the renting by transient occupancy of a vacation rental; and
- Provides a reservation or payment system that facilitates a transaction for the renting by transient occupancy of a vacation rental and for which the person collects or receives,

²³ *Id.*

²⁴ Op. Att’y Gen. Fla. 2019-07, *Vacation rentals, municipalities, grandfather provisions* (August 16, 2019) available at <http://www.myfloridalegal.com/ago.nsf/Opinions/933B3706FADB00CA85258458006F4CFA> (last visited Feb. 28, 2023).

²⁵ See Florida Commission on Human Relations, *Public Accommodations*, <https://fchr.myflorida.com/public-accommodations> (last visited Feb. 28, 2023).

directly or indirectly, a fee in connection with the reservation or payment service provided for such transaction.

Local Registration of Vacation Rentals

Under the bill, a local government may require vacation rentals to be registered. The registration fee may not exceed \$50 for processing an individual registration application, or \$100 for processing a collective registration application. A local government may impose a fine for failure to register a vacation rental.

The bill establishes limits for a local government registration program. A local registration program may only require an owner or operator of a vacation rental to:

- Register no more than once per year; however, a new owner may be required to submit a new application for registration;
- Submit identifying information;
- Obtain any required tax registrations,
- Obtain a vacation rental license from the division with 60 days of after local registration;
- Obtain all required tax registrations, receipts, or certificates issued by the Department of Revenue, a county, or a municipal government;
- Update required information on a continuing basis to be current;
- Comply with parking standards and solid waste handling and containment requirements so long as such standards are not imposed solely on vacation rentals;
- Designate a responsible person who is available at all times to respond to complaints by telephone; and
- Pay all recorded municipal or county code liens.

Additionally, the bill requires local governments to accept or deny a registration application within 15 days of receipt of an application. The vacation rental owner or operator may agree to an extension of this time period. Such notice may be provided by mail or electronically.

If a local government denies an application, the notice of denial may be sent by United States mail or electronically. The notice must state with particularity the factual reasons for the denial and the applicable portions of an ordinance, rule, statute, or other legal authority for the denial. A local government cannot deny a registration application if the applicant cures the identified deficiency.

Upon the acceptance of a registration application, the local government must assign a unique registration number to the vacation rental or other indicia of registration and provide such registration number or other indicia of registration to the owner or operator of the vacation rental in writing or electronically.

The bill authorizes a local government to terminate a registration or to refuse to renew a registration when:

- The operation of the subject premises violates a local law, ordinance, or regulation;
- The premises and its owner are the subject of a final order or judgment lawfully directing the termination of the premises' use as a vacation rental.

Additionally, a local government may withdraw its acceptance of a registration on the basis of an unsatisfied recorded municipal or county code lien.

Regulation of Vacation Rentals by the Division

The bill amends s. 509.241(2), F.S., relating to the license application process for vacation rentals, to require application for a vacation rental license to include the local registration number, if applicable. Additionally, the bill authorizes the division to issue temporary licenses to permit the operation of the vacation rental while the license application is pending.

The bill also amends s. 509.241(3), F.S., to require the owner or operator of a vacation rental offered for transient occupancy through an advertising platform to display the vacation rental license number and local registration number, if applicable.

The bill amends s. 509.261, F.S., to authorize the division to revoke, refuse to issue or renew, or suspend for a period of not more than 30 days a vacation rental license when:

- The operation of the subject premises violates the terms of an applicable lease or property restriction, including any property restriction adopted pursuant to chs. 718, 719, or 720, F.S.,²⁶
- The owner or operator fails to provide proof of registration, if required by local law, ordinance, or regulation;
- The registration of the vacation rental is terminated by a local government as provided in s. 509.032(7)(b)5;
- The premises and its owner are the subject of a final order or judgment lawfully directing the termination of the premises' use as a vacation rental.

Under the bill, the division may suspend for a period of not more than 30 days a vacation rental license when the owner or operator has been found by the code enforcement board to have committed two or more code violations related to the vacation during a period of 90 days. The division shall issue a written warning or notice and provide an opportunity to cure a violation before commencing any legal proceeding.

Requirements for Advertising Platforms

Effective January 1, 2023, the bill creates s. 509.243, F.S., to provide requirements, including tax collection and remittance requirements for an advertising platform.

Advertising and Reporting Requirements

Under the bill, an advertising platform must:

- Require that a person who places an advertisement for the rental of a vacation rental to:
 - Include the vacation rental license number and the local registration number, if applicable; and

²⁶ Chapters 718, 719, or 720, F.S., relate to the regulation and governance of condominium, cooperative, and homeowners' associations, respectively.

- Attest to the best of their knowledge that the license number and the local registration number, if applicable, for the vacation rental property are current, valid, and accurately stated in the advertisement.
- Effective July 1, 2023, display the vacation rental license number in all advertisements after it has first verified the vacation rental property's license number with the DBPR, and then re-verify the license number on a quarterly basis.
- Remove from public view an advertisement or listing from its online application, software, website, or system within 15 business days after being notified by the division in writing that the subject advertisement or listing for the rental of a vacation rental located in this state fails to display a valid license number issued by the division.
- Adopt an anti-discrimination plan and inform its users of the public lodging discrimination prohibition found in s. 509.092, F.S.

By July 1, 2023, the division must maintain vacation rental license information in a readily accessible electronic format sufficient to facilitate prompt compliance.

The bill provides processes for the division to issue a cease and desist order for any person who violates ch. 509, F.S. The bill authorizes the division to seek an injunction or a writ of mandamus to enforce a cease and desist order. If the Department of Business and Professional Regulation (DBPR) is required to seek enforcement of the notice for a penalty pursuant to s. 120.69, F.S., it is entitled to collect its attorney fees and costs, together with any cost of collection.

The bill authorizes the division to fine an advertising platform an amount not to exceed \$1,000 for a violation of the provisions in the bill or rules of the division.

The bill provides that the advertising platform requirements in the bill do not create a private right of action against advertising platforms.

Tax Collection and Reporting Requirements

The bill creates s. 509.243(4), F.S., to require advertising platforms to collect and remit taxes due under ss. 125.0104,²⁷ 125.0108,²⁸ 205.044,²⁹ 212.03,³⁰ 212.0305,³¹ and 212.055, F.S.,³² resulting from the reservation of a vacation rental property and payment therefor through an advertising platform.

The bill also amends s. 212.03(3), F.S., to include the tax collection and remittance requirements for advertising platforms within ch. 212, F.S., and to:

- Provide that the taxes an advertising platform must collect and remit are based on the total rental amount charged by the owner or operator for use of the vacation rental.

²⁷ Section 125.0104, F.S., relates to the local option tourist development tax.

²⁸ Section 125.0108, F.S., relates to the tourist impact tax in areas within a county designated as an area of critical state concern.

²⁹ Section 205.044, F.S., relates to the merchant business tax measured by gross receipts.

³⁰ Section 212.03, F.S., relates to the transient rentals tax.

³¹ Section 212.0305, F.S., relates to convention development taxes.

³² Section 212.055, F.S., relates to discretionary sales taxes.

- Exclude service fees from the calculation of taxes remitted by an advertising platform to the Department of Revenue (DOR), unless the advertising platform owns, is related to, operates, or manages the vacation rental.
- Require the DOR and other jurisdictions to allow advertising platforms to register, collect, and remit such taxes.

The bill also amends s. 509.013, F.S., to include the “merchant business taxes” taxes imposed under s. 205.044, F.S., as one of the tax account numbers vacation rental owners or operators must include in their advertisement on an advertising platform and that the advertising platforms must collect and remit.

The bill authorizes the DOR to adopt emergency rules, which are effective for six months and may be renewed until permanent rules are adopted. This emergency rulemaking authority expires on January 1, 2023.

Community Associations

The bill provides that the application of vacation rental provisions created by the bill do not supersede any current or future declaration or declaration of condominium, cooperative documents, or declaration of covenants or declaration for a homeowners’ association.

Effective Date

The bill takes effect July 1, 2023. However, the provisions of s. 509.243, F.S., relating to advertising platforms, take effect January 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Article VII, Section 19 of the Florida Constitution requires a “state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject.” A “fee” is defined by the Florida Constitution to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”

Article VII, Section 19 of the Florida Constitution also requires that a tax or fee raised by the Legislature must be approved by two-thirds of the membership of each house of the Legislature.

The bill does not impose or authorize a state tax or fee. The bill provides that a local government may not require a registration fee of more than \$100. Under the bill, a local government is not required to charge a registration fee.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the provisions in the bill that require advertising platforms to collect and remit state and local sales taxes have no fiscal impact.³³

B. Private Sector Impact:

Indeterminate. Vacation rental owners may incur local registration costs of up to \$100 if the local government in which the vacation rental is located adopts an ordinance, law, or regulation consistent with the provisions of this bill.

C. Government Sector Impact:

The Department of Business and Professional Regulation has not provided a fiscal analysis for this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.03, 509.013, 509.032, 509.241, 509.243, 509.261, 159.27, 212.08, 316.1955, 404.056, 477.0135, 509.221, 553.5041, 559.955, 705.17, 705.185, 717.1355, and 877.24.

³³ Revenue Impact Results, Revenue Estimating Conference, Mar. 3, 2023 (on file with the Regulated Industries Committee).

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

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

CS by Regulated Industries on March 14, 2023:

The CS amends s. 212.03, (2), F.S., to:

- Add “as amended” after "Internal Revenue Code of 1986";
- Remove references to s. 205.044, F.S., relating to a tax not collected by the DOR; and
- Delete the reference to “department,” i.e., the Florida Department of Revenue, in the flush left provision because this is a provision that is only relevant to counties that self-administer the taxes imposed or authorized in ch. 125, F.S., including the local option tourist development tax.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2023	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 115 - 129
and insert:
Internal Revenue Code of 1986, as amended, to a person who owns,
operates, or manages the vacation rental shall collect and remit
all taxes due under this section and ss. 125.0104, 125.0108,
212.0305, and 212.055 which are related to the rental.

2. An advertising platform to which subparagraph 1. does
not apply shall collect and remit all taxes due from the owner,



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11 operator, or manager under this section and ss. 125.0104,
12 125.0108, 212.0305, and 212.055 which are related to the rental.
13 Of the total amount paid by the lessee or rentee, the amount
14 retained by the advertising platform for reservation or payment
15 service is not taxable under this section or ss. 125.0104,
16 125.0108, 212.0305, and 212.055.
17
18 In order to facilitate the remittance of such taxes, the
19 counties that have elected to self-administer the

By Senator DiCeglie

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1 A bill to be entitled
 2 An act relating to vacation rentals; amending s.
 3 212.03, F.S.; requiring advertising platforms to
 4 collect and remit specified taxes for certain vacation
 5 rental transactions; reordering and amending s.
 6 509.013, F.S.; defining the term "advertising
 7 platform"; amending s. 509.032, F.S.; conforming a
 8 cross-reference; revising the regulated activities of
 9 public lodging establishments and public food service
 10 establishments preempted to the state to include
 11 licensing; revising an exemption to the prohibition
 12 against certain local regulation of vacation rentals;
 13 expanding the authority of local laws, ordinances, or
 14 regulations to include requiring vacation rentals to
 15 register with local vacation rental registration
 16 programs; authorizing local governments to adopt
 17 vacation rental registration programs and impose fines
 18 for failure to register; authorizing local governments
 19 to charge fees up to specified amounts for processing
 20 registration applications; specifying requirements,
 21 procedures, and limitations for local vacation rental
 22 registration programs; authorizing local governments
 23 to terminate or refuse to issue or renew vacation
 24 rental registrations under certain circumstances;
 25 preempting the regulation of advertising platforms to
 26 the state; amending s. 509.241, F.S.; requiring
 27 applications for vacation rental licenses to include
 28 certain information, if applicable; authorizing the
 29 Division of Hotels and Restaurants of the Department

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

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30 of Business and Professional Regulation to issue
 31 temporary licenses upon receipt of vacation rental
 32 license applications; providing for expiration of
 33 temporary vacation rental licenses; requiring licenses
 34 issued by the division to be displayed conspicuously
 35 to the public inside the licensed establishment;
 36 requiring the owner or operator of certain vacation
 37 rentals to also display its vacation rental license
 38 number and applicable local registration number;
 39 creating s. 509.243, F.S.; requiring advertising
 40 platforms to require that persons placing
 41 advertisements for vacation rentals include certain
 42 information in the advertisements and attest to
 43 certain information; requiring advertising platforms
 44 to display and check such information; requiring the
 45 division to maintain certain information in a readily
 46 accessible electronic format by a certain date;
 47 requiring advertising platforms to remove an
 48 advertisement or a listing under certain conditions
 49 and within a specified timeframe; requiring
 50 advertising platforms to collect and remit specified
 51 taxes for certain transactions; authorizing the
 52 division to issue and deliver a notice to cease and
 53 desist for certain violations; providing that such
 54 notice does not constitute agency action for which
 55 certain hearings may be sought; authorizing the
 56 division to file certain proceedings; authorizing the
 57 division to seek certain remedies for the purpose of
 58 enforcing a cease and desist notice; authorizing the

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division to collect attorney fees and costs under certain circumstances; authorizing the division to impose a fine on advertising platforms for certain violations; requiring the division to issue written warnings or notices before commencing certain legal proceedings; requiring advertising platforms to adopt an antidiscrimination policy and to inform their users of the policy's provisions; providing construction; amending s. 509.261, F.S.; authorizing the division to revoke, refuse to issue or renew, or suspend vacation rental licenses under certain circumstances; requiring the division to issue a written warning or notice and provide an opportunity to cure certain violations before commencing certain legal proceedings; amending ss. 159.27, 212.08, 316.1955, 404.056, 477.0135, 509.221, 553.5041, 559.955, 705.17, 705.185, 717.1355, and 877.24, F.S.; conforming cross-references; providing applicability; authorizing the Department of Revenue to adopt emergency rules; providing requirements and an expiration for the emergency rules; providing for the expiration of such rulemaking authority; providing effective dates.

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

Section 1. Effective January 1, 2024, subsection (2) of section 212.03, Florida Statutes, is amended to read:

212.03 Transient rentals tax; rate, procedure, enforcement, exemptions.—

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(2) (a) The tax provided for herein shall be in addition to the total amount of the rental, shall be charged by the lessor or person receiving the rent in and by said rental arrangement to the lessee or person paying the rental, and shall be due and payable at the time of the receipt of such rental payment by the lessor or person, as defined in this chapter, who receives said rental or payment. The owner, lessor, or person receiving the rent shall remit the tax to the department at the times and in the manner hereinafter provided for dealers to remit taxes under this chapter. The same duties imposed by this chapter upon dealers in tangible personal property respecting the collection and remission of the tax; the making of returns; the keeping of books, records, and accounts; and the compliance with the rules and regulations of the department in the administration of this chapter shall apply to and be binding upon all persons who manage or operate hotels, apartment houses, roominghouses, tourist and trailer camps, and the rental of condominium units, and to all persons who collect or receive such rents on behalf of such owner or lessor taxable under this chapter.

(b) If a guest uses a payment system on or through an advertising platform, as defined in s. 509.013, to pay for the rental of a vacation rental located in this state, the advertising platform must collect and remit taxes as provided in this paragraph.

1. An advertising platform, as defined in s. 509.013, which owns, operates, or manages a vacation rental or which is related within the meaning of s. 267(b), s. 707(b), or s. 1504 of the Internal Revenue Code of 1986 to a person who owns, operates, or manages the vacation rental shall collect and remit all taxes

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due under this section and ss. 125.0104, 125.0108, 205.044, 212.0305, and 212.055 which are related to the rental.

2. An advertising platform to which subparagraph 1. does not apply shall collect and remit all taxes due from the owner, operator, or manager under this section and ss. 125.0104, 125.0108, 205.044, 212.0305, and 212.055 which are related to the rental. Of the total amount paid by the lessee or rentee, the amount retained by the advertising platform for reservation or payment service is not taxable under this section or ss. 125.0104, 125.0108, 205.044, 212.0305, and 212.055.

In order to facilitate the remittance of such taxes, the department and counties that have elected to self-administer the taxes imposed under chapter 125 must allow advertising platforms to register, collect, and remit such taxes.

Section 2. Section 509.013, Florida Statutes, is reordered and amended to read:

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

(1) "Advertising platform" means a person as defined in s. 1.01(3) who:

(a) Provides an online application, software, a website, or a system through which a vacation rental located in this state is advertised or held out to the public as available to rent for transient occupancy;

(b) Provides or maintains a marketplace for the renting of a vacation rental for transient occupancy; and

(c) Provides a reservation or payment system that facilitates a transaction for the renting of a vacation rental for transient occupancy and for which the person collects or

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receives, directly or indirectly, a fee in connection with the reservation or payment service provided for the rental transaction.

(3)(1) "Division" means the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

(8)(2) "Operator" means the owner, licensee, proprietor, lessee, manager, assistant manager, or appointed agent of a public lodging establishment or public food service establishment.

(4)(3) "Guest" means any patron, customer, tenant, lodger, boarder, or occupant of a public lodging establishment or public food service establishment.

(10)(a)(4)(a) "Public lodging establishment" includes a transient public lodging establishment as defined in subparagraph 1. and a nontransient public lodging establishment as defined in subparagraph 2.

1. "Transient public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

2. "Nontransient public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a

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175 place regularly rented to guests for periods of at least 30 days
 176 or 1 calendar month.

177

178 License classifications of public lodging establishments, and
 179 the definitions therefor, are set out in s. 509.242. For the
 180 purpose of licensure, the term does not include condominium
 181 common elements as defined in s. 718.103.

182 (b) The following are excluded from the definitions in
 183 paragraph (a):

184 1. Any dormitory or other living or sleeping facility
 185 maintained by a public or private school, college, or university
 186 for the use of students, faculty, or visitors.

187 2. Any facility certified or licensed and regulated by the
 188 Agency for Health Care Administration or the Department of
 189 Children and Families or other similar place regulated under s.
 190 381.0072.

191 3. Any place renting four rental units or less, unless the
 192 rental units are advertised or held out to the public to be
 193 places that are regularly rented to transients.

194 4. Any unit or group of units in a condominium,
 195 cooperative, or timeshare plan and any individually or
 196 collectively owned one-family, two-family, three-family, or
 197 four-family dwelling house or dwelling unit that is rented for
 198 periods of at least 30 days or 1 calendar month, whichever is
 199 less, and that is not advertised or held out to the public as a
 200 place regularly rented for periods of less than 1 calendar
 201 month, provided that no more than four rental units within a
 202 single complex of buildings are available for rent.

203 5. Any migrant labor camp or residential migrant housing

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204 permitted by the Department of Health under ss. 381.008-
 205 381.00895.

206 6. Any establishment inspected by the Department of Health
 207 and regulated by chapter 513.

208 7. Any nonprofit organization that operates a facility
 209 providing housing only to patients, patients' families, and
 210 patients' caregivers and not to the general public.

211 8. Any apartment building inspected by the United States
 212 Department of Housing and Urban Development or other entity
 213 acting on the department's behalf that is designated primarily
 214 as housing for persons at least 62 years of age. The division
 215 may require the operator of the apartment building to attest in
 216 writing that such building meets the criteria provided in this
 217 subparagraph. The division may adopt rules to implement this
 218 requirement.

219 9. Any roominghouse, boardinghouse, or other living or
 220 sleeping facility that may not be classified as a hotel, motel,
 221 timeshare project, vacation rental, nontransient apartment, bed
 222 and breakfast inn, or transient apartment under s. 509.242.

223 (9) (a) (5) (a) "Public food service establishment" means any
 224 building, vehicle, place, or structure, or any room or division
 225 in a building, vehicle, place, or structure where food is
 226 prepared, served, or sold for immediate consumption on or in the
 227 vicinity of the premises; called for or taken out by customers;
 228 or prepared before ~~prior to~~ being delivered to another location
 229 for consumption. The term includes a culinary education program,
 230 as defined in s. 381.0072(2), which offers, prepares, serves, or
 231 sells food to the general public, regardless of whether it is
 232 inspected by another state agency for compliance with sanitation

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standards.

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

1. Any place maintained and operated by a public or private school, college, or university:

a. For the use of students and faculty; or

b. Temporarily to serve such events as fairs, carnivals, food contests, cook-offs, and athletic contests.

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

a. For the use of members and associates; or

b. Temporarily to serve such events as fairs, carnivals, food contests, cook-offs, or athletic contests.

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

3. Any eating place maintained and operated by an individual or entity at a food contest, cook-off, or a temporary event lasting from 1 to 3 days which is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization. Upon request by the division, the event host must provide the division documentation of its status as a church or a religious, nonprofit fraternal, or nonprofit civic organization.

4. Any eating place located on an airplane, train, bus, or watercraft that ~~which~~ is a common carrier.

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5. Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place that is regulated under s. 381.0072.

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

7. Any place of business where the food available for consumption is limited to ice, beverages with or without garnishment, popcorn, or prepackaged items sold without additions or preparation.

8. Any theater, if the primary use is as a theater and if patron service is limited to food items customarily served to the admittees of theaters.

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

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

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

(2)(6) "Director" means the Director of the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

(11)(7) "Single complex of buildings" means all buildings or structures that are owned, managed, controlled, or operated under one business name and are situated on the same tract or

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plot of land that is not separated by a public street or highway.

(12)~~(8)~~ "Temporary food service event" means any event of 30 days or less in duration where food is prepared, served, or sold to the general public.

(13)~~(9)~~ "Theme park or entertainment complex" means a complex comprised of at least 25 contiguous acres owned and controlled by the same business entity and which contains permanent exhibitions and a variety of recreational activities and has a minimum of 1 million visitors annually.

(14)~~(10)~~ "Third-party provider" means, for purposes of s. 509.049, any provider of an approved food safety training program that provides training or such a training program to a public food service establishment that is not under common ownership or control with the provider.

(16)~~(11)~~ "Transient establishment" means any public lodging establishment that is rented or leased to guests by an operator whose intention is that such guests' occupancy will be temporary.

(17)~~(12)~~ "Transient occupancy" means occupancy when it is the intention of the parties that the occupancy will be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is not the sole residence of the guest, the occupancy is transient.

(15)~~(13)~~ "Transient" means a guest in transient occupancy.

(6)~~(14)~~ "Nontransient establishment" means any public lodging establishment that is rented or leased to guests by an operator whose intention is that the dwelling unit occupied will be the sole residence of the guest.

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(7)~~(15)~~ "Nontransient occupancy" means occupancy when it is the intention of the parties that the occupancy will not be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is the sole residence of the guest, the occupancy is nontransient.

(5)~~(16)~~ "Nontransient" means a guest in nontransient occupancy.

Section 3. Paragraph (c) of subsection (3) and paragraphs (a) and (b) of subsection (7) of section 509.032, Florida Statutes, are amended, and paragraph (d) is added to subsection (7) of that section, to read:

509.032 Duties.—

(3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD SERVICE EVENTS.—The division shall:

(c) Administer a public notification process for temporary food service events and distribute educational materials that address safe food storage, preparation, and service procedures.

1. Sponsors of temporary food service events shall notify the division not less than 3 days before the scheduled event of the type of food service proposed, the time and location of the event, a complete list of food service vendors participating in the event, the number of individual food service facilities each vendor will operate at the event, and the identification number of each food service vendor's current license as a public food service establishment or temporary food service event licensee. Notification may be completed orally, by telephone, in person, or in writing. A public food service establishment or food service vendor may not use this notification process to circumvent the license requirements of this chapter.

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2. The division shall keep a record of all notifications received for proposed temporary food service events and shall provide appropriate educational materials to the event sponsors and notify the event sponsors of the availability of the food-recovery brochure developed under s. 595.420.

3.a. Unless excluded under s. 509.013(9)(b) ~~or~~ ~~509.013(5)(b)~~, a public food service establishment or other food service vendor must obtain one of the following classes of license from the division: an individual license, for a fee of no more than \$105, for each temporary food service event in which it participates; or an annual license, for a fee of no more than \$1,000, that entitles the licensee to participate in an unlimited number of food service events during the license period. The division shall establish license fees, by rule, and may limit the number of food service facilities a licensee may operate at a particular temporary food service event under a single license.

b. Public food service establishments holding current licenses from the division may operate under the regulations of such a license at temporary food service events.

(7) PREEMPTION AUTHORITY.—

(a) The regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, licensing, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state. This paragraph does not preempt the authority of a local government or local enforcement district to conduct inspections of public lodging and public food service

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establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206.

(b) 1. A local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011, including when such law, ordinance, or regulation is amended to be less restrictive or to comply with the local registration requirements provided in this paragraph, or when a law, ordinance, or regulation adopted after June 1, 2011, regulates vacation rentals, if such law, ordinance, or regulation is less restrictive than a law, ordinance, or regulation that was in effect on June 1, 2011. Notwithstanding paragraph (a), a local law, ordinance, or regulation may require the registration of vacation rentals with a local vacation rental registration program. Local governments may adopt a vacation rental registration program pursuant to subparagraph 3. and impose a fine for failure to register under the vacation rental registration program.

2. Local governments may charge a fee of no more than \$50 for processing an individual registration application or \$100 for processing a collective registration application. A local law, ordinance, or regulation may not require renewal of a registration more than once per year. However, if there is a change of ownership, the new owner may be required to submit a new application for registration.

3. As a condition of registration, the local law, ordinance, or regulation may only require the owner or operator

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of a vacation rental to:

a. Submit identifying information about the owner or the owner's agents and the subject vacation rental property.

b. Obtain a license as a transient public lodging establishment issued by the division within 60 days after local registration.

c. Obtain all required tax registrations, receipts, or certificates issued by the Department of Revenue, a county, or a municipal government.

d. Update required information on a continuing basis to ensure it is current.

e. Comply with parking standards and solid waste handling and containment requirements, so long as such standards and requirements are not imposed solely on vacation rentals.

f. Designate and maintain at all times a responsible party who is capable of responding to complaints and other immediate problems related to the vacation rental, including being available by telephone at a listed phone number.

g. Pay in full all recorded municipal or county code liens against the subject property. The local government may withdraw its acceptance of a registration on the basis of an unsatisfied recorded municipal or county code lien.

4.a. Within 15 business days after receiving an application for registration of a vacation rental, the local government must review the application for completeness and accept the registration of the vacation rental or issue a written notice specifying with particularity any areas that are deficient. Such notice may be provided by United States mail or electronically.

b. The vacation rental owner or operator and the local

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government may agree to a reasonable request to extend the timeframes provided in this subparagraph, particularly in the event of a force majeure or other extraordinary circumstance.

c. When a local government denies an application for registration of a vacation rental, the local government must give written notice to the applicant. Such notice may be provided by United States mail or electronically. The notice must specify with particularity the factual reasons for the denial and include a citation to the applicable portions of an ordinance, a rule, a statute, or other legal authority for the denial of the registration. A local government may not deny an applicant from reapplying if the applicant cures the identified deficiencies.

d. If the local government fails to accept or deny the registration within the timeframes provided in this subparagraph, the application is deemed accepted.

e. Upon an accepted registration of a vacation rental, a local government shall assign a unique registration number to the vacation rental or other indicia of registration and provide the registration number or other indicia of registration to the owner or operator of the vacation rental in writing or electronically.

5. The local government may terminate or refuse to issue or renew a vacation rental registration when:

a. The operation of the subject premises violates a registration requirement authorized pursuant to this paragraph or a local law, ordinance, or regulation that does not apply solely to vacation rentals; or

b. The premises and its owner are the subject of a final

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order or judgment lawfully directing the termination of the premises' use as a vacation rental.

(d) The regulation of advertising platforms is preempted to the state as provided in this chapter.

Section 4. Effective January 1, 2024, subsections (2) and (3) of section 509.241, Florida Statutes, are amended to read:

509.241 Licenses required; exceptions.—

(2) APPLICATION FOR LICENSE.—Each person who plans to open a public lodging establishment or a public food service establishment shall apply for and receive a license from the division before ~~prior to~~ the commencement of operation. A condominium association, as defined in s. 718.103, which does not own any units classified as vacation rentals or timeshare projects under s. 509.242(1)(c) or (g) is not required to apply for or receive a public lodging establishment license. All applications for a vacation rental license must, if applicable, include the local registration number or other proof of registration required by local law, ordinance, or regulation. Upon receiving an application for a vacation rental license, the division may grant a temporary license that authorizes the vacation rental to begin operation while the application is pending and to post the information required under s. 509.243(1)(c). The temporary license automatically expires upon final agency action regarding the license application.

(3) DISPLAY OF LICENSE.—Any license issued by the division ~~must shall~~ be conspicuously displayed to the public inside in ~~the office or lobby of the~~ licensed establishment. Public food service establishments that ~~which~~ offer catering services must ~~shall~~ display their license number on all advertising for

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catering services. The owner or operator of a vacation rental offered for transient occupancy through an advertising platform must also display the vacation rental license number and, if applicable, the local registration number.

Section 5. Effective January 1, 2024, section 509.243, Florida Statutes, is created to read:

509.243 Advertising platforms.—

(1) (a) An advertising platform must require that a person who places an advertisement for the rental of a vacation rental:

1. Include in the advertisement the vacation rental license number and, if applicable, the local registration number; and
2. Attest to the best of the person's knowledge that the license number for the vacation rental property and the local registration are current, valid, and accurately stated in the advertisement.

(b) An advertising platform must display the vacation rental license number and, if applicable, the local registration number. Effective July 1, 2024, the advertising platform must check that the vacation rental license number provided by the owner or operator appears as current in the information posted by the division pursuant to paragraph (c) and applies to the subject vacation rental before publishing the advertisement on its platform and again at the end of each calendar quarter that the advertisement remains on its platform.

(c) By July 1, 2024, the division shall maintain vacation rental license information in a readily accessible electronic format that is sufficient to facilitate prompt compliance with the requirements of this subsection by an advertising platform or a person placing an advertisement on an advertising platform

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for transient rental of a vacation rental.

(2) An advertising platform must remove from public view an advertisement or a listing from its online application, software, website, or system within 15 business days after being notified by the division in writing that the subject advertisement or listing for the rental of a vacation rental located in this state fails to display a valid license number issued by the division.

(3) If a guest uses a payment system on or through an advertising platform to pay for the rental of a vacation rental located in this state, the advertising platform must collect and remit all taxes due under ss. 125.0104, 125.0108, 205.044, 212.03, 212.0305, and 212.055 related to the rental as provided in s. 212.03(2)(b).

(4) If the division has probable cause to believe that a person not licensed by the division has violated this chapter or any rule adopted pursuant thereto, the division may issue and deliver to such person a notice to cease and desist from the violation. The issuance of a notice to cease and desist does not constitute agency action for which a hearing under s. 120.569 or s. 120.57 may be sought. For the purpose of enforcing a cease and desist notice, the division may file a proceeding in the name of the state seeking the issuance of an injunction or a writ of mandamus against any person who violates any provision of the notice. If the division is required to seek enforcement of the notice for a penalty pursuant to s. 120.69, it is entitled to collect attorney fees and costs, together with any cost of collection.

(5) The division may fine an advertising platform an amount

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not to exceed \$1,000 per offense for violations of this section or of the rules of the division. For the purposes of this subsection, the division may regard as a separate offense each day or portion of a day in which an advertising platform is operated in violation of this section or rules of the division. The division shall issue a written warning or notice and provide the advertising platform 15 days to cure a violation before commencing any legal proceeding under subsection (4).

(6) Advertising platforms shall adopt an antidiscrimination policy to help prevent discrimination among their users and shall inform all users of their services that it is illegal to refuse accommodation to an individual based on race, creed, color, sex, pregnancy, physical disability, or national origin pursuant to s. 509.092.

(7) Advertising platforms that comply with the requirements of this section are deemed to be in compliance with the requirements of this chapter. This section does not create and is not intended to create a private cause of action against advertising platforms. An advertising platform may not be held liable for any action it takes voluntarily in good faith in relation to its users to comply with this chapter or the advertising platform's terms of service.

Section 6. Subsections (10) and (11) are added to section 509.261, Florida Statutes, to read:

509.261 Revocation or suspension of licenses; fines; procedure.—

(10) The division may revoke, refuse to issue or renew, or suspend for a period of not more than 30 days a vacation rental license when:

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(a) The operation of the subject premises violates the terms of an applicable lease or property restriction, including any property restriction adopted pursuant to chapter 718, chapter 719, or chapter 720, as determined by a final order of a court of competent jurisdiction or a written decision by an arbitrator authorized to arbitrate a dispute relating to the subject property and a lease or property restriction;

(b) The owner or operator fails to provide proof of registration, if required by local law, ordinance, or regulation;

(c) The registration of the vacation rental is terminated by a local government as provided in s. 509.032(7)(b)5.; or

(d) The premises and its owner are the subject of a final order or judgment lawfully directing the termination of the premises' use as a vacation rental.

(11) The division may suspend, for a period of not more than 30 days, a vacation rental license when the owner or operator has been found by the code enforcement board, pursuant to s. 162.06, to have two or more code violations related to the vacation rental during a period of 90 days. The division shall issue a written warning or notice and provide an opportunity to cure a violation before commencing any legal proceeding under this subsection.

Section 7. Subsection (12) of section 159.27, Florida Statutes, is amended to read:

159.27 Definitions.—The following words and terms, unless the context clearly indicates a different meaning, shall have the following meanings:

(12) "Public lodging or restaurant facility" means property

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used for any public lodging establishment as defined in s. 509.242 or public food service establishment as defined in s. 509.013 ~~s. 509.013(5)~~ if it is part of the complex of, or necessary to, another facility qualifying under this part.

Section 8. Paragraph (jj) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer

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639 this subsection.

640 (jj) *Complimentary meals*.—Also exempt from the tax imposed
 641 by this chapter are food or drinks that are furnished as part of
 642 a packaged room rate by any person offering for rent or lease
 643 any transient living accommodations as described in s.
 644 509.013(10)(a) ~~s. 509.013(4)(a)~~ which are licensed under part I
 645 of chapter 509 and which are subject to the tax under s. 212.03,
 646 if a separate charge or specific amount for the food or drinks
 647 is not shown. Such food or drinks are considered to be sold at
 648 retail as part of the total charge for the transient living
 649 accommodations. Moreover, the person offering the accommodations
 650 is not considered to be the consumer of items purchased in
 651 furnishing such food or drinks and may purchase those items
 652 under conditions of a sale for resale.

653 Section 9. Paragraph (b) of subsection (4) of section
 654 316.1955, Florida Statutes, is amended to read:

655 316.1955 Enforcement of parking requirements for persons
 656 who have disabilities.—

657 (4)

658 (b) Notwithstanding paragraph (a), a theme park or an
 659 entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~
 660 which provides parking in designated areas for persons who have
 661 disabilities may allow any vehicle that is transporting a person
 662 who has a disability to remain parked in a space reserved for
 663 persons who have disabilities throughout the period the theme
 664 park is open to the public for that day.

665 Section 10. Subsection (5) of section 404.056, Florida
 666 Statutes, is amended to read:

667 404.056 Environmental radiation standards and projects;

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668 certification of persons performing measurement or mitigation
 669 services; mandatory testing; notification on real estate
 670 documents; rules.—

671 (5) NOTIFICATION ON REAL ESTATE DOCUMENTS.—Notification
 672 shall be provided on at least one document, form, or application
 673 executed at the time of, or ~~before~~ prior to, contract for sale
 674 and purchase of any building or execution of a rental agreement
 675 for any building. Such notification must ~~shall~~ contain the
 676 following language:

677 "RADON GAS: Radon is a naturally occurring radioactive gas
 678 that, when it has accumulated in a building in sufficient
 679 quantities, may present health risks to persons who are exposed
 680 to it over time. Levels of radon that exceed federal and state
 681 guidelines have been found in buildings in Florida. Additional
 682 information regarding radon and radon testing may be obtained
 683 from your county health department."

684
 685 The requirements of this subsection do not apply to any
 686 residential transient occupancy, as described in s. 509.013 ~~s.~~
 687 ~~509.013(12)~~, provided that such occupancy is 45 days or less in
 688 duration.

689
 690 Section 11. Subsection (6) of section 477.0135, Florida
 691 Statutes, is amended to read:

692 477.0135 Exemptions.—

693 (6) A license is not required of any individual providing
 694 makeup or special effects services in a theme park or
 695 entertainment complex to an actor, stunt person, musician,
 696 extra, or other talent, or providing makeup or special effects

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697 services to the general public. The term "theme park or
698 entertainment complex" has the same meaning as in s. 509.013 ~~s.~~
699 ~~509.013(9)~~.

700 Section 12. Paragraph (b) of subsection (2) of section
701 509.221, Florida Statutes, is amended to read:

702 509.221 Sanitary regulations.—

703 (2)

704 (b) Within a theme park or entertainment complex as defined
705 in s. 509.013 ~~s. 509.013(9)~~, the bathrooms are not required to
706 be in the same building as the public food service
707 establishment, so long as they are reasonably accessible.

708 Section 13. Paragraph (b) of subsection (5) of section
709 553.5041, Florida Statutes, is amended to read:

710 553.5041 Parking spaces for persons who have disabilities.—

711 (5) Accessible perpendicular and diagonal accessible
712 parking spaces and loading zones must be designed and located to
713 conform to ss. 502 and 503 of the standards.

714 (b) If there are multiple entrances or multiple retail
715 stores, the parking spaces must be dispersed to provide parking
716 at the nearest accessible entrance. If a theme park or an
717 entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~
718 provides parking in several lots or areas from which access to
719 the theme park or entertainment complex is provided, a single
720 lot or area may be designated for parking by persons who have
721 disabilities, if the lot or area is located on the shortest
722 accessible route to an accessible entrance to the theme park or
723 entertainment complex or to transportation to such an accessible
724 entrance.

725 Section 14. Paragraph (b) of subsection (5) of section

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726 559.955, Florida Statutes, is amended to read:

727 559.955 Home-based businesses; local government
728 restrictions.—

729 (5) The application of this section does not supersede:

730 (b) Local laws, ordinances, or regulations related to
731 transient public lodging establishments, as defined in s.
732 509.013(10)(a)1. ~~s. 509.013(4)(a)1.~~, that are not otherwise
733 preempted under chapter 509.

734 Section 15. Subsection (2) of section 705.17, Florida
735 Statutes, is amended to read:

736 705.17 Exceptions.—

737 (2) Sections 705.1015-705.106 do not apply to any personal
738 property lost or abandoned on premises located within a theme
739 park or entertainment complex, as defined in s. 509.013 ~~s.~~
740 ~~509.013(9)~~, or operated as a zoo, a museum, or an aquarium, or
741 on the premises of a public food service establishment or a
742 public lodging establishment licensed under part I of chapter
743 509, if the owner or operator of such premises elects to comply
744 with s. 705.185.

745 Section 16. Section 705.185, Florida Statutes, is amended
746 to read:

747 705.185 Disposal of personal property lost or abandoned on
748 the premises of certain facilities.—When any lost or abandoned
749 personal property is found on premises located within a theme
750 park or entertainment complex, as defined in s. 509.013 ~~s.~~
751 ~~509.013(9)~~, or operated as a zoo, a museum, or an aquarium, or
752 on the premises of a public food service establishment or a
753 public lodging establishment licensed under part I of chapter
754 509, if the owner or operator of such premises elects to comply

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with this section, any lost or abandoned property must be delivered to such owner or operator, who must take charge of the property and make a record of the date such property was found. If the property is not claimed by its owner within 30 days after it is found, or a longer period of time as may be deemed appropriate by the owner or operator of the premises, the owner or operator of the premises may not sell and must dispose of the property or donate it to a charitable institution that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code for sale or other disposal as the charitable institution deems appropriate. The rightful owner of the property may reclaim the property from the owner or operator of the premises at any time before the disposal or donation of the property in accordance with this section and the established policies and procedures of the owner or operator of the premises. A charitable institution that accepts an electronic device, as defined in s. 815.03(9), access to which is not secured by a password or other personal identification technology, shall make a reasonable effort to delete all personal data from the electronic device before its sale or disposal.

Section 17. Section 717.1355, Florida Statutes, is amended to read:

717.1355 Theme park and entertainment complex tickets.—This chapter does not apply to any tickets for admission to a theme park or entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~, or to any tickets to a permanent exhibition or recreational activity within such theme park or entertainment complex.

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Section 18. Subsection (8) of section 877.24, Florida Statutes, is amended to read:

877.24 Nonapplication of s. 877.22.—Section 877.22 does not apply to a minor who is:

(8) Attending an organized event held at and sponsored by a theme park or entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~.

Section 19. The application of this act does not supersede any current or future declaration or declaration of condominium adopted pursuant to chapter 718, Florida Statutes, cooperative document adopted pursuant to chapter 719, Florida Statutes, or declaration or declaration of covenant adopted pursuant to chapter 720, Florida Statutes.

Section 20. (1) The Department of Revenue is authorized, and all conditions are deemed to be met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing the amendment made by this act to s. 212.03, Florida Statutes, including establishing procedures to facilitate the remittance of taxes.

(2) Notwithstanding any other law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(3) This section expires January 1, 2026.

Section 21. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.



THE FLORIDA SENATE
SENATOR NICK DICEGLIE
District 18

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

March 6, 2023

Dear Chair Gruters,

I respectfully request that **SB 714 – Vacation Rentals** be placed on the agenda of the Regulated Industries Committee at your earliest convenience.

If my office can be of any assistance to the committee please do not hesitate to contact me at DiCeglie.Nick@flsenate.gov or (850) 487-5018. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Nick DiCeglie".

Nick DiCeglie

State Senator, District 18

CC: Staff Director: Booter Imhof
Administrative Assistant: Susan Datres

Proudly Serving Pinellas County

Transportation Committee, Chair ~ Banking and Insurance Committee, Vice Chair ~
Commerce and Tourism Committee ~ Fiscal Policy Committee ~ Judiciary Committee ~
Rules Committee ~ Joint Legislative Auditing Committee

REVENUE ESTIMATING CONFERENCE

Revenue Source: Sales and Use Tax and Local Taxes and Fees

Issue: Vacation Rentals

Bill Number(s): SB 714

☒ **Entire Bill**

☐ **Partial Bill:**

Sponsor(s): Senator DiCeglie

Month/Year Impact Begins: July 1st, 2023 or Upon Becoming Law

Date(s) Conference Reviewed:

Section 1: Narrative

- a. **Current Law:** Advertising platforms are not defined under current law. Transient Rentals are currently taxable under Section 212.03 F.S.
- b. **Proposed Change:** The Proposed Language provides the new definition for “Advertising platform” replacing the current subsection 509.013(1) F.S. States the advertising platform must collect and remit all transient rent taxes imposed on the rental. Provides that the portion of payment for the use of the rental which is retained by the advertising platform as a fee is not taxable as transient rent.

Section 2: Description of Data and Sources

Section 3: Methodology (Include Assumptions and Attach Details)

The proposed changes do not appear to provide for planning opportunities that do not currently exist in the market today. The middle estimate shows a zero impact for the proposed language under the assumptions that there will be no business model changes or material changes to the amount collected due to the proposed language. However, the tax base is quite large (over \$20 billion), so even small changes at the margins of the industry may generate an impact above the significance level. There are also a variety of organizational structures between the owners, the operators, and the platforms. For these two reasons, it is not possible to quantify what changes, if any, may occur outside of the middle estimate. Therefore, the proposed impact uses a positive indeterminate for the high estimate and a negative indeterminate for the low estimate.

This bill has appeared before the conference thrice before. On all occasions, the middle impact was adopted.

Section 4: Proposed Fiscal Impact

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2023-24	**	**	0	0	(**)	(**)
2024-25	**	**	0	0	(**)	(**)
2025-26	**	**	0	0	(**)	(**)
2026-27	**	**	0	0	(**)	(**)
2027-28	**	**	0	0	(**)	(**)

Revenue Distribution: Sales and Use Tax and Local Taxes and Fees

Section 5: Consensus Estimate (Adopted: 03/03/2023): The Conference adopted the middle estimate.

	GR		Trust		Local/Other		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2023-24	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2024-25	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2025-26	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2026-27	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2027-28	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

State of Florida
Office of the Attorney General
Informal Legal Opinion

Number: INFORMAL
Date: October 22, 2013
Subject: Vacation Rental Operations -- Local Ordinances

Mr. Albert J. Hadeed
Flagler County Attorney
1769 East Moody Boulevard, Building 2
Bunnell, Florida 32110

Dear Mr. Hadeed:

Thank you for contacting this office for assistance in determining whether Flagler County may intercede and stop vacation rental operations, as defined in Chapter 509, Florida Statutes, in private homes that were zoned, prior to June 1, 2011, for single-family residential use. Due to an increase in the number of homes being used as vacation rentals in Flagler County, many permanent residents in neighborhoods with vacation rentals have raised concerns about the negative effects such rentals have on their quality of life and the character of their neighborhood. You state that Flagler County has no regulations governing vacation rentals which predate the 2011 legislation.

In sum, absent the existence of a local ordinance on or before June 1, 2011, regulating the rental of vacation homes in Flagler County, section 509.032(7), Florida Statutes, preempts local regulation of lodging establishments and public food establishments to the state and precludes a local ordinance or regulation enacted after June 1, 2011, restricting the use of vacation rentals, prohibiting vacation rentals, or regulating vacation rentals based solely on their classification, use, or occupancy.

A number of county residents have argued that transient vacation rentals are a commercial activity which is a non-conforming use of a house constructed under a permit for a single-family residence and located in an area zoned for single-family residences. The county has considered this argument and concluded that a residential zoning category, in and of itself, is not sufficient to serve as a pre-existing prohibition of vacation rentals in private homes.

Section 509.032(7)(a), Florida Statutes, preempts the regulation of lodging establishments and public food establishments to the state. Subsection (b) of the statute states:

"A local law, ordinance, or regulation may not restrict the use of vacation rentals, prohibit vacation rentals, or regulate vacation rentals based solely on their classification, use, or occupancy. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011." [1] (e.s.)

A "vacation rental" is defined as "any unit or group of units in a condominium, cooperative, or time-share plan or any individual or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment." [2] (e.s.) Thus, the plain language of the statute recognizes that a single-family house or dwelling may be a "vacation rental" which is used as a transient public lodging establishment subject to regulation by the state. As this office has previously recognized, with the enactment of section 509.032(7)(b), Florida Statutes, the ability of a local government to regulate vacation rentals by enactment of an ordinance after June 1, 2011, has been preempted to the state. [3] While you have premised your question on the existence of a single-family zoning regulation in existence prior to June 1, 2011, you have also indicated that no county regulations of vacation rentals existed on that date.

This office agrees with the county's conclusion that a local zoning ordinance for single-family homes existing on or before June 1, 2011, that did not restrict the rental of such property as a vacation rental, cannot now be interpreted to do so. The clear language in section 509.032(7), Florida Statutes, prohibits any local regulation on or after June 1, 2011, based upon the use of a residence as a vacation rental.

Sincerely,

Lagran Saunders
Attorney General

ALS/tshr

[1] Section 509.032(7)(c), Fla. Stat., provides:

"Paragraph (b) does not apply to any local law, ordinance, or regulation exclusively relating to property valuation as a criterion for vacation rental if the local law, ordinance, or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation."

[2] Section 509.242(1)(c), Fla. Stat. See s. 509.013(4), Fla. Stat., defining "[p]ublic lodging establishment" for purposes of Ch. 509, Fla. Stat.:

"(4)(a) 'Public lodging establishment' includes a transient public lodging establishment as defined in subparagraph 1. and a nontransient public lodging establishment as defined in subparagraph 2.

1. 'Transient public lodging establishment' means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests."

[3] Informal Op. to Marino, dated August 3, 2012. Cf. City of Venice v. Gwynn, 76 So. 3d 401 (Fla. 2d DCA 2011), in which a city's code prohibited owners of single-family dwellings in residential neighborhoods from renting their property for short periods of times; the court affirmed the city's

administrative determination that owner's non-conforming use of property as a vacation rental violated city's ordinance regarding short-term rentals.

The Florida Senate
APPEARANCE RECORD

SB714

Meeting Date

3/14/2023

Committee

Reg. Turley

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Jack Cory

Phone

850 893-0993

Address

730 East Ford Ave

Email

JACKCORY@PACONSULVIA.COM

Street

Tallah

FL

3230

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

City of Jacksonville Beach

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3-14-23

Meeting Date

714

Bill Number or Topic

Regulated Ind

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Joe Earman

Phone

772-473-4395

Address

1801 27th ST

Email

jearman@ircgov.com

Street

Vero Beach

FL

32940

City

State

Zip

Speaking:

☐

For

☐

Against

☒

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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SB 714

Bill Number or Topic

3/14

Meeting Date

REG. IND.

Committee

Amendment Barcode (if applicable)

Name

JASON STEELE

Phone

321-258-8993

Address

1465 S. HARBOR CITY

Email

**JASONSTEELE
@ME.COM**

Street

904

MELB

FLA 32901

City

State

Zip

Reset Form

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

**SAT BOH.
CAPE CAN AVERAL
INDIAN LANTIC.**

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/14/23
Meeting Date

Reg. Industries
Committee

SB 714

Bill Number or Topic

Amendment Barcode (if applicable)

Name MARK Ryan Phone 321 298-4334

Address 4116 Alpine Way Email mkr24eicloud.com
Street
Tallahassee FL 32303
City State Zip

Speaking: ☐ For ☒ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/14

Meeting Date

714

Bill Number or Topic

Reg. Industries

Committee

Amendment Barcode (if applicable)

Name Samantha Padgett

Phone 850-224-2250

Address 230 S. Adams St.

Email spadgett@fla.org

Street

Tallahassee, FL

230 S. Adams St.

City

State

32311

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Florida Restaurant & Lodging

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/14/23

Meeting Date

714

Bill Number or Topic

Reg. Ind.

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Mayor Tyler Payne
Treasure Island

Phone

727-204-0143

Address

24 Marina Ter

Street

Email

Treasure Island, FL 33706

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 722

INTRODUCER: Senator Burton

SUBJECT: Practice of Veterinary Medicine

DATE: March 13, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	Favorable
2.			AG	
3.			RC	

I. Summary:

SB 722 exempts a veterinarian who has an active license in good standing in another United States jurisdiction to perform, as an unpaid volunteer (exempted unpaid volunteer), dog and cat sterilization services, and routine preventative health services at the time of such sterilization services.

The exempted unpaid volunteer must be under the responsible supervision of a Florida-licensed veterinarian, which requires control, direction, and regulation by a licensed veterinarian of the veterinary services delegated to unlicensed personnel. The supervising licensed veterinarian is responsible for all acts performed by an exempted unpaid volunteer acting under such supervision.

An exempted unpaid volunteer, if not otherwise licensed as a veterinarian in Florida, is not eligible to apply for a premises permit for a permanent or mobile establishment in which veterinary services may be provided.

The bill has no fiscal impact on state government. See Section V, Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Veterinary Medicine, the Practice of Veterinary Medicine, and Exempted Persons

In 1979, the Legislature determined the practice of veterinary medicine to be potentially dangerous to public health and safety if conducted by incompetent and unlicensed practitioners

and that minimum requirements for the safe practice of veterinary medicine are necessary.¹ The Board of Veterinary Medicine (board) in the Department of Business and Professional Regulation (DBPR) implements the provisions of ch. 474, F.S., on Veterinary Medical Practice.² A veterinarian is a health care practitioner licensed to engage in the practice of veterinary medicine in Florida under ch. 474, F.S.³

Veterinary medicine includes, with respect to animals:⁴

- Surgery;
- Acupuncture;
- Obstetrics;
- Dentistry;
- Physical therapy;
- Radiology;
- Theriogenology (reproductive medicine);⁵ and
- Other branches or specialties of veterinary medicine.

The practice of veterinary medicine is the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease, or holding oneself out as performing any of these functions.⁶ Veterinarians who are incompetent or present a danger to the public are subject to discipline and may be prohibited from practicing in the state.⁷

Ten categories of persons are exempt from complying with ch. 474, F.S.:⁸

- Faculty veterinarians with assigned teaching duties at accredited⁹ institutions;

¹ See s. 474.201, F.S.

² See ss. 474.204 through 474.2125, and s. 474.217, F.S., concerning the powers and duties of the board.

³ See s. 474.202(11), F.S.

⁴ See s. 474.202(13), F.S. Section 474.202(1), F.S., defines “animal” as “any mammal other than a human being or any bird, amphibian, fish, or reptile, wild or domestic, living or dead.”

⁵ The Society for Theriogenology, established in 1954, is composed of veterinarians dedicated to standards of excellence in animal reproduction. See <https://www.therio.org/> (last visited Mar. 8, 2023).

⁶ See s. 474.202(9), F.S. Also included is the determination of the health, fitness, or soundness of an animal, and the performance of any manual procedure for the diagnosis or treatment of pregnancy, fertility, or infertility of animals.

⁷ See s. 474.213, F.S., on prohibited acts, and s. 474.214, F.S., on disciplinary proceedings. See also s. 474.201, F.S.

⁸ See s. 474.203, F.S.

⁹ Sections 474.203(1) and (2), F.S., provide that accreditation of a school or college must be granted by the American Veterinary Medical Association (AVMA) Council on Education, or the AVMA Commission for Foreign Veterinary Graduates. The AVMA Council on Education is recognized by the Council for Higher Education Accreditation (CHEA) as the accrediting body for schools and programs that offer the professional Doctor of Veterinary Medicine degree (or its equivalent) in the United States and Canada, and may also approve foreign veterinary colleges. See <https://www.avma.org/professionaldevelopment/education/accreditation/colleges/pages/coe-pp-overview-of-the-coe.aspx> (last visited Mar. 8, 2023). The AVMA Commission for Foreign Veterinary Graduates assists graduates of foreign, non-accredited schools to meet the requirement of most states that such foreign graduates successfully complete an educational equivalency assessment certification program. See <https://www.avma.org/professionaldevelopment/education/foreign/pages/ecfvg-about-us.aspx> (last visited Mar. 8, 2023). In turn, the Council for Higher Education Accreditation, a national advocate for regulation of academic quality through accreditation, is an association of degree-granting colleges and universities. See <http://chea.org/about> (last visited Mar. 8, 2023).

- Intern/resident veterinarians at accredited institutions who are graduates of an accredited institution, but only until they complete or terminate their training;
- Students in a school or college of veterinary medicine who perform assigned duties by an instructor (no accreditation of the institution is required), or work as preceptors¹⁰ (if the preceptorship is required for graduation from an accredited institution);
- Doctors of veterinary medicine employed by a state agency or the United States Government while actually engaged in the performance of official duties at the installations for which the services were engaged;
- Persons or their employees caring for the persons' own animals, as well as part-time or temporary employees, or independent contractors, who are hired by an owner to help with herd management and animal husbandry tasks (excluding immunization or treatment of diseases that are communicable to humans and significant to public health) for herd/flock animals, with certain limitations; however, the exemption is not available to a person licensed as a veterinarian in another state and temporarily practicing in Florida, or convicted of violating ch. 828, F.S., on animal cruelty, or of any similar offense in another jurisdiction, and employment may not be provided for the purpose of circumventing ch. 474, F.S.;
- Certain entities or persons¹¹ that conduct experiments and scientific research on animals as part of the development of pharmaceuticals, biologicals, serums, or treatment methods or techniques to diagnose or treat of human ailments, or in the study and development of methods and techniques applicable to the practice of veterinary medicine;
- Veterinary aides, nurses, laboratory technicians, preceptors, or other employees of a licensed veterinarian, who administer medication or provide help or support under the responsible supervision¹² of a licensed veterinarian;
- Certain non-Florida veterinarians who are licensed and actively practicing veterinary medicine in another state, are board certified in a specialty recognized by the Florida Board of Veterinary Medicine, and are assisting upon request of a Florida-licensed veterinarian to consult on the treatment of a specific animal or on the treatment on a specific case of the animals of a single owner;
- Employees, agents, or contractors of public or private animal shelters, humane organizations, or animal control agencies operated by a humane organization, county, municipality, or incorporated political subdivision, whose work is confined solely to implanting radio frequency identification device microchips in dogs and cats in accordance with s. 823.15, F.S.;¹³ and
- Paramedics or emergency medical technicians providing emergency medical care to a police canine¹⁴ injured in the line of duty while at the scene of the emergency or while the police canine is being transported to a veterinary clinic or similar facility.

¹⁰ A preceptor is a skilled practitioner or faculty member, who directs, teaches, supervises, and evaluates students in a clinical setting to allow practical experience with patients. *See*

<https://www.merriam-webster.com/dictionary/preceptor#medicalDictionary> (last visited Mar. 8, 2023).

¹¹ *See* s. 474.203(6), F.S., which states that the exemption applies to “[s]tate agencies, accredited schools, institutions, foundations, business corporations or associations, physicians licensed to practice medicine and surgery in all its branches, graduate doctors of veterinary medicine, or persons under the direct supervision thereof”

¹² The term “responsible supervision” is defined in s. 474.202(10), F.S., as the “control, direction, and regulation by a licensed doctor of veterinary medicine of the duties involving veterinary services” delegated to unlicensed personnel.

¹³ *See* s. 823.15(5), F.S., which authorizes such persons to perform microchipping of dogs and cats.

¹⁴ Section 401.254, F.S., defines the term “police canine” as “any canine that is owned, or the service of which is employed, by a state or local law enforcement agency, a correctional agency, a fire department, a special fire district, or the State Fire

Persons who are eligible faculty veterinarians, intern veterinarians, resident veterinarians, or state or federal veterinarians exempt from complying with ch. 474, F.S., are deemed to be duly licensed practitioners authorized to prescribe drugs or medicinal supplies.¹⁵

Veterinarian/Client/Patient Relationship

Section 474.202(12), F.S., defines a “veterinarian/client/patient relationship” as one in which a veterinarian has assumed responsibility for making medical judgments about the health of an animal and its need for medical treatment. The term “patient” means any animal “for which a veterinarian practices veterinary medicine.”¹⁶

The term “valid veterinarian-client-patient relationship” (VCPR) used in federal regulations issued by the federal Food and Drug Administration (FDA), an agency within the United States Department of Health and Human Services, is similar to the definition in s. 474.202(12), F.S.¹⁷

The federal VCPR definition requires that veterinarians physically examine animal patients and make medically appropriate and timely visits to the location where the animals are kept.¹⁸ The FDA has amended its animal drug regulations to implement veterinary feed directive drugs.¹⁹ (VFD).²⁰ The FDA requires veterinarians to consider state VCPR requirements.²¹

Veterinarian Licensing

Chapter 474, F.S., relating to Veterinary Medical Practice (act) provides several pathways to licensure as a veterinarian in Florida. Licensure may be by examination or endorsement, and issuance of a temporary license is available in certain circumstances.

Licensure by Examination

An applicant for licensure as a veterinarian by examination must apply to the DBPR for such licensure. The board has established by administrative rule the required passing scores for a national examination and an examination relating to the practice of veterinary medicine in Florida.²²

Marshal for the principal purpose of aiding in the detection of criminal activity, flammable materials, or missing persons; the enforcement of laws; the investigation of fires; or the apprehension of offenders.” A paramedic or an emergency medical technician who acts in good faith to provide emergency medical care to an injured police canine is immune from criminal or civil liability.

¹⁵ See s. 474.203, F.S. (flush left language).

¹⁶ See s. 474.202(8), F.S.

¹⁷ See 21 C.F.R. s. 530.3.

¹⁸ *Id.*

¹⁹ See <https://www.fda.gov/animal-veterinary/development-approval-process/veterinary-feed-directive-vfd> (last visited Mar. 8, 2023).

²⁰ *Id.* See 21 C.F.R. s. 530 and 21 C.F.R. part 558. A VFD drug is intended for use in animal feeds, and use is permitted only under the professional supervision of a licensed veterinarian. See U.S. Food and Drug Administration, *Veterinary Feed Directive (VFD)* <https://www.fda.gov/animal-veterinary/development-approval-process/veterinary-feed-directive-vfd> (last visited Mar. 8, 2023).

²¹ See <https://www.fda.gov/animal-veterinary/development-approval-process/fact-sheet-veterinary-feed-directive-final-rule-and-next-steps> (last visited Mar. 8, 2023).

²² See s. 474.207(1), F.S. and Fla. Admin. Code R. 61G18-11.002. The rules promulgated by the board are available at <https://www.flrules.org/gateway/Division.asp?DivID=270> (last visited Mar. 8, 2023).

The DBPR must license an applicant if the board finds the applicant has met these requirements:

- Submission of a complete application form with the required examination fee;
- With some exceptions,²³ graduation from a college of veterinary medicine that is either:
 - Accredited by the American Veterinary Medical Association Council on Education; or
 - Listed in the American Veterinary Medical Association Roster of Veterinary Colleges of the World and obtained a certificate from the Education Commission for Foreign Veterinary Graduates or the Program for the Assessment of Veterinary Education Equivalence.
- The successful completion of the required licensure examinations, demonstrating the applicant's knowledge of the laws and rules governing the practice of veterinary medicine.²⁴

Pursuant to s. 474.207(5), F.S., an unlicensed doctor of veterinary medicine who has graduated from an approved college or school of veterinary medicine and completed all parts of the licensure examination is permitted, while awaiting the results of the examination or license issuance, to practice under the immediate supervision of a licensed veterinarian. A person who fails any part of the examination may not continue to practice, except in the same capacity as other nonlicensed veterinary employees, until she or he passes the examination and is eligible for licensure.

Licensure by Endorsement

Under s. 474.217, F.S., an applicant for licensure as a veterinarian by endorsement must apply to the DBPR for such licensure, remit the required fee, and demonstrate to the board that the applicant is knowledgeable of the laws and rules governing the practice of veterinary medicine in Florida; and

- Holds and has held for the three years immediately preceding the application, a valid, active license to practice veterinary medicine in another state or a territory of the United States or the District of Columbia, and has successfully completed a state, regional, national, or other examination that is equivalent to or more stringent than the examination required by the board; or
- Meets the educational and other requirements set forth in s. 474.207(2)(b), F.S., and has successfully completed a state, regional, national, or other examination equivalent to or more stringent than the examination given by the DBPR and has passed the board's clinical competency examination or another clinical competency examination specified by the board.²⁵

²³ Section 474.207(3), F.S., provides a pathway to licensure for applicants who were certified for examination by the board prior to October 1, 1989, or who immigrated to the United States after leaving her or his home country in the Western Hemisphere because of political reasons and the country lacks diplomatic relations with the United States, subject to other requirements set forth in this section.

²⁴ *Id.* Fla. Admin. Code R. 61G18-11.002 requires completion of two examinations: the North American Veterinary Licensing Examination (popularly known as NAVLE) developed by the International Council for Veterinary Assessment, and an examination covering Ch. 474, F.S., relating to Veterinary Medical Practice, the administrative rules promulgated by the board, specified Florida law, and the 2006 Edition of the "Practitioner's Manual," an informational outline of the Controlled Substances Act of 1970, published by the Drug Enforcement Administration of the United States Department of Justice.

²⁵ *See* Fla. Admin. Code R. 61-9.003.

The DBPR may not issue a license to any applicant by examination or by endorsement, if the applicant is under investigation in any state or territory in the United States or the District of Columbia for an act which would constitute a violation of Florida's veterinary medical practice act, until the investigation is complete and disciplinary proceedings have been terminated. Thereafter, the applicant is subject to the disciplinary proceedings set forth in s. 474.214, F.S., if the act constitutes grounds for disciplinary action, e.g., for having a veterinarian medicine license suspended or for violating state or federal drug laws.²⁶

Temporary Licensure

Pursuant to s. 474.2125, F.S., the board is authorized to issue a temporary license to a veterinarian licensed in another state to enable the veterinarian to provide veterinary medical services in Florida to animals of a specific owner or, in an emergency,²⁷ for the animals of multiple owners, provided the applicant would qualify for licensure by endorsement under s. 474.217, F.S. Temporary licenses are not valid for more than 30 days after issuance, and may not cover more than the treatment of the animals of one owner except in an emergency; after the expiration of 30 days, another temporary license is required.²⁸

An application for a temporary license must state the names, addresses, and titles of all persons who are to enter the state with the applicant to perform the treatment accompanied by the application fee established by the board.²⁹ Upon certification of the applicant by the board, the DBPR must issue the temporary license.

Under s. 474.2125(4), F.S., the temporary license application constitutes the appointment of the Florida Department of State as the applicant's agent for service of process in any action against the applicant arising out of any transaction or operation connected with, or incidental to, the practice of veterinary medicine authorized by the temporary license.

License Renewal

Upon receipt of a license renewal application, biennial renewal fee, and an affidavit of compliance with board-approved continuing education course requirements,³⁰ the DBPR must renew a license.³¹

License and Related Fees

The board is required to establish fees for application and examination, reexamination, license renewal, inactive status, renewal of inactive status, license reactivation, periodic inspection of veterinary establishments, and duplicate copies of licenses, certificates, and permits. There are maximum limits on fee amounts and all fees are adopted by the board, and fees must be based on

²⁶ See ss. 474.207(2) and 474.217(2), F.S.

²⁷ Under s. 252.34(4), F.S., the term "emergency" means "any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property."

²⁸ See s. 474.2125, F.S., and Fla. Admin. Code R. 61G18-25.001.

²⁹ *Id.*; see also Fla. Admin. Code R. 61G18-12.010.

³⁰ See Fla. Admin. Code R. 61G-18-16.002 relating to the requirement for completion of a minimum of 30 hours of board-approved continuing education in veterinary medicine.

³¹ See s. 474.211, F.S.; the biennial renewal fee is \$260. See Fla. Admin. Code R. 61G18-12.0005.

the DBPR's estimates of the revenue required to administer the act and all provisions relating to the regulation of veterinarians.³²

Responsible Supervision by Licensed Veterinarians

The term "responsible supervision" means the control, direction, and regulation by a licensed veterinarian of the duties involving veterinary services delegated to unlicensed personnel."³³ The delegation of professional responsibilities when the delegating veterinarian knows or has reason to know that the nonlicensed person is not qualified by training, experience, or licensure to perform them, constitutes grounds for the imposition of discipline.³⁴

Premises Permits for Veterinary Practices

Section 474.215, F.S., relating to mandatory premises permits for all veterinary practices, requires a permanent or mobile establishment where a licensed veterinarian practices (establishment) to have a DBPR-issued premises permit. Such establishments must be inspected as part of the application procedure and meet minimum standards set by the board, including sanitary conditions, recordkeeping, equipment, radiation monitoring, required services, and physical plant requirements.³⁵ Practitioners who make house-calls and who do not maintain an establishment are not required to obtain a premises permit, but must provide for minimum equipment and facilities.³⁶ An establishment owner who is not licensed as a veterinarian must apply for a premises permit, and if the board certifies that the applicant complies with applicable law and board rules, the DBPR must issue a premises permit.³⁷

The DBPR or the board may deny, revoke, or suspend the permit of any establishment, and may fine, place on probation, or otherwise discipline any such permittee who has:

- Obtained a permit by misrepresentation or fraud or through DBPR or board error;
- Attempted to procure, or has procured, a permit for any other person through any false representation;
- Violated any of the requirements of ch. 474, F.S., or any board rule; or
- Been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a felony in any court of Florida, another state, or the United States.³⁸

If a premises permit is revoked or suspended, the owner, manager, or proprietor must:

- Discontinue operating the premises as a veterinary medical practice as of the effective date of the revocation or suspension; and
- Remove from the premises all signs and symbols identifying the premises as a veterinary medical practice.³⁹

³² See s. 474.2065, F.S., and the fee schedule set forth in Fla. Admin. Code R. 61G18-12.

³³ See s. 474.202(10), F.S.

³⁴ See s. 474.214(1)(hh), F.S. See also s. 474.214(2), F.S., relating to the penalties the board may impose.

³⁵ See Fla. Admin. Code R. 61G18-15.002.

³⁶ See Fla. Admin. Code R. 61G18-15.006. Practitioners who serve solely agricultural animals are not required to obtain a premises permit, but must provide appropriate equipment and facilities. See Fla. Admin. Code R. 61G18-15.0022.

³⁷ See s. 474.215(8), F.S.

³⁸ See s. 474.215(9), F.S.

³⁹ *Id.*

A suspension of a premises permit may not exceed one year; if the permit is revoked, the person owning or operating the establishment must advise the board of the disposition of all medicinal drugs and must provide for ensuring the security, confidentiality, and availability to clients of all patient medical records, and may not apply for a permit to operate a premises for a period of one year after the revocation's effective date.⁴⁰

Sterilization of Dogs and Cats

The American Society for the Prevention of Cruelty to Animals (ASPCA) is one of the largest humane societies in the world.⁴¹ According to the ASPCA, the spaying or neutering of dogs and cats (sterilization services) helps control pet homelessness, a crisis that results in millions of healthy dogs and cats in the United States being euthanized.⁴²

The ASPCA indicates there are also medical and behavioral benefits to sterilization of dogs and cats, as follows:

- Spaying prevents uterine infections and decreases the incidence of breast tumors, which are malignant or cancerous in about 90 percent of cats;
- Neutering prevents testicular cancer and some prostate problems;
- Improving behavioral issues, as a female animal will not be able to breed (i.e., go into heat), avoiding situations in which female felines possibly going into heat four to five days every three weeks during breeding season (yowling and urinating frequently); and
- Male dogs will be better behaved, perhaps less aggressive, and less likely to roam away from home, risking injury in traffic and fights with other animals.⁴³

Low-cost, high-quality, high-volume spay-neuter clinics (sterilization clinics) have been established across the United States to increase the availability of such services, thereby reducing pet overpopulation and euthanasia of pets in animal shelters.⁴⁴ Some veterinary medicine practitioners contend that sterilization clinics compete with private practitioners or have concerns about the quality of care, while other practitioners promote programs benefiting both the private practitioners and the sterilization clinics.⁴⁵

In 2008, the Association of Shelter Veterinarians (ASV) established comprehensive guidelines dealing with anesthetic procedures, surgical care, and pre- and post-operative care for spay-neuter programs in an effort to ensure that sterilization clinics provide high-quality care along with high volume.⁴⁶

⁴⁰ *Id.*

⁴¹ See the ASPCA website <https://www.aspc.org/about-us> (last visited Mar. 8, 2023).

⁴² See <https://www.aspc.org/pet-care/general-pet-care/spayneuter-your-pet> (last visited Mar. 8, 2023).

⁴³ *Id.*

⁴⁴ See Philip A. Bushby, *Journal of Feline Medicine and Surgery* (2020) 22, at 208, (an open access, international, peer-reviewed journal) (Bushby), at <https://journals.sagepub.com/doi/full/10.1177/1098612X20903600> (last visited Mar. 8, 2023).

⁴⁵ See Bushby at 209 and accompanying footnotes.

⁴⁶ *Id.* The guidelines were updated in 2016. The author noted that a study of the “results at one [sterilization] clinic that performed spay–neuter on 71,557 cats and 42,349 dogs over a 7-year period documented mortality rates approximately 1/10th of those reported at low-volume private veterinary practices.” *Id.* (footnote omitted). Further, key principles for efficiency include “designating a block of time devoted to spay–neuter, performing the surgeries at an earlier age and adopting very efficient surgical techniques.” *Id.* at 210.

As to the issue of competition with private practitioners, a study published in 2016 reported that the majority of cats sterilized through a reduced-cost spay–neuter program in Massachusetts had never been seen by a veterinarian before, primarily due to the cost of services.⁴⁷ According to the chief economist of the American Veterinary Medical Association, nearly a third of the nation’s pets do not see a veterinarian at least once a year.⁴⁸

According to the DBPR, in Fiscal Year 2021-2022, there were 12,360 veterinarians with active licenses in Florida, an increase of fewer than 1,000 licensees since Fiscal Year 2019-2020.⁴⁹

III. Effect of Proposed Changes:

The bill exempts a veterinarian who has an active license in good standing in another United States jurisdiction to perform, as an unpaid volunteer (exempted unpaid volunteer), dog and cat sterilization services and routine preventative health services at the time of such sterilization services. The exempted unpaid volunteer must be under the responsible supervision of a Florida-licensed veterinarian, as defined in s. 474.202, F.S. Such supervision requires control, direction, and regulation by a licensed veterinarian of the duties involving veterinary services that are delegated to unlicensed personnel.

The bill further provides the supervising licensed veterinarian is responsible for all acts performed by an exempted unpaid volunteer who is acting under such supervision.

An exempted unpaid volunteer, if not otherwise licensed under the act, is not eligible to apply for a premises permit under s. 474.215, F.S. (see Section II, Premises Permits for Veterinary Practices, above relating to such permits).

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁴⁷ *Id.*

⁴⁸ See Malinda Larkin, *New, Old challenges beg for radical change in veterinary profession*, Dec. 3, 2020) summarizing the keynote address at the annual American Veterinary Medical Association (AVMA) Economic Summit by Matthew J. Salois, PhD, AVMA Chief Economist, at <https://www.avma.org/javma-news/2020-12-15/new-old-challenges-beg-radical-change-veterinary-profession> (last visited Mar. 8, 2023). According to the AVMA, it represents more than 100,000 members of the veterinary profession “to protect, promote and advance the needs of all veterinarians and those they serve.” See <https://www.avma.org/about> (last visited Mar. 9, 2023).

⁴⁹ See Department of Business and Professional Regulation, *2021-2022 Annual Report, Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation* at 18, at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY2021.pdf (last visited Mar. 9, 2023) and *2019-2020 Annual Report, Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation* at 20, at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY1920.pdf (last visited Mar. 9, 2023).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Owners of dogs or cats who cannot afford the fees of full-service veterinary practices may have another avenue to have their pets spayed or neutered at a sterilization clinic at a lower cost.

A large volume of exempted unpaid volunteers performing dog or cat sterilization services, whether with or without accompanying routine preventive health services, may impact similar services typically performed by Florida-licensed veterinarians. However, sterilization of dogs and cats by exempt unpaid volunteers could reduce the number of puppies and kittens borne by animals that would otherwise not be sterilized due to cost considerations. Increased sterilization of pets may assist in reducing pet overpopulation and euthanasia of pets in animal shelters.

The Department of Business and Professional Regulation (DBPR) notes that the bill “may reduce expenditures in the private sector by expanding the ability for sterilization services to be performed on a voluntary basis.”⁵⁰

C. Government Sector Impact:

The DBPR notes the bill has no fiscal impact on state government.⁵¹

VI. Technical Deficiencies:

None.

⁵⁰ See Department of Business and Professional Regulation, *2023 Agency Legislative Bill Analysis for SB 722* at 4 (Feb. 15, 2023) (on file with the Senate Committee on Regulated Industries).

⁵¹ *Id.* at 4-5.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 474.203 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 Burton

12-00645B-23

2023722__

A bill to be entitled

An act relating to the practice of veterinary medicine; amending s. 474.203, F.S.; exempting certain out-of-state veterinarians who provide specified services under the responsible supervision of a veterinarian licensed in this state from certain regulations governing veterinary medical practice; providing that the supervising licensed veterinarian is responsible for such services; specifying that such out-of-state veterinarians are ineligible for a premises permit; providing an effective date.

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

Section 1. Subsection (11) is added to section 474.203, Florida Statutes, to read:

474.203 Exemptions.—This chapter does not apply to:

(11) A veterinarian who holds an active license to practice veterinary medicine in another jurisdiction in the United States and is in good standing in such jurisdiction and who performs dog or cat sterilization services or routine preventative health services at the time of sterilization as an unpaid volunteer under the responsible supervision, as defined in s. 474.202, of a veterinarian licensed in this state. The supervising licensed veterinarian is responsible for all acts performed under this subsection by an out-of-state veterinarian acting under her or his responsible supervision. An out-of-state veterinarian practicing pursuant to this subsection is not eligible to apply for a premises permit under s. 474.215.

Page 1 of 2

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

12-00645B-23

2023722__

For the purposes of chapters 465 and 893, persons exempt pursuant to subsection (1), subsection (2), or subsection (4) are deemed to be duly licensed practitioners authorized by the laws of this state to prescribe drugs or medicinal supplies.

Section 2. This act shall take effect July 1, 2023.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy, *Chair*
Judiciary, *Vice Chair*
Appropriations Committee on Education
Appropriations Committee on Health
and Human Services
Banking and Insurance
Fiscal Policy
Rules
Transportation

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR COLLEEN BURTON

12th District

February 24, 2023

The Honorable Joe Gruters
Committee on Regulated Industries
525 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Gruters,

I respectfully request SB 722: Practice of Veterinary Medicine be put on the Committee on Regulated Industries agenda at your earliest convenience.

Thank you for your consideration.

Regards,

A handwritten signature in blue ink that reads "Colleen Burton".

Colleen Burton
State Senator, District 12

CC: Booter Imhof, Staff Director
Susan Datres, Administrative Assistant

REPLY TO:

- ☐ 100 South Kentucky Avenue, Suite 260, Lakeland, Florida 33801 (863) 413-1529
- ☐ 318 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore



ANALYSIS

2023 AGENCY LEGISLATIVE BILL

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	<u>SB 722</u>
BILL TITLE:	<u>Practice of Veterinary Medicine</u>
BILL SPONSOR:	<u>Sen. Burton</u>
EFFECTIVE DATE:	<u>07/01/2023</u>

COMMITTEES OF REFERENCE

1) Regulated Industries
2) Agriculture
3) Rules
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

Regulated Industries

SIMILAR BILLS

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

PREVIOUS LEGISLATION

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS

BILL NUMBER:	HB 719
SPONSOR:	Rep. Killebrew

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	2/15/2023
LEAD AGENCY ANALYST:	Ruthanne Christie, Executive Director
ADDITIONAL ANALYST(S):	Tracy Dixon, Service Operations Robin Jordan, Technology W. Justin Vogel (for OGC Rules) Jeff Kelly, Division of Professions

LEGAL ANALYST:	Click or tap here to enter text.
FISCAL ANALYST:	Garrett Blanton, Office of Planning and Budget

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill creates an exemption that permits veterinarians with active licenses in other US jurisdictions to perform sterilization services on cats and dogs as an unpaid volunteer when under the “responsible supervision” of a Florida licensed veterinarian.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:**

The Department of Business and Regulation regulates the practice of Veterinary Medicine under ch. 474, F.S.

Section 474.203(7), F.S. exempts from licensure any veterinary aide, nurse, laboratory technician, preceptor, or other employee of a licensed veterinarian who administers medication or who renders auxiliary or supporting assistance under the responsible supervision of a licensed veterinarian, including those tasks identified by rule of the board requiring immediate supervision. However, the licensed veterinarian is responsible for all such acts performed under this subsection by persons under her or his supervision.

Rule 61G18-17.005, F.A.C. defines Tasks Requiring Immediate Supervision as follows;

(1) All tasks which may be delegated to a veterinary aide, nurse, laboratory technician, intern, or other employee of a licensed veterinarian shall be performed only under the “immediate supervision” of a licensed veterinarian as that phrase is defined in Section 474.202(5), F.S., with the exception of the following tasks which may be performed without the licensed veterinarian on the premises:

(a) The administration of medication and treatment, excluding vaccinations, as directed by the licensed veterinarian; and

(b) The obtaining of samples and the performance of those diagnostic tests, including radiographs, directed by the licensed veterinarian.

(2) The administration of anesthesia and tranquilization by a veterinary aide, nurse, laboratory technician, intern, or other employee of a licensed veterinarian requires “immediate supervision” as that phrase is defined in s. 474.202(5), F.S.

Section 474.202(5) defines “Immediate supervision” or words of similar purport mean a licensed doctor of veterinary medicine is on the premises whenever veterinary services are being provided.

Section 474.202, F.S. defines “Responsible supervision” as the control, direction, and regulation by a licensed doctor of veterinary medicine of the duties involving veterinary services which she or he delegates to unlicensed personnel.

2. **EFFECT OF THE BILL:**

The bill amends s. 474.203, F.S. to create an exemption as follows:

(11) A veterinarian who holds an active license to practice veterinary medicine in another jurisdiction in the United States and is in good standing in such jurisdiction and who performs dog or cat sterilization services or routine preventative health services at the time of sterilization as an unpaid volunteer under the responsible supervision, as defined in s. 474.202, of a veterinarian licensed in this state. The supervising licensed veterinarian is responsible for all acts performed under this subsection by an out-of-state veterinarian acting under her or his responsible supervision. An out-of-state veterinarian practicing pursuant to this subsection is not eligible to apply for a premises permit under s. 474.215

3. **DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?** Y ☐ N ☒

If yes, explain:	Click or tap here to enter text.
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Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?Y ☐ N ☒

If yes, provide a description:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?Y ☐ N ☒

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?Y ☐ N ☐

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Does the legislation increase local taxes or fees? If yes, explain.	Click or tap here to enter text.
If yes, does the legislation provide for a local referendum or local governing body public vote	Click or tap here to enter text.

prior to implementation of the tax or fee increase?	
---	--

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Does the legislation contain a State Government appropriation?	N/A
If yes, was this appropriated last year?	N/A

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?Y ☒ N ☐

Revenues:	N/A
Expenditures:	The bill may reduce expenditures in the private sector by expanding the ability for sterilization services to be performed on a voluntary basis.
Other:	Click or tap here to enter text.

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?Y ☐ N ☒

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact to the agency including any fiscal impact.

N/A

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.

Click or tap here to enter text.

ADDITIONAL COMMENTS

Division of Service Operations: No impact.

OGC Rules: No additional comment.

Office of Planning and Budget: There is no fiscal impact to the Department.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:

Click or tap here to enter text.

The Florida Senate
APPEARANCE RECORD

3/14/23

Meeting Date

RI

Committee

722

Bill Number or Topic

Amendment Barcode (if applicable)

Name

JENNIFER HOBGOOD

Phone

250 445 5245

Address

PO BOX 5071

Street

Email

jenhobgood@
aspca

TALLAHASSEE

City

State

32303

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

ASPCA

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 658

INTRODUCER: Senator Burgess

SUBJECT: Registration Fees for Malt Beverage Brands and Labels

DATE: March 10, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Favorable
2.			AEG	
3.			FP	

I. Summary:

SB 658 limits the application of the annual malt beverage brand and label registration fee of \$30 to brands and labels for malt beverages sold to a distributor. Current law requires manufacturers, brewers, bottlers, distributors, and importers of malt beverages, whether licensed under Florida's laws or not, to register their name and the brands and labels of their malt beverages with the Division of Alcoholic Beverages and Tobacco, within the Department of Business and Professional Regulation before the malt beverages may be sold or offered for sale in Florida, or move or cause to be moved within or into Florida.

Under the bill, the malt beverage manufactures would not be required to register a brand or label for a malt beverage and pay the \$30 registration fee if the malt beverage is not sold to a distributor and is sold directly to the consumer at the manufacturer's licensed premises.

The bill takes effect July 1, 2023.

II. Present Situation:

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

"Alcoholic beverages" are defined in s. 561.01, F.S., as "distilled spirits and all beverages containing one-half of one percent or more alcohol by volume." "Malt beverages" are brewed

¹ Section 561.01(6), F.S., provides that the "The Beverage Law" means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

² See s. 561.14, F.S.

³ Section 561.02, F.S.

alcoholic beverages containing malt.⁴ The term “beer” means a brewed beverage that meets the federal definition of beer in 27 C.F.R. s. 25.11 and contains less than 6 percent alcohol by volume. The terms “beer” and “malt beverage” have the same meaning under the Beverage Law. The terms “beer” and “malt beverage” do not include alcoholic beverages that require a certificate of label approval by the Federal Government as wine or as distilled spirits.

Section 561.14, F.S., specifies the license and registration classifications used in the Beverage Law:

- “Manufacturers” are those “licensed to manufacture alcoholic beverages and distribute the same at wholesale to licensed distributors and to no one else within the state, unless authorized by statute.”⁵
- “Distributors” are those “licensed to sell and distribute alcoholic beverages at wholesale to persons who are licensed to sell alcoholic beverages.”⁶
- “Importers” are those licensed to sell, or to cause to be sold, shipped, and invoiced, alcoholic beverages to licensed manufacturers or licensed distributors, and to no one else in this state, provided that ss. 564.045 and 565.095, F.S., relating to primary American source of supply licensure, are in no way violated by such imports.⁷
- “Vendors” are those “licensed to sell alcoholic beverages at retail only” and who may not “purchase or acquire in any manner for the purpose of resale any alcoholic beverages from any person not licensed as a vendor, manufacturer, bottler, or distributor under the Beverage Law.”⁸

Three-Tier System

In the United States, the regulation of alcohol since the repeal of Prohibition has traditionally been based upon a “three-tier system.” The system requires separation of the manufacture, distribution, and retail sale of alcoholic beverages by vendors. The manufacturer creates the beverages, and the distributor obtains the beverages from the manufacturer to deliver to the vendor. The vendor makes the ultimate sale to the consumer.⁹ A manufacturer, distributor, or exporter may not be licensed as a vendor to sell directly to consumers.¹⁰

Generally, in Florida, only licensed vendors are permitted to sell alcoholic beverages directly to consumers at retail.¹¹ Licensed manufacturers, distributors, and registered exporters are prohibited from also being licensed as vendors.¹² Manufacturers are also generally prohibited from having an interest in a vendor and from distributing directly to a vendor.¹³

⁴ Section 563.01, F.S.

⁵ Section 561.14(1), F.S.

⁶ Section 561.14(2), F.S.

⁷ Section 561.01(5), F.S.

⁸ Section 561.14(3), F.S.

⁹ Section 561.14, F.S.

¹⁰ Section 561.22(1), F.S.

¹¹ Section 561.14(3), F.S. However, see the exceptions provided in ss. 561.221 and 565.03, F.S.

¹² Section 561.22, F.S.

¹³ Sections 563.022(14) and 561.14(1), F.S.

Three-Tier System Exceptions

Exceptions to the three-tier regulatory system permit in-state wineries,¹⁴ breweries,¹⁵ and craft distilleries to sell directly to consumers.¹⁶ Restaurants licensed as vendors (brew pubs) may manufacture a limited quantity of malt beverages and sell directly to consumers for consumption on the licensed premises of the restaurant.¹⁷

A winery, even if licensed as a distributor,¹⁸ may be licensed as a vendor for a licensed premises situated on property contiguous to the manufacturing premises of the winery. A winery may not be issued more than three vendor licenses.¹⁹

Malt Beverage Brand and Label Registration

Section 563.045(1), F.S., requires manufacturers, brewers, bottlers, distributors, and importers of malt beverages (registrants), whether licensed under Florida's laws or not, to be qualified under Florida's Beverage Law and to register their name and brands or labels with the division before they sell or offer for sale in this state, or move or cause to be moved within this state or into this state, any malt beverage. Registrants must furnish the division with any samples and information as to content, quality, and formula of such malt beverages as the division may require.

Section 563.045(2), F.S., requires each registrant to pay an annual registration fee of \$30 for a brand or label. The division may suspend or revoke a registration in same manner as a beverage license for any violation of the Beverage Law.²⁰ The division provides an electronic form for registering brands and labels.²¹

Section 563.045(3), F.S., prohibits licensed wholesalers from purchasing any malt beverages from any manufacturer, brewer, bottler, distributor, or importer who has not complied with the registration requirement.

Section 563.045(4), F.S., requires the division to promulgate rules to carry out the purpose of this section.²²

III. Effect of Proposed Changes:

The bill amends s. 563.045(2), F.S., to limit the application of the malt beverage annual brand and label registration fee of \$30 to brands and labels for malt beverages sold to a distributor.

¹⁴ See s. 561.221(1), F.S.

¹⁵ See s. 561.221(2), F.S.

¹⁶ See ss. 565.02(12) and 565.03, F.S.

¹⁷ See s. 561.221(3), F.S.

¹⁸ Section 561.14(1), F.S., permits manufacturers to distribute at wholesale to licensed distributors and to no one else within the state, unless authorized by statute.

¹⁹ See s. 561.221(1), F.S.

²⁰ See s. 561.29, F.S., relating to the suspension or revocation of alcoholic beverages licenses.

²¹ See DBPR, *Brand Registrant and Brand/Label*,

<https://www.myfloridalicense.com/intentions2.asp?chBoard=true&SID=&boardid=400&professionid=4011> (last visited Mar. 11, 2023).

²² The division has not adopted a rule to implement s. 563.045, F.S.

Under the bill, the malt beverage manufacturers would not be required to register a brand or label for a malt beverage and pay the \$30 registration fee if the malt beverage is not sold to a distributor and is sold directly to the consumer at the manufacturer's licensed premises.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under the bill, manufacturers of malt beverages would not have to pay the \$30 brand and label registration fee for a malt beverage that is not sold to a distributor.

C. Government Sector Impact:

The division anticipates an indeterminate decrease of revenue attributable to the bill exempting brand and label registration requirements for malt beverages that are not sold to a distributor. The division also anticipates a fiscal impact of \$16,000 to update its online brand registration to conform to the requirements of this bill.²³

²³ Department of Business and Professional Regulation, *2023 Agency Legislative Bill Analysis for SB 658* (Feb. 13, 2023) (on file with the Senate Regulated Industries Committee).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 563.045 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.

By Senator Burgess

23-00197B-23

2023658__

A bill to be entitled

An act relating to registration fees for malt beverage brands and labels; amending s. 563.045, F.S.; providing that the annual registration fee is required only if labels or brands are sold to a distributor; specifying that no other registration fee is authorized; providing an effective date.

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

Section 1. Subsection (2) of section 563.045, Florida Statutes, is amended to read:

563.045 Brands or labels to be registered; qualification to do business; fee; revocation.—

(2) The each registrant shall pay an annual registration fee for a brand or label sold to a distributor is of \$30 for a brand or label. No other annual registration fee for a brand or label is authorized under this section. Any registration may be suspended or revoked in the same manner as a beverage license for any violation of the Beverage Law.

Section 2. This act shall take effect July 1, 2023.



The Florida Senate

Committee Agenda Request

To: Senator Joe Gruters, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: February 16, 2023

I respectfully request that **Senate Bill #658**, relating to Registration Fees for Malt Beverage Brands and Labels, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Danny", is written over a horizontal line.

Senator Danny Burgess
Florida Senate, District 23



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Ethics and Elections, *Chair*
Education Pre-K -12, *Vice Chair*
Appropriations
Appropriations Committee on Criminal and
Civil Justice
Appropriations Committee on Health and
Human Services
Banking and Insurance
Health Policy
Rules

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DANNY BURGESS

23rd District

March 13, 2023

Senator Gruters,

Please allow Senator Bradley to present **SB 658: Registration Fees for Malt Beverage Brands and Labels** in Regulated Industries on my behalf tomorrow March, 14, 2023.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Danny", with a long, sweeping horizontal stroke extending to the right.

Danny Burgess
Senator, District 23

REPLY TO:

- ☐ 38507 Fifth Avenue, Zephyrhills, FL 33542 (813) 779-7059
- ☐ 412 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore



ANALYSIS

2023 AGENCY LEGISLATIVE BILL

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	SB- 658
BILL TITLE:	Registration Fees for Malt Beverage Brands and Labels
BILL SPONSOR:	Sen. Burgess
EFFECTIVE DATE:	07/01/2023

COMMITTEES OF REFERENCE

1) Click or tap here to enter text.
2) Click or tap here to enter text.
3) Click or tap here to enter text.
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

Click or tap here to enter text.

SIMILAR BILLS

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

PREVIOUS LEGISLATION

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	February 13, 2023
LEAD AGENCY ANALYST:	Renee Alsobrook
ADDITIONAL ANALYST(S):	W. Justin Vogel (for OGC Rules) Tracy Dixon, Service Operations Robin Jordan, Technology
LEGAL ANALYST:	Daniel Brackett

FISCAL ANALYST:	Garrett Blanton, Office of Planning and Budget
------------------------	--

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill amends the registration fees for malt beverages brands and labels; provides that annual registration fee is required only if labels or brands are sold to a distributor; provides that no other registration fee is authorized; provides for an effective date.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Subsection 563.045(1), F.S., provides: No manufacturer, brewer, bottler, distributor, or importer of malt beverages, whether licensed under the beverages laws of this state or not, shall sell or offer for sale in this state, or move or cause to be moved within this state or into this state, any malt beverage, without first qualifying to do business in the state and registering its name and the brands or labels under which the malt beverages are to be sold or moved and furnishing such samples and information as to content, quality, and formula of such malt beverages as the division may require.

Subsection 563.045(2), F.S., provides: Each registrant shall pay an annual registration fee of \$30 for a brand or label. Any registration may be suspended or revoked in same manner as a beverage license for any violation of the Beverage Law.

Subsection 563.045(3), F.S., provides: The purchase by any licensed wholesaler of any malt beverages from any manufacturer, brewer, bottler, distributor, or importer who has not complied with the provisions of subsection (1) is prohibited.

Subsection 563.045(4), F.S. provides: The division shall promulgate rules to carry out the purpose of this section.

2. EFFECT OF THE BILL:

Section 1

The bill amends subsection 563.045(2), F.S. to provide: The annual registration fee for a brand or label sold to a distributor is \$30. No other annual registration fee for a brand or label is authorized under this section. Any registration may be suspended or revoked in the same manner as a beverage license for any violation of the Beverage Law.

With the amendment to subsection 563.045(2), F.S., a manufacturer, brewer, bottler, distributor, or importer of malt beverages, whether licensed under the beverage laws of this state or not, would be required to be qualified to do business in this state and register its name and brands or labels under which the malt beverages or to be sold or moved.

The manufacturer, brewer, bottler, distributor, or importer of malt beverages, would not pay an annual registration fee of \$30 until a manufacturer, brewer, bottler, distributor, or importer of malt beverages sold to a distributor.

Section 2

Provides for the act to take effect July 1, 2023.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☒ N ☐

If yes, explain:	The Division of Alcoholic Beverages and Tobacco will have to amend rules; implement changes to procedures related to product registration; VERSA online systems to allow for product registration with no fee; changes to the online brand registration system; and changes to EDS to monitor compliance and for product tracking.
Is the change consistent with the agency's core mission?	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>

Rule(s) impacted (provide references to F.A.C., etc.):	61A-4.005, FAC
--	----------------

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	unknown
Opponents and summary of position:	unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?Y ☐ N ☒

If yes, provide a description:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?Y ☐ N ☒

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

FISCAL ANALYSIS**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?**Y ☐ N ☒

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Does the legislation increase local taxes or fees? If yes, explain.	Click or tap here to enter text.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?Y ☒ N ☐

Revenues:	Reduction of revenues as malt beverages will not be registered until sold to distributors.
Expenditures:	Adjustments to processes; amendments to rules; changes to VERSA online; and modification to the online brand registration system will be required to accommodate the amendment to the statute. The bill will increase the time auditor will spend in audits to determine compliance with laws and rules. Modification to the EDS to monitor compliance and for product tracking will be required.
Does the legislation contain a State Government appropriation?	no
If yes, was this appropriated last year?	no

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?Y ☒ N ☐

Revenues:	unknown
Expenditures:	Reduces expenditures by small businesses.
Other:	Click or tap here to enter text.

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?Y ☒ N ☐

If yes, explain impact.	Bill will reduce fees paid to the Department of Business and Professional Regulation in that less registration fees will be paid.
Bill Section Number:	Section 1

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?

Y ☒ N ☐

If yes, describe the anticipated impact to the agency including any fiscal impact.	<p>Brand registration online system will need to be modified to allow for registration without a fee and subsequent updating of the registration and payment of the fee once the manufacturer of malt beverage sells to a distributor. Versa updates will also be required. Modification to EDS will be required to monitor compliance and for product tracking. There could be additional technology impacts that is undetermined at this time.</p> <ul style="list-style-type: none"> • Versa: Regulation 60 hours • Versa: Online 60 hours • EDS 750 hours <p>We would need to contract with the vendor to make Brand updates in VO. We anticipate that it will take additional 80 hours @ \$200/hour = \$16,000 for development.</p>
--	---

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?

Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.	
--	--

ADDITIONAL COMMENTS

Federal law requires the registration of malt beverages by manufacturers thus the extent of impact with federal law is unknown. Auditing malt beverage manufacturers paying registration fees or not will create issues during the audits if the malt beverage manufacturers fail to maintain records and do not update their registration once they sell to distributors.

OGC Rules: No additional comments.

DSO: No impact.

Office of Planning and Budget: An indeterminate amount of revenue is expected to decrease due to malt beverages not being registered until sold to distributors and that it is unknown as to what/how many will be sold. For informational purposes, there are 11,846 malt brand licenses in current status. The table below shows the last three years of revenue collected for brand/label registrations.

	<u>2020</u>	<u>2021</u>	<u>2022</u>
Initial Malt Beverage Licenses	\$206,280	\$239,730	\$255,930
Malt Beverage License Renewals	\$98,580	\$130,020	\$131,820

The Division of Technology will require \$16,000 in Contracted Services to contract for updates in Versa Online.

LEGAL - GENERAL COUNSEL’S OFFICE REVIEW

Issues/concerns/comments:	No additional comments.
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March 14, 2023

Meeting Date

Regulated Industries

Committee

Name

Justin Hollis

Phone

(850) 671-4401

Address

123 S Adams Street

Email

Hollis@thesoutherngroup.com

Street

Tallahassee

FL

32301

City

State

Zip

Reset Form

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without compensation or sponsorship.

☒

I am a registered lobbyist, representing:

Malt Beverages

☐

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

March 14, 2023

Meeting Date

Regulated Industries

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

658

Bill Number or Topic

Amendment Barcode (if applicable)

Name Josh Aubuchon, Florida Brewers Guild

Phone 850-583-2400

Address 201 E. Park Ave, 200B

Street

Email josh@dacl.com

Tallahassee

City

FL

State

32301

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Brewers Guild

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

March 14, 2023

Meeting Date

Regulated Industries

Committee

658

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Brooke Malone, Walking Tree Brewery

Phone

772-643-1496

Address

Street

Email

brooke@walkingtreebrewery.com

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Walking Tree Brewery

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

APPEARANCE RECORD

3/14/23

Meeting Date

Regulated Industries

Committee

SB 658

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Jared Ross

Phone

(850) 322-6956

Address

215 S. Monroe St., Ste. 340

Street

Tallahassee, FL

City

State

32311

Zip

Email

jared@fbwa.com

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☐I am appearing without
compensation or sponsorship.☒I am a registered lobbyist,
representing:Florida Beer Wholesalers
Association☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 556

INTRODUCER: Senator Hooper

SUBJECT: Hurricane Protection for Condominium Associations

DATE: March 13, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Favorable
2.			CA	
3.			RC	

I. Summary:

SB 556 revises the requirements governing the installation and maintenance of hurricane protection in condominium associations. Under the bill, the term “hurricane protection” means hurricane shutters, impact glass, code-compliant windows or doors, and other code-compliant hurricane protection products used to preserve and protect the condominium property or association property.

The bill requires declarations for residential condominiums and mixed-use condominiums, which contain residential and commercial units, to specify whether the unit owner or the association is responsible for the installation, maintenance, repair, or replacement of hurricane protection. Under the bill, residential and mixed-use condominiums created after July 1, 2023, must contain hurricane protection procedures for the condominium in the declaration of condominium creating the community. The bill applies to all residential and mixed-use condominiums in Florida, regardless of when the condominium was created. The bill provides that the installation, replacement, operation, repair, and maintenance of hurricane protection is not a substantial addition to the common elements or association property.

Under the bill, a certificate attesting to a vote of the unit owners to approve the installation of hurricane protection must be filed in the public records of the county where the condominium is located. The validity or enforceability of the vote of the unit owners is not affected by a failure to record the certificate or to send a copy of the recorded certificate to the unit owners.

The bill authorizes a board of administration for a condominium to require unit owners to adhere to an existing unified building scheme regarding the external appearance of the condominium. Under the bill, unit owners may be responsible for the costs of removal and reinstallation of any hurricane protection if the association is required to remove the hurricane protection for maintenance, repair or replacement of condominium property the association is obligated to maintain. The board must determine whether the removal or reinstallation is to be performed by

the association or unit owner. If the removal or reinstallation of hurricane protection is completed by the associations, the removal and reinstallation of hurricane protection is chargeable to the owner and may be enforced as an assessment. If the cost of installation of hurricane protection is the responsibility of unit owners pursuant to the declaration or a vote of the owners, the cost of installation by the association is not a common expense and may be charged to the unit owners based on the cost of installation.

The bill also provides that, if an owner has already installed code-compliant hurricane protection, the owner may be excused from the assessment levied by the association to fund the installation of hurricane protection or may receive credit equal to the amount the owner would have been charged for the installation. The credit only applies if the installation is for all other units lacking code-compliant hurricane protection and the expense of the installation is funded by the budget, including reserve funds. However, under current law and the bill, a unit owner remains responsible for the pro rata share of expenses for hurricane protection installed on common elements and association property by the board and remains responsible for a pro rata share of the expense of the replacement, operation, repair, and maintenance of such.

Under the bill, expenses for the installation, replacement, operation, and repair, or maintenance of hurricane protection on common elements and association property are common expenses enforceable against the unit owner as an assessment.

The bill takes effect July 1, 2023.

II. Present Situation:

Division of Florida Condominiums, Timeshares, and Mobile Homes

The Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation (DBPR) administers the provisions of chs. 718 and 719, F.S., for condominium and cooperative associations, respectively. The division may investigate complaints and enforce compliance with chs. 718 and 719, F.S., for associations that are still under developer control.¹ The division also has the authority to investigate complaints against developers involving improper turnover or failure to transfer control to the association.² After control of the condominium is transferred from the developer to the unit owners, the division has jurisdiction to investigate complaints related to financial issues, elections, and maintenance of and unit owner access to association records.³ For cooperatives, the division's jurisdiction extends to the development, construction, sale, lease, ownership, operation, and management of residential cooperative units.⁴

As part of the division's authority to investigate complaints, the division may subpoena witnesses, take sworn statements from witnesses, issue cease and desist orders, and impose civil penalties against developers, associations, and association board members.⁵

¹ Sections 718.501(1) and 719.501(1), F.S.

² *Id.*

³ Section 718.501(1), F.S.

⁴ Section 719.501(1), F.S.

⁵ Sections 718.501(1) and 719.501(1), F.S.

If the division has reasonable cause to believe that a violation of any provision of ch. 718, F.S., ch. 719, F.S., or a related rule has occurred, the division may institute enforcement proceedings in its name against any developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents. The division may conduct an investigation and issue an order to cease and desist from unlawful practices and to take affirmative action to carry out the purpose of the applicable chapter. Also, Florida law authorizes the division to petition a court to appoint a receiver or conservator to implement a court order or to enforce an injunction or temporary restraining order. The division may also impose civil penalties.⁶ Unlike condominium and cooperative associations, homeowners' associations are not regulated by a state agency. For homeowners' associations, the division's authority is limited to the arbitration of recall election disputes.⁷

Condominiums

A condominium is a "form of ownership of real property created under ch. 718, F.S.,"⁸ the "Condominium Act." Condominium unit owners are in a unique legal position because they are exclusive owners of property within a community, joint owners of community common elements, and members of the condominium association.⁹ For unit owners, membership in the association is an unalienable right and required condition of unit ownership.¹⁰

The "declaration" or "declaration of condominium" is the legal instrument by which a condominium is created. The declaration may be amended.¹¹

A condominium association is administered by a board of directors referred to as a "board of administration."¹² The board of administration (board) is comprised of individual unit owners elected by the members of a community to manage community affairs and represent the interests of the association. Association board members must enforce a community's governing documents and are responsible for maintaining a condominium's common elements which are owned in undivided shares by unit owners.¹³

Material Alterations

The common elements¹⁴ and the real property of a condominium association may not be materially altered or substantial additions may not be made to the property, except in the manner authorized in the declaration of condominium. If the declaration does not specify a procedure for making material alterations or substantial additions, 75 percent of the total voting interests of the association must approve the alterations or additions before the material alterations or substantial

⁶ *Id.*

⁷ See ss. 720.303(10)(d) and 720.306(9)(c), F.S.

⁸ Section 718.103(11), F.S.

⁹ See s. 718.103, F.S., for the terms used in the Condominium Act.

¹⁰ *Id.*

¹¹ See s. 718.13(15), F.S., defining the terms "declaration" or "declaration of condominium;" and s. 718.104, F.S., relating to the creation of condominiums.

¹² Section 718.103(4), F.S.

¹³ Section 718.103(2), F.S.

¹⁴ Section 718.103(8), F.S., defines the term "common elements" to mean "the portions of the condominium property not included in the units."

additions may commence.¹⁵ A comparable requirement also applies to material alterations and substantial additions to the property of a multicondominium.¹⁶

Hurricane Protection

The board of administration of a residential condominium is required to adopt hurricane shutter specifications for each building within each condominium. The specifications must include color, style, and other factors deemed relevant by the board. All specifications adopted by the board must comply with the applicable building code.¹⁷

A contract to install hurricane protection, subject to the contract and written bids requirements in s. 718.3026, F.S., must be approved by a majority of voting interests of a residential condominium. A vote of the owners is not required if the maintenance, repair, and replacement of hurricane protection is the responsibility of the association pursuant to the declaration of condominium. If hurricane protection or laminated glass or window film architecturally designed to function as hurricane protection that complies with or exceeds the current applicable building code has been previously installed, the board may not install hurricane protection without the approval of a majority vote of the voting interests.

The association is responsible for the maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection (hurricane protection or hurricane protection products) if the association is responsible for hurricane protection under its declaration. If the hurricane protection products are the responsibility of the unit owners pursuant to the declaration of condominium, the maintenance, repair, and replacement of such items are the responsibility of the unit owner.¹⁸

The board may operate hurricane protection installed without permission of the unit owners only if such operation is necessary to preserve and protect the condominium property or association property. The installation, replacement, operation, repair, and maintenance of hurricane protection is not a material alteration to the common elements or association property,¹⁹ if done in accordance with the procedures in s. 718.113(5), F.S.²⁰ Current law is silent regarding whether the installation, replacement, operation, repair, and maintenance of hurricane protection is considered a substantial addition to the common elements or association property.

Notwithstanding any other provision in the residential condominium documents, even if the board's approval is required, a board may not refuse to approve the installation or replacement of hurricane protection by a unit owner conforming to the specifications adopted by the board.²¹

¹⁵ Section 718.113(2)(a), F.S.

¹⁶ See ss. 718.113(2)(b) and (c), F.S. "Multicondominium" means real property containing two or more condominiums, all of which are operated by the same association. See s. 718.103(20), F.S.

¹⁷ Section 718.113(5), F.S.

¹⁸ Section 718.113(5)(b), F.S.

¹⁹ See s. 718.113(2), F.S., relating to material alterations and substantial additions to condominium property.

²⁰ Section 718.113(5)(c), F.S.

²¹ Section 718.113(5)(d), F.S.

The expense of installation, replacement, operation, repair, and maintenance of hurricane protection by a board is a common expense²² and must be collected by the association if it is responsible for the maintenance, repair, and replacement of hurricane protection pursuant to the declaration of condominium. If the maintenance, repair, and replacement of the hurricane protection is the responsibility of the unit owners pursuant to the declaration of condominium, the cost of the installation of hurricane protection is not a common expense and must be charged individually to the unit owners.²³

If a unit owner has previously installed building code-compliant hurricane shutters, the unit owner must receive a credit from the association when the shutters are installed by the association. If a unit owner has previously installed impact glass or code-compliant windows or doors that comply with the current applicable building code, the unit owner must receive a credit when the impact glass or code-compliant windows or doors are installed. Additionally, if a unit owner has installed other types of code-compliant hurricane protection that comply with the current applicable building code, the unit owner must receive a credit when the same type of other code-compliant hurricane protection is installed. The credit must be equal to the pro rata portion of the assessed installation cost assigned to each unit.²⁴

However, a unit owner remains responsible for the pro rata share of expenses for hurricane protection installed on common elements and association property by the board. A unit owner is also responsible for a pro rata share of the expense of the replacement, operation, repair, and maintenance of hurricane protection.²⁵

III. Effect of Proposed Changes:

Definition

The bill creates s. 718.103(18), F.S., to define the term “hurricane protection” to mean hurricane shutters, impact glass, code-compliant windows or doors, and other code-compliant hurricane protection products used to preserve and protect the condominium property or association property.

Declaration of Condominium

The bill amends s. 718.104(4), F.S., to require declarations for residential condominiums and mixed-use condominiums²⁶ to specify whether the unit owner or the association is responsible for the installation, maintenance, repair, or replacement of hurricane protection that is for the preservation and protection of the condominium property and association property. Under the

²² Common expenses include the expenses of the operation, maintenance, repair, replacement, or protection of the common elements and association property, costs of carrying out the powers and duties of the association, and any other expense, whether or not included in the foregoing, designated as common expense by ch. 718, F.S., the declaration, the documents creating the association, or the bylaws. *See* s. 718.115(1)(a), F.S.

²³ Section 718.115(1)(e), F.S.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Section 718.103(23), F.S., provides that a condominium which contains both commercial and residential units is a mixed-use condominium. *See also*, s. 718.404, F.S., relating to mixed-use condominiums.

bill, condominiums created after July 1, 2023, must contain hurricane protection procedures for the condominium in the declaration of condominium creating the community.

Application to Residential and Mixed-Use Condominiums

Section 718.113(5), F.S., is amended by the bill to apply the installation of hurricane protection requirements to all residential and mixed-use condominiums in Florida, regardless of when the condominium is created pursuant to the declaration of condominium.

Material Alterations and Substantial Additions to Condominium Property

The bill also amends s. 718.113(5), F.S., to provide that the installation, replacement, operation, repair, and maintenance of hurricane protection is not a substantial addition to the common elements or association property. It maintains the provision in current law that the installation, replacement, operation, repair, and maintenance of hurricane protection is not a material alteration to the common elements or association property.

Approval Process

The bill amends s. 718.113(5)(a), F.S., to provide that a vote of the unit owners to approve the installation of hurricane protection must be set forth in a certificate attesting to the vote and include the date that the hurricane protection must be installed. The board must record the certificate in the public records of the county where the condominium is located. The certificate must include the recording data identifying the declaration of the condominium and must be executed in the form required for the execution of a deed. Once the certificate is recorded, the board must mail or hand-deliver a copy of the recorded certificate to the unit owners at the owners' address as reflected in the records of the association. The board may provide a copy of the recorded certificate by electronic transmission to unit owners who previously consented to receive notice by electronic transmission. The validity or enforceability of the vote of the unit owners is not affected by a failure to record the certificate or to send a copy of the recorded certificate to the unit owners.

Section 718.113(5)(a), F.S., is also amended by the bill to provide that an association's process for installing, maintaining, repairing, and replacing hurricane protection, or windows and doors protected by the hurricane protection, may be established in the originally recorded declaration or an amended declaration. Current law only references the declaration, not the original recorded declaration and an amended declaration.

Section 718.113(5)(c), F.S., as amended by the bill, authorizes boards to require unit owners to adhere to an existing unified building scheme regarding the external appearance of the condominium.

Assigning Costs

The bill amends s. 718.113(5)(d), F.S., to provide that unit owners may be responsible for the costs of removal and reinstallation of any hurricane protection if the association is required to remove the hurricane protection for maintenance, repair or replacement of condominium

property for which the association is obligated to maintain. The board must determine whether the removal or reinstallation is to be performed by the association or unit owner. If the removal or reinstallation of hurricane protection is completed by the associations, the removal and reinstallation of hurricane protection is chargeable to the owner and may be enforced as an assessment.

Section 718.115(1)(e), F.S., is amended by the bill to provide that, if the cost of installation of hurricane protection is the responsibility of unit owners pursuant to the declaration or a vote of the owners, the cost of installation by the association is not a common expense and may be charged to the unit owners based on the cost of installation. The cost of installation is enforceable against the unit owner as an assessment.

The bill amends s. 718.115(1)(e), F.S., to provide that, if an owner has already installed code-compliant hurricane protection, the owner may be excused from the assessment levied by the association to fund the installation of hurricane protection or may receive a credit equal to the amount the owner would have been charged for the installation. The credit only applies if the hurricane protection installed by the unit owner complies with the current building code and is the same type installed by the association. Additionally, the credit applies only if the installation is for all other units lacking code-compliant hurricane protection and the expense of the installation is funded by the budget, including reserve funds. The credit must be equal to the amount that the unit owner would have been assessed to install the hurricane protection. However, under current law and the bill, a unit owner remains responsible for the pro rata share of expenses for hurricane protection installed on common elements and association property by the board and remains responsible for a pro rata share of the expense of the replacement, operation, repair, and maintenance of such.

The bill also provides that expenses for the installation, replacement, operation, and repair, or maintenance of hurricane protection on common elements and association property are common expenses. Current law provides that these expenses are common expenses if the association is responsible for these hurricane protection expenses under the declaration.

Effective Date

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

A declaration of condominium is a contract. To the extent this bill affects previously recorded declarations, the bill may unconstitutionally impair contract, under s. 10, Art. I, Fla. Const., which provides in relevant part, “No... law impairing the obligation of contracts shall be passed.” This provision empowers the courts to strike laws that retroactively burden or alter contractual relations. Article I, s. 10 of the United States Constitution provides in relevant part that “No state shall . . . pass any . . . law impairing the obligation of contracts.”

In *Pomponio v. Claridge of Pompano Condominium, Inc.*,²⁷ the Florida Supreme Court stated that some degree of flexibility has developed over the last century in interpreting the contract clause in order to ameliorate the harshness of the original rigid application used by the United States Supreme Court. The court set forth several factors in balancing whether a state law operates as a substantial impairment of a contractual relationship. The severity of the impairment measures the height of the hurdle the state legislation must clear. The court stated that if there is minimal alteration of contractual obligations the inquiry can end at its first stage. Severe impairment can push the inquiry to a careful examination of the nature and purpose of the state legislation. The factors to be considered are:

- Was the law enacted to deal with a broad, generalized economic or social problem;
- Does the law operate in an area that was already subject to state regulation at the time the contract was entered into; and
- Is the law’s effect on the contractual relationships temporary or whether is it severe, permanent, immediate, and retroactive.²⁸

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

None.

B. Private Sector Impact:

The installation and maintenance of hurricane protection may reduce the costs of property, casualty, and windstorm insurance for condominium associations and unit owners.

C. Government Sector Impact:

None.

²⁷ *Pomponio v. Claridge of Pompano Condominium, Inc.*, 378 So. 2d 774, 776 (Fla. 1979).

²⁸ *Id.* at 779.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 718.103, 718.104, 718.113, and 718.115.

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 Hooper

21-01078-23

2023556__

1 A bill to be entitled
 2 An act relating to hurricane protection for
 3 condominium associations; amending s. 718.103, F.S.;
 4 defining the term "hurricane protection"; amending s.
 5 718.104, F.S.; requiring declarations to specify the
 6 entity responsible for the installation, maintenance,
 7 repair, or replacement of hurricane protection;
 8 amending s. 718.113, F.S.; providing applicability;
 9 authorizing, rather than requiring, certain hurricane
 10 protection specifications; specifying that certain
 11 actions are not material alterations or substantial
 12 additions; authorizing the boards of residential and
 13 mixed-use condominiums to install or require the unit
 14 owners to install hurricane protection; requiring a
 15 vote of the unit owners for the installation of
 16 hurricane protection; requiring that such vote be
 17 attested to in a certificate and recorded in certain
 18 public records; providing requirements for such
 19 certificate; providing that the validity or
 20 enforceability of a vote of the unit owners is not
 21 affected if the board fails to record a certificate or
 22 send a copy of the recorded certificate to the unit
 23 owners; providing that a vote of the unit owners is
 24 not required under certain circumstances; prohibiting
 25 installation of the same type of hurricane protection
 26 previously installed; providing exceptions;
 27 prohibiting the boards of residential and mixed-use
 28 condominiums from refusing to approve certain
 29 hurricane protections; authorizing the board to

Page 1 of 9

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

21-01078-23

2023556__

30 require owners to adhere to certain guidelines
 31 regarding the external appearance of a condominium;
 32 revising responsibility for the removal or
 33 reinstallation of hurricane protection; authorizing
 34 the association to charge certain expenses to unit
 35 owners; specifying that such charges are enforceable
 36 as assessments under certain circumstances; amending
 37 s. 718.115, F.S.; specifying when the cost of
 38 installation of hurricane protection is not a common
 39 expense; authorizing certain expenses to be
 40 enforceable as assessments; requiring certain unit
 41 owners to be excused from certain assessments or to
 42 receive a credit for hurricane protection that has
 43 been installed; providing credit applicability under
 44 certain circumstances; providing for the amount of
 45 credit that a unit owner must receive; specifying that
 46 certain expenses are common expenses; providing an
 47 effective date.

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

51 Section 1. Present subsections (18) through (31) of section
 52 718.103, Florida Statutes, are redesignated as subsections (19)
 53 through (32), respectively, and a new subsection (18) is added
 54 to that section, to read:

55 718.103 Definitions.—As used in this chapter, the term:
 56 (18) "Hurricane protection" means hurricane shutters,
 57 impact glass, code-compliant windows or doors, and other code-
 58 compliant hurricane protection products used to preserve and

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

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protect the condominium property or association property.

Section 2. Paragraph (p) is added to subsection (4) of section 718.104, Florida Statutes, to read:

718.104 Creation of condominiums; contents of declaration.—

Every condominium created in this state shall be created pursuant to this chapter.

(4) The declaration must contain or provide for the following matters:

(p) For both residential condominiums and mixed-use condominiums, specify whether the unit owner or the association is responsible for the installation, maintenance, repair, or replacement of hurricane protection that is for the preservation and protection of the condominium property and association property.

Section 3. Subsection (5) of section 718.113, Florida Statutes, is amended to read:

718.113 Maintenance; limitation upon improvement; display of flag; hurricane ~~shutters~~ and protection; display of religious decorations.—

(5) To protect the health, safety, and welfare of the people of this state and to ensure uniformity and consistency in the hurricane protections installed by condominium associations and unit owners, this subsection applies to all residential and mixed-use condominiums in this state, regardless of when the condominium is created pursuant to the declaration of condominium. Each board of administration of a residential condominium or mixed-use condominium must ~~shall~~ adopt hurricane protection ~~shutter~~ specifications for each building within each condominium operated by the association which may ~~shall~~ include

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color, style, and other factors deemed relevant by the board.

All specifications adopted by the board must comply with the applicable building code. The installation, maintenance, repair, replacement, and operation of hurricane protection in accordance with this subsection is not considered a material alteration or substantial addition to the common elements or association property within the meaning of this section.

(a) The board may, subject to s. 718.3026 and the approval of a majority of voting interests of the residential condominium or mixed-use condominium, install or require that unit owners install hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection that complies ~~comply~~ with or exceeds ~~exceed~~ the applicable building code. A vote of the unit owners to require the installation of hurricane protection must be set forth in a certificate attesting to such vote and include the date that the hurricane protection must be installed. The board must record the certificate in the public records of the county where the condominium is located. The certificate must include the recording data identifying the declaration of the condominium and must be executed in the form required for the execution of a deed. Once the certificate is recorded, the board must mail or hand-deliver a copy of the recorded certificate to the unit owners at the owners' address as reflected in the records of the association. The board may provide a copy of the recorded certificate by electronic transmission to unit owners who previously consented to receive notice by electronic transmission. The failure to record the certificate or send a copy of the recorded certificate to the unit owners does not

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117 ~~affect the validity or enforceability of the vote of the unit~~
 118 ~~owners. However,~~ A vote of the unit owners under this paragraph
 119 is not required if the installation, maintenance, repair, and
 120 ~~replacement of the hurricane shutters, impact glass, code-~~
 121 ~~compliant windows or doors, or other types of code-compliant~~
 122 ~~hurricane protection, or any exterior windows, doors, or other~~
 123 ~~apertures protected by the hurricane protection, is~~ are the
 124 responsibility of the association pursuant to the declaration of
 125 condominium as originally recorded or as amended, or if the unit
 126 owners are required to install hurricane protection pursuant to
 127 the declaration of condominium as originally recorded or as
 128 amended. If hurricane protection ~~or laminated glass or window~~
 129 ~~film architecturally designed to function as hurricane~~
 130 ~~protection~~ that complies with or exceeds the current applicable
 131 building code has been previously installed, the board may not
 132 install the same type of hurricane shutters, impact glass, code-
 133 ~~compliant windows or doors, or other types of code-compliant~~
 134 ~~hurricane protection~~ or require that unit owners install the
 135 same type of hurricane protection unless the installed hurricane
 136 protection has reached the end of its useful life or is
 137 necessary to prevent damage to the common elements or to a unit
 138 ~~except upon approval by a majority vote of the voting interests.~~

139 ~~(b) The association is responsible for the maintenance,~~
 140 ~~repair, and replacement of the hurricane shutters, impact glass,~~
 141 ~~code-compliant windows or doors, or other types of code-~~
 142 ~~compliant hurricane protection authorized by this subsection if~~
 143 ~~such property is the responsibility of the association pursuant~~
 144 ~~to the declaration of condominium. If the hurricane shutters,~~
 145 ~~impact glass, code-compliant windows or doors, or other types of~~

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146 ~~code-compliant hurricane protection are the responsibility of~~
 147 ~~the unit owners pursuant to the declaration of condominium, the~~
 148 ~~maintenance, repair, and replacement of such items are the~~
 149 ~~responsibility of the unit owner.~~

150 ~~(b)(c)~~ The board may operate ~~shutters, impact glass, code-~~
 151 ~~compliant windows or doors, or other types of code-compliant~~
 152 ~~hurricane protection installed pursuant to this subsection~~
 153 without permission of the unit owners only if such operation is
 154 necessary to preserve and protect the condominium property or
 155 and association property. The ~~installation, replacement,~~
 156 ~~operation, repair, and maintenance of such shutters, impact~~
 157 ~~glass, code-compliant windows or doors, or other types of code-~~
 158 ~~compliant hurricane protection in accordance with the procedures~~
 159 ~~set forth in this paragraph are not a material alteration to the~~
 160 ~~common elements or association property within the meaning of~~
 161 ~~this section.~~

162 ~~(c)(d)~~ Notwithstanding any other provision in the
 163 residential condominium or mixed-use condominium documents, if
 164 approval is required by the documents, a board may not refuse to
 165 approve the installation or replacement of ~~hurricane shutters,~~
 166 ~~impact glass, code-compliant windows or doors, or other types of~~
 167 ~~code-compliant hurricane protection~~ by a unit owner which
 168 conforms ~~conforming~~ to the specifications adopted by the board.
 169 However, a board may require the unit owner to adhere to an
 170 existing unified building scheme regarding the external
 171 appearance of the condominium.

172 (d) A unit owner may be responsible for the cost of any
 173 removal or reinstallation of hurricane protection if the unit
 174 owner installed the hurricane protection and its removal is

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necessary for the maintenance, repair, or replacement of the condominium property or association property for which the association is responsible. The board shall determine if the removal or reinstallation of hurricane protection must be completed by the unit owner or the association. If such removal or reinstallation is completed by the association, the costs incurred by the association may be charged to the unit owner. If the association charges the unit owner for the removal or installation of hurricane protection, such charges are enforceable as an assessment and may be collected in the manner provided under s. 718.116.

Section 4. Paragraph (e) of subsection (1) of section 718.115, Florida Statutes, is amended to read:

718.115 Common expenses and common surplus.-

(1)

(e) 1. The expense of installation, replacement, operation, repair, and maintenance of hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection by the board pursuant to s. 718.113(5) constitutes a common expense and shall be collected as provided in this section if the association is responsible for the maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection pursuant to the declaration of condominium. However, If the installation of maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection is are the responsibility of the unit owners pursuant to the declaration of condominium or a

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vote of the unit owners under s. 718.113(5), the cost of the installation of ~~the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection by the association is not a common expense and ~~must shall~~ be charged individually to the unit owners based on the cost of installation of ~~the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection appurtenant to the unit. The costs of installation of hurricane protection are enforceable as an assessment and may be collected in the manner provided under s. 718.116.

2. Notwithstanding s. 718.116(9), and regardless of whether ~~or not~~ the declaration requires the association or unit owners to install, maintain, repair, or replace ~~hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection, the a unit owner of a unit where who has previously installed hurricane shutters in accordance with s. 718.113(5) that comply with the current applicable building code shall receive a credit when the shutters are installed; a unit owner who has previously installed impact glass or code-compliant windows or doors that comply with the current applicable building code shall receive a credit when the impact glass or code-compliant windows or doors are installed; and a unit owner who has installed other types of code-compliant hurricane protection that complies comply with the current applicable building code has been installed is excused from any assessment levied by the association or shall receive a credit if when the same type of other code-compliant hurricane protection is installed by the association, and the

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credit shall be equal to the ~~pro rata portion of the assessed~~
~~installation cost assigned to each unit.~~ A credit is applicable
if the installation of hurricane protection is for all other
units that do not have hurricane protection and the cost of such
installation is funded by the association's budget, including
the use of reserve funds. The credit must be equal to the amount
that the unit owner would have been assessed to install the
hurricane protection. However, such unit owner remains
responsible for the pro rata share of expenses for hurricane
shutters, impact glass, code-compliant windows or doors, or
other types of code-compliant hurricane protection installed on
common elements and association property by the board pursuant
to s. 718.113(5) and remains responsible for a pro rata share of
the expense of the replacement, operation, repair, and
maintenance of such shutters, impact glass, code-compliant
windows or doors, or other types of code-compliant hurricane
protection. Expenses for the installation, replacement,
operation, repair, or maintenance of hurricane protection on
common elements and association property are common expenses.

Section 5. This act shall take effect July 1, 2023.



The Florida Senate

Committee Agenda Request

To: Senator Joe Gruters, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: March 7, 2023

I respectfully request that **Senate Bill # 556**, relating to Hurricane Protection for Condominium Associations, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ed Hooper", is written over a horizontal line.

Senator Ed Hooper
Florida Senate, District 21

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3-14-23

Meeting Date

Reg. Industries^c

Committee

SB 556

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Pete Dunbar

Phone

850/999-4100

Address

106 E College

Street

Tallahassee Fla

City

State

32301

Zip

Email

pdunbar@leannread.com

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3-14-23

Meeting Date

556

Bill Number or Topic

Reg Industries

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name TRAVIS MOORE

Phone 727.421.6902

Address P.O. Box 2020

Email travis@moore-relations.com

Street

St. Petersburg FL

33731

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Community Associations Institute
& FirstService Residential

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 770

INTRODUCER: Senator Bradley

SUBJECT: Residential Real Estate Listing Agreements

DATE: March 13, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Favorable
2.			CM	
3.			RC	

I. Summary:

SB 770 regulates options to enter into a listing agreement. Under the bill, an “option to enter into a listing agreement” means “a signed writing wherein a broker pays valuable consideration to a person granting the broker an exclusive right to enter into a listing agreement with the person at a future date during the term of the signed writing.”

The bill prohibits an option to enter into a listing agreement for the disposition of residential real property to exceed a term of six months. The bill prohibits an option to enter into a listing agreement from becoming a lien, encumbrance, or security interest in residential real property.

Under the bill, an option to enter into a listing agreement may not be enforced by a lien or constructive trust in the residential real property or upon the proceeds of the disposition (sale) of the residential real property.

The bill provides that an option to enter into a listing agreement must require notice and the written agreement of the residential property owner before the broker may assign the option to enter into a listing agreement to another broker. The bill provides that, as a matter of public policy, a listing agreement or an option to enter into a listing agreement that does not meet these requirements is unenforceable in law or equity and may not be recorded by the clerk of the circuit court.

Additionally, the bill provides that a violation of the requirements in the bill is an unfair or deceptive trade practice within the meaning of the Florida Deceptive and Unfair Trade Practices Act (FDUTPA), and the violator is subject to the penalties and remedies provided by FDUTPA.

The bill takes effect July 1, 2023.

II. Present Situation:

Regulation of Real Estate Professionals

Real estate brokers¹ and broker associates² (real estate professionals) are regulated by the Florida Real Estate Commission (commission) within the Department of Business and Professional Regulation (DBPR) under part I of ch. 475, F.S. The Division of Real Estate within the DBPR performs the administrative services for the commission, including recordkeeping services, examination services, legal services, and investigative services.³

Fiduciary Relationship

Real estate brokers are in a relationship with the buyer or seller for whom they act as an agent. The duties of a broker as a fiduciary are loyalty, confidentiality, obedience, full disclosure and accounting, and the duty to use skill, care, and diligence.⁴

The listing agreement between the buyer or seller of real estate and a broker must be disclosed in writing in the listing agreement or other documents.⁵

Listing Agreements

In an exclusive listing agreement such as the standard agreement offer by Florida Realtors, the seller authorizes the listing broker to sell the property and to offer cooperation to other agents, but the buyer reserves the right to sell the property herself or himself.⁶

Disciplinary Provisions

If the commission finds that a licensee, registrant, permittee, or applicant, has violated any of the disciplinary grounds in ss. 455.227, 475.25, and 475.42, F.S., the commission may:

- Deny an application for licensure, registration, or permit, or renewal thereof;
- Place a licensee, registrant, or permittee on probation;
- Suspend a license, registration, or permit for a period not exceeding 10 years;
- Revoke a license, registration, or permit;
- Impose an administrative fine not to exceed \$5,000 for each count or separate offense;
- Issue a reprimand; and
- Do any or all of the foregoing actions.

In relevant part, grounds for discipline of a real estate professional may include:

¹ See s. 475.01(1)(a), F.S., defining the term “broker.”

² See s. 475.01(1)(b), F.S., defining the term “broker associate.”

³ Section 475.021, F.S.

⁴ See s. 475.278, F.S., providing the requirements for an authorized brokerage relationship in residential sales, and s. 475.01(1)(f), F.S., defining the term “fiduciary.”

⁵ Section 475.278, F.S.

⁶ Florida Realtors is a trade association for Florida’s real estate brokers. Members of the trade association have access to a variety of forms for use in the real estate brokerage practice. See Florida Realtors, *Form Descriptions*, at: <https://www.floridarealtors.org/tools-research/form-descriptions> (last visited Mar. 7, 2023).

- Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession;⁷
- Advertising property or services in a manner that is fraudulent, false, deceptive, or misleading in form or content;⁸ and
- Disseminating or causing to be disseminated by any means any false or misleading information for the purpose of offering for sale, or for the purpose of causing or inducing any other person to purchase, lease, or rent, real estate located in Florida or for the purpose of causing or inducing any other person to acquire an interest in the title to real estate located in Florida.⁹

Florida Deceptive and Unfair Practices Act

The Florida Deceptive and Unfair Trade Practices Act (FDUTPA or act)¹⁰ addresses issues of consumer protection, unfair methods of competition, and unconscionable, deceptive, and unfair trade practices.¹¹ Violations of the act are enforced by the office of the state attorney if a violation occurs in or affects the judicial circuit under the office’s jurisdiction. The Department of Legal Affairs is the enforcement authority if the violation occurs in or affects more than one judicial circuit or if the office of the state attorney defers to the department in writing, or fails to act upon a violation within 90 days after a written complaint has been filed with the state attorney.¹²

The enforcing authority may seek a declaratory judgment to determine whether an act or practice violates FDUTPA, file an action to enjoin any person who has violated, is violating, or is otherwise likely to violate the act, or take legal action on behalf of one or more consumers or governmental entities for the actual damages caused by an act or practice in violation of the act.¹³

The FDUTPA provides for a civil penalty of no more than \$10,000 for willful violations. The enforcing authority is also entitled to reasonable attorney’s fees and costs if civil penalties are assessed in any litigation.¹⁴

MV Realty Case

The Florida Attorney General has filed a complaint for injunctive and monetary relief against Florida-based real estate brokerage firm (MV Realty) and its principals for deceptive, unfair and unconscionable business practices under the FDUTPA.¹⁵ The Attorney General alleges that the practices of MV Realty “result in homeowners signing away home equity for a paltry upfront

⁷ Section 455.227(1)(m), F.S.

⁸ Section 475.25(1)(c), F.S.

⁹ Section 475.42(1)(n), F.S.

¹⁰ Part II of ch. 501, F.S.

¹¹ See s. 501.202, F.S.

¹² Section 501.203(2), F.S.

¹³ Section 501.207(1), F.S.

¹⁴ Section 501.2075, F.S.

¹⁵ *Office of Attorney General v. MV Realty, et al*, case no. 22-CA-009958 (Fla. 13th Jud. Cir. 2022). A copy of the civil complaint for injunctive and other relief is available at: [http://myfloridalegal.com/webfiles.nsf/WF/CPAL-CLMSK3/\\$file/Web+Link.pdf](http://myfloridalegal.com/webfiles.nsf/WF/CPAL-CLMSK3/$file/Web+Link.pdf) (last visited Mar. 7, 2023).

payment.”¹⁶ The defendants allegedly offer homeowners \$300 to \$5,000 as a cash loan alternative in exchange for an agreement to use the MV Realty as an exclusive listing broker. After accepting the payment, MV Realty files a 40-year lien on the property that requires homeowners to pay 3 percent of the value of the home to MV Realty, regardless of whether the company provides any real estate listing services.

The Attorney General also alleges that MV Realty and the other defendants have violated the Telemarketing Sales Rule¹⁷ by bombarding prospective consumers, including consumers who have registered under the national Do-Not-Call registry, with unwanted telemarketing calls and by using phone numbers that deceptively simulate local calls.¹⁸

III. Effect of Proposed Changes:

The bill creates s. 475.279, F.S., to regulate options to enter into a listing agreement.

The bill defines the term “option to enter into a listing agreement” to mean “a signed writing wherein a broker pays valuable consideration to a person granting the broker an exclusive right to enter into a listing agreement with the person at a future date during the term of the signed writing.”

Under the bill, an option to enter into a listing agreement for the disposition of residential real property may not exceed a term of six months.

The bill defines the term “disposition” to mean “a transfer or voluntary conveyance of the title or other ownership interest in residential real estate.” It also defines the term “residential real property” to mean “improved residential property of four units or fewer or unimproved residential real property intended for four units or fewer.”

An option to enter into a listing agreement may not become a lien, encumbrance, or security interest in residential real property. The bill also prohibits the enforcement of an option to enter into a listing agreement by a lien or constructive trust in the residential real property or upon the proceeds of the disposition (sale) of the residential real property.

The bill provides that an option to enter into a listing agreement must require notice and written agreement of the residential property owner before the broker may assign the option to enter into a listing agreement to another broker. The bill provides that, as a matter of public policy, a listing agreement or an option to enter into a listing agreement that does not meet these requirements is unenforceable in law or equity and may not be recorded by the clerk of the circuit court.

¹⁶ Office of Attorney General Ashley Moody, *Attorney General Moody Takes Legal Action Against MV Realty for Swindling Florida Homeowners* (Nov. 29, 2022), available at: <https://www.myfloridalegal.com/newsrel.nsf/newsreleases/E9E4A2F7281415CE85258909007259EC?Open&> (last visited Mar. 7, 2023).

¹⁷ The Telemarketing Sales Rule, 16 C.F.R s. 310, *et seq.*, is a rule of the Federal Trade Commission (FTC) which requires telemarketers to make specific disclosures of material information; prohibits misrepresentations; sets limits on the times telemarketers may call consumers; prohibits calls to a consumer who has asked not to be called again; and sets payment restrictions for the sale of certain goods and services. See FTC, *Telemarketing Sales Rule*, at <https://www.ftc.gov/legal-library/browse/rules/telemarketing-sales-rule> (last visited Mar. 9, 2023).

¹⁸ *Supra* note 12.

Additionally, the bill deems a violation of s. 475.279, F.S., to be an unfair or deceptive trade practice within the meaning of FDUTPA, and provides that a person who violates this section is subject to the penalties and remedies provided FDUTPA.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 475.279 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 Bradley

6-00472C-23

2023770

A bill to be entitled

An act relating to residential real estate listing agreements; creating s. 475.279, F.S.; defining terms; specifying a limitation on the term of an option to enter into a listing agreement for the disposition of residential real property; prohibiting a court from enforcing an option to enter into a listing agreement by certain means; requiring notice and a written agreement of the residential property owner before a broker may assign the option to enter into a listing agreement to another broker; providing construction; providing penalties for violations; providing an effective date.

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

Section 1. Section 475.279, Florida Statutes, is created to read:

475.279 Option to enter into a listing agreement for the disposition of residential real property.—

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

(a) "Disposition" means a transfer or voluntary conveyance of the title or other ownership interest in residential real estate.

(b) "Option to enter into a listing agreement" means a signed writing wherein a broker pays valuable consideration to a person granting the broker an exclusive right to enter into a listing agreement with the person at a future date during the term of the signed writing.

Page 1 of 2

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

6-00472C-23

2023770

(c) "Residential real property" means improved residential property of four units or fewer or unimproved residential real property intended for four units or fewer.

(2) An option to enter into a listing agreement for the disposition of residential real property may not exceed a term of 6 months.

(3) An option to enter into a listing agreement may not constitute a lien, encumbrance, or security interest in the residential real property. A court may not enforce an option to enter into a listing agreement by a lien or constructive trust in the residential real property or upon the proceeds of the disposition of the residential real property.

(4) An option to enter into a listing agreement must require notice and written agreement of the residential property owner before the broker may assign the option to enter into a listing agreement to another broker.

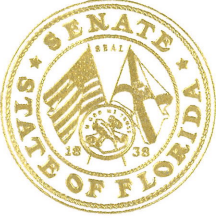
(5) As a matter of public policy, a listing agreement or an option to enter into a listing agreement that does not meet the requirements of this section is unenforceable in law or equity and may not be recorded by the clerk of the circuit court.

(6) A violation of this section is deemed an unfair or deceptive trade practice within the meaning of part II of chapter 501, and a person who violates this section is subject to the penalties and remedies provided therein.

Section 2. This act shall take effect July 1, 2023.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Committee on Criminal
and Civil Justice, *Chair*
Criminal Justice, *Vice Chair*
Appropriations
Appropriations Committee on Health
and Human Services
Children, Families, and Elder Affairs
Community Affairs
Regulated Industries

SELECT COMMITTEE:

Select Committee on Resiliency

SENATOR JENNIFER BRADLEY

6th District

February 24, 2023

Senator Joe Gruters, Chairman
Senate Committee on Regulated Industries
316 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Gruters:

I respectfully request that Senate Bill 770 be placed on the committee's agenda at your earliest convenience. This bill relates to the residential real estate listing agreements.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Bradley".

Jennifer Bradley

cc: Booter Imhof, Staff Director
Susan Datres, Administrative Assistant

REPLY TO:

- ☐ 1845 East West Parkway, Suite 5, Fleming Island, Florida 32003 (904) 278-2085
- ☐ 410 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

March 14, 2023

Meeting Date

Regulated Industries

Committee

Name **Brian Jogerst**

Address **PO Box 838**

Street

Tallahassee

City

Florida

State

32302

Zip

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 770

Bill Number or Topic

Amendment Barcode (if applicable)

Phone **850-933-1985**

Email **brian@waypointstrat.com**

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

**Elder Law Section/Florida Bar &
Academy of Florida Elder Law Attorneys**

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

3/14/23

The Florida Senate
APPEARANCE RECORD

770

Meeting Date

Regulated Industries

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

TIM STANFIELD

Phone

222 6891

Address

101 College Ave

Email

Stanfieldt@gtlaw.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:

☐

For

☐

Against

☒

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

MV Realty

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](https://www.flsenate.gov/2020-2022JointRules.pdf)

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

S-001 (08/10/2021)

APPEARANCE RECORD

3/14/23

Meeting Date

Deliver both copies of this form to
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SB 770

Bill Number or Topic

Regulatory Industries

Committee

Amendment Barcode (if applicable)

Name

Gerard O'Rourke

Phone

Address

Street

Email

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking:

☒ In Support☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.☒ I am a registered lobbyist,
representing:

Zillow

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

3/14/2023

Meeting Date

Regulated Industries

Committee

Name **Zayne Smith**

Address **215 South Monroe Suite 603**

Street

Tallahassee

City

Florida

State

32301

Zip

The Florida Senate
APPEARANCE RECORD

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Senate professional staff conducting the meeting

SB 770

Bill Number or Topic

Amendment Barcode (if applicable)

Phone **(850) 228-4243**

Email **zsmith@aarp.org**

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

AARP

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

770

Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

3.14.23

Committee

REG INDUSTRIES

Name

DAVID DANIEL

Phone

850 224-5081

Address

311 EAST PARK AVENUE

Email

Street

TALLAHASSEE

FL

32301

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

FLORIDA LAND TITLE ASSOCIATION

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/14/23

Meeting Date

REG. INDUSTRIES

Committee

SB 770

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name LIBBY GUZZO

Phone 850 245 0155

Address 401 S. MONROE ST

Street

Email LIBBY.GUZZO@MYFLORIDA
LEGAL.COM

TLH

City

FL

State

32311

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

OFFICE OF
ATTORNEY GENERAL

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 980

INTRODUCER: Regulated Industries Committee and Senators Brodeur and Stewart

SUBJECT: 911 Public Safety Telecommunicator Certifications

DATE: March 15, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schrader	Imhof	RI	Fav/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 980 amends s. 401.465, F.S., relating to the 911 public safety telecommunicator (PST) certification. The bill increases the timeframe, from 180 days to six years, within which a certificateholder may renew an involuntarily inactive PST certificate before said certificate permanently expires.

The bill has an effective date of July 1, 2023.

II. Present Situation:

911 Public Safety Telecommunicator Certification

Chapter 401, F.S., relates to medical telecommunications and transportation. Part I of ch. 401, F.S., is specific to the state's emergency telecommunication systems, administered by the Department of Management Services. Part II of ch. 401, F.S., is specific to the emergency medical services (EMS) grants program administered by the Department of Health (DOH). Part III of ch. 401, F.S., consisting of ss. 401.2101 through 401.465, F.S., is specific to medical transportation services and provides for the regulation of EMS by the DOH, including the licensure of EMS service entities, the certification of staff employed by those services, and the permitting of vehicles used by such staff—whether for basic life support (BLS), advanced life support (ALS), or air ambulance services (AAS).

Section 401.465, F.S., is specific to PST certification, administered as part of the EMS program, and defines:

- “911 public safety telecommunicator” as a public safety dispatcher or 911 operator whose duties and responsibilities include the answering, receiving, transferring, and dispatching functions related to 911 calls; dispatching law enforcement officers, fire rescue services, emergency medical services, and other public safety services to the scene of an emergency; providing real-time information from federal, state, and local crime databases; or supervising or serving as the command officer to a person or persons having such duties and responsibilities. The term does not include, however, administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel.
- “Public safety telecommunication training program” as a 911 emergency public safety telecommunication training program that the DOH determines to be equivalent to the public safety telecommunication training program curriculum framework developed by the DOE. and consists of at least 232 hours.¹

Any person employed as a PST at a public safety answering point, as defined in s. 365.172(3), F.S.,² must be certified by the DOH. A public safety agency, as defined in s. 365.171(3)(d), F.S.,³ may employ a PST for a period not to exceed 12 months if the trainee works under the direct supervision of a certified PST, as determined by rule of the DOH, and is enrolled in a PST training program.

An applicant for certification or recertification as a PST must apply to the DOH under oath on the DOH-provided forms. The DOH, under the rules set forth in Fla. Admin. Code Ch. 64J-3, has established educational and training criteria for the certification and recertification of PSTs, determines whether the applicant meets the statutory and rule requirements, and issues certificates to persons meeting those requirements. Section 401.465(2)(d), F.S., specifies that, at minimum, the requirements must include all of the following:

- Completion of an appropriate 911 PST training program.
- Certification, under oath, that the applicant is not addicted to alcohol or any controlled substance.
- Certification, under oath, that the applicant is free from any physical or mental defect or disease that might impair the applicant’s ability to perform his or her duties.
- Submission of the appropriate application fee.
- Submission of a completed DOH-approved application to the DOH which indicates compliance with PST certificate application requirements.
- Passage of a DOH-approved examination that measures the applicant’s competency and proficiency in the subject material of the PST training program.

¹ Section 401.465(1), F.S.

² Section 365.172 (3)(y), F.S., defines a “public safety answering point” as the public safety agency that receives incoming 911 requests for assistance and dispatches appropriate public safety agencies to respond to the requests in accordance with the state E911 plan.

³ Section 365.171(3)(d), F.S., defines a “public safety agency” as a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services.

A person who was previously employed as a PST or a state-certified firefighter before April 1, 2012, must pass the examination approved by the DOH, which measures the competency and proficiency in the subject material of the PST program, and, upon passage of the examination, the completion of the PST training program is waived.⁴ In addition, the requirement for certification as a PST is waived for a person employed as a sworn, state-certified law enforcement officer, provided that the officer:

- Is selected by his or her chief executive to perform as a PST;
- Performs as a PST on an occasional or limited basis; and
- Passes the DOH-approved examination that measures the competency and proficiency of an applicant in the subject material comprising the public safety telecommunication program.⁵

Section 401.465(4), F.S., specifies an initial PST application fee of \$50. In addition, subsection allows the DOH to assess the following fees (currently, the DOH charges these fees at the statutory maximum):

- Examination fee, set by the DOH, not to exceed \$75;
- Biennial renewal certificate, set by the DOH, not to exceed \$50;
- Training program fee, set by the DOH, not to exceed \$50; and
- Duplicate, substitute, or replacement certificate fee, set by the DOH, not to exceed \$25.

Fees collected are deposited into the EMS Trust Fund within DOH, and used solely for administering this program.⁶

The DOH has adopted three rules specific to its PST program responsibilities. These rules, which address PST certification, PST course equivalency, and certification renewal (Fla. Admin. Code R. 64J-3.001, 64J-3.001, and 64J-3.001, respectively) were adopted in 2012. These rules not only link to the DOH forms and reference documents but also link to the relevant DOE documents, such as the PST curriculum framework.

The DOH website provides extensive details specific to the PST program and includes links to all applicable forms for individuals who are seeking to become certified or re-certified as a PST, including PST examination details, training program requirements, and fees. Training programs must follow the DOE Public Safety Telecommunication Curriculum Framework and consist of not less than 232 hours in order to be approved as a PST training program. The DOH uses a vendor, Prometric,⁷ to administer the testing for PST candidates.⁸

⁴ Section 401.465(2)(i), F.S.

⁵ *Id.*

⁶ Section 401.465(3), F.S.

⁷ Prometric is a provider of technology-enabled testing and assessment solutions to many licensing and certification organizations, academic institutions, and government agencies. Prometric, *About Us*, <https://www.prometric.com/about-us/about-prometric> (last visited Mar. 10, 2023).

⁸ Department of Health, *911 Public Safety Telecommunicator Program*, available at <http://www.floridahealth.gov/licensing-and-regulation/911-public-safety-telecommunicator-program/index.html> (last visited Mar. 12, 2022).

The DOH develops the learning objectives for the PST program, and these are reflected in the 142-page program study guide.⁹ Until Fiscal Year 2014-2015, the DOH learning objectives and the DOE curriculum framework included a requirement that PST training must include CPR training. In conjunction with the DOE and other stakeholders, the CPR element of this required training was discontinued.¹⁰ However, in 2022, HB 593, was passed by the Legislature and enacted as Chapter 2022-51, Laws of Florida. This law amended s. 401.465, F.S., to require certain PST practitioners to again complete CPR training. Specifically, s. 401.465(3)(a), F.S., requires that

PSTs who answer telephone calls and provide dispatch functions for emergency medical conditions must complete telecommunicator CPR training every two years.

Renewal of 911 Public Safety Telecommunicator Certification

PST certificates are renewed biennially, in odd numbered years, with a due date of February 1 in those years. Fla. Admin. Code R. 64J-3.003 (2012) implements s. 401.465, F.S., and requires that, as part of the filing of the renewal, the certificateholder must complete 20 hours of training for each biennial PST certification renewal. Though s. 401.465, F.S., provides for a biennial renewal period, under s. 401.465(2)(g), F.S., the DOH may suspend or revoke a certificate at any time if it determines that the certificateholder does not meet the applicable qualifications.

911 Public Safety Telecommunicator Involuntary versus Voluntary Inactive Status

Section 401.465, F.S., delineates two types of inactive status. The first is involuntary, as inherently created by the renewal requirements and procedures identified in s. 401.465(2)(f), F.S. The second is voluntary inactive status, as created by the procedure in s. s. 401.465(2)(h), F.S.

Section 401.465(2)(f), F.S. (i.e. involuntary inactive status), specifies that a PST certificate expires automatically if not renewed at the end of its two-year certification period. For 180 days thereafter, such an expired certificate may be reactivated and renewed by the certificateholder by paying a \$50 late fee, in addition to the required \$50 renewal fee, and submitting the required renewal form to the DOH (as long as such certificateholder meets all other qualifications for renewal).¹¹ A certificate so made involuntarily inactive, and not renewed within 180 days, expires and may no longer be renewed.

Section 401.465(2)(h), F.S., allows a certificateholder to place their certificate in voluntary inactive status. To do so, the certificateholder must pay a \$50 fee and apply with the DOH prior to the expiration of their PST certificate pursuant to s. 401.465(2)(f), F.S. Once a certificate is voluntarily inactive, s. 401.465(2)(f), F.S, provides that:

⁹ See the Department of Health, *Florida 911 Public Safety Telecommunicator Study Guide*, 2019, (available at: <https://www.floridahealth.gov/licensing-and-regulation/911-public-safety-telecommunicator-program/documents/911-pst-studyguide.pdf>) (last visited Mar. 10, 2023).

¹⁰ E-mail from Department of Education to staff of the Senate Committee on Health Policy (January 30, 2020) (on file with the Senate Committee on Regulated Industries).

¹¹ See Fla. Admin. Code R. 64J-3.003 (2012), which incorporates by reference DOH form 5068, 01/12, *Renewal/Change of Status 911 Public Safety Telecommunicator Certification Form*, available at: <https://www.flrules.org/Gateway/reference.asp?No=Ref-01490> (last visited Mar. 9, 2023).

- A certificateholder whose certificate has been on inactive status for one year or less may renew his or her certificate pursuant to the rules adopted by the DOH and upon payment of a renewal fee set by the department, which may not exceed \$50.
- A certificateholder whose certificate has been on inactive status for more than one year may renew his or her certificate pursuant to rules adopted by the department.
- A certificate that has been inactive for more than six years automatically expires and may not be renewed.

Though s. 401.465(2)(h), F.S., identifies two types of certificateholders who have unexpired, but voluntarily inactive licenses (i.e. a person who has their PST certificate on voluntary inactive status for one year or less versus a certificateholder who has been on such status for at least one but less than six years), current DOH rules treat them the same. Under either circumstance, a person must have completed all renewal requirements and pay a \$50 renewal fee.¹²

For both involuntary and voluntary inactive status, once a certificate expires (after 180 days of involuntary inactive status or six years of voluntary inactive status) it may not be renewed and an applicant must meet all of the application and training requirements of a new PST certificate in order to regain PST certification.¹³

911 Public Safety Telecommunicator Shortage

According to the National Emergency Number Association (NENA), there is no national database that tracks turnover in dispatch department units (which would include PSTs).¹⁴ As of January 2023, NENA states that it is seeing, anecdotally, an approximate 30 percent staffing shortage on average at 911 centers across the nation.¹⁵ A June 2022 survey of Florida counties by the Florida Telecommunicator Emergency Response Taskforce (part of the Florida Association of Public-Safety Communications Officials) found that, of the 39 Florida counties responding:

- All but one had unfilled PST positions;
- Eighteen had a PST position vacancy rate of 25 percent or more; and
- Overall, 831 of 3,889 authorized PST positions were vacant at that time in those counties (for an overall vacancy rate of 21 percent).¹⁶

¹² *Id.*

¹³ Section 401.465(2)(f) and (h)3., F.S.

¹⁴ Malique Rankin, *911 dispatchers facing staffing shortages as calls increase*, CBS 10 TAMPA BAY WTSP.COM, (Aug. 8, 2021), <https://www.wtsp.com/article/news/local/911-dispatchers-staffing-shortages/67-a17c5a42-92f4-462f-8c61-eaf1b1885255> (last visited: Mar. 9, 2023).

¹⁵ Chris Nussman, *NENA Launches Workforce-Recruitment Resources to Help Combat the 9-1-1 Staffing Crisis*, National Emergency Number Association (Jan. 27, 2023), <https://www.nena.org/news/news.asp?id=629650&hhSearchTerms=%22shortage%22> (last visited: Mar 9, 2023).

¹⁶ Florida Telecommunicator Emergency Response Taskforce, *911 Public Safety Telecommunicator Certificates* (on file with Senate Regulated Industries Committee).

Current Public Safety Telecommunicator Certificateholders in Florida

Currently, according to the DOH, there are 6,081 PST certificateholders in Florida. During the past 3 renewal cycles—February 2017, 2019, and 2021—the number of persons whose licenses expired after 180 days of involuntary inactive status were 1,965, 1,887, and 1,840, respectively.¹⁷

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 401.465(2)(f), F.S., to allow that for all 911 public safety telecommunicator certificates not renewed at the end of the 2-year certificate period, the certificate would enter inactive status for a period not to exceed six years. Such a certificate may be renewed by the certificateholder within this six year period by meeting all other qualifications for renewal and paying a \$50 late fee.

Under current s. 401.465, F.S., such a six-year inactive period and renewal window is limited only to certificateholders electing to place their certificate in voluntary inactive status and paying a \$50 fee to the Department of Health (DOH), prior to the certificate expiring 180 days after the renewal was due. In extending the 6-year renewal period to all inactive certificates, the bill eliminates all statutory distinctions between involuntarily or voluntarily inactive public safety telecommunicator certificates and allows up to 6 years for any certificateholder to renew a certificate before the certificate irrevocably expires.

The bill also:

- Prohibits the DOH from requiring the certificateholder to pay a fee or make an election before placing a certificate in inactive status.
- Provides that for any fee paid by a certificateholder to place their certificate in inactive status in the past 6 years, the DOH shall apply that fee paid to the cost of renewing the certificateholder's certificate.
- Provides that the bill is remedial in nature and applies retroactively to any public safety telecommunicator certificate that has expired pursuant to current s. 401.465(2)(f), F.S., during the 6-year period before the effective date of the act.

The DOH expects that the revisions to s. 401.465(2)(f), F.S., would potentially impact 5,692 former certificateholders whose certificates are currently expired pursuant to the 180-day renewal limitation for certificates on involuntary inactive status under current s. 401.465(2)(f), F.S.¹⁸

Section 2 of the bill provides that it is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁷ Email from Charles Smith, Legislative Planning Director, Florida Department of Health, to Senate Regulated Industries Staff (Mar 13, 2023)(on file with the Senate Regulated Industries Committee).

¹⁸ *Id.*

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Under the bill, the number of persons who are eligible to apply for a renewal of 911 public safety telecommunicator (PST) certification will likely increase. In addition, the number of persons applying for new PST certifications may be reduced, as those whose certifications may have previously been expired are now eligible for renewal instead. However, the exact impact at this time is unknown as the Department of Health (DOH) has yet to provide an analysis for CS/SB 980. However, the DOH did indicate via email that the proposed changes in CS/SB 980 could impact up to 5,692 former certificateholders whose certificates are currently expired and not renewable.¹⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the section 401.465 of the Florida Statutes.

¹⁹ *Id.*

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 14, 2023:

The committee substitute:

- Eliminates a distinction in current s. 401.465, F.S., distinguishing between public safety telecommunicator certificates that become involuntarily or voluntarily inactive and allows up to 6 years for any certificateholder to renew a certificate before it irrevocably expires. Under current law, the 6-year renewal period is only available by applying with the Department of Health for voluntary inactive status and paying a \$50 fee (otherwise, the renewal period is 180 days—i.e. involuntary inactive status).
- Prohibits the Department of Health from requiring the payment of a fee or making of an election before placing a certificate in inactive status.
- Provides that for any fee paid by a certificateholder to place their certificate in inactive status in the past 6 years, the Department of Health shall apply that fee paid to the cost of renewing the certificateholder's certificate.
- Provides for retroactive application.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraphs (f) and (h) of subsection (2) of
section 401.465, Florida Statutes, are amended to read:

401.465 911 public safety telecommunicator certification.—

(2) PERSONNEL; STANDARDS AND CERTIFICATION.—

(f) A 911 public safety telecommunicator certificate
expires automatically if not renewed at the end of the 2-year



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period and may be renewed if the holder meets the qualifications for renewal as established by the department. A certificate that is not renewed at the end of the 2-year period automatically reverts to an inactive status for a period that may not exceed 6 years ~~180 days~~. Such certificate may be reactivated and renewed within the 6-year ~~180-day~~ period by ~~if~~ the certificateholder pursuant to paragraph (h). A certificate that has been inactive for more than 6 years automatically expires and may not be renewed ~~meets all other qualifications for renewal and pays a \$50 late fee. Reactivation shall be in a manner and on forms prescribed by department rule.~~

~~(h) A certificateholder may request that his or her 911 public safety telecommunicator certificate be placed on inactive status by applying to the department before his or her current certification expires and paying a fee set by the department, which may not exceed \$50.~~

~~1. A certificateholder whose certificate has been on inactive status for 6 years~~ 1 year or less may renew his or her certificate pursuant to the rules adopted by the department and upon payment of a renewal fee set by the department, which may not exceed \$50.

~~2. A certificateholder whose certificate has been on inactive status for more than 1 year may renew his or her certificate pursuant to rules adopted by the department.~~

~~3. A certificate that has been inactive for more than 6 years automatically expires and may not be renewed.~~

Section 2. (1) The amendments made by this act to s. 401.465(2)(f) and (h), Florida Statutes, apply regardless of whether the certificateholder voluntarily placed his or her



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certificate in inactive status pursuant to former s.
401.465(2)(h), Florida Statutes, or the certificate reverted to
inactive status pursuant to s. 401.465(2)(f), Florida Statutes,
during the 6-year period before the effective date of this act.
Beginning on the effective date of this act, the Department of
Health may not require a certificateholder to pay a fee or to
make an election to place his or her certificate in inactive
status.

(2) Any fee paid by a certificateholder to voluntarily
place his or her certificate in inactive status during the 6-
year period before the effective date of this act must be
credited toward any future renewal fee required to be paid by
the certificateholder under s. 401.465(2)(h), Florida Statutes.

(3) This act is remedial in nature and applies
retroactively to any public safety telecommunicator certificate
that has expired pursuant to former s. 401.465(2)(f), Florida
Statutes, during the 6-year period before the effective date of
this act.

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

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to 911 public safety telecommunicator
certifications; amending s. 401.465, F.S.; increasing
the timeframe within which an inactive 911 public
safety telecommunicator certificate may be reactivated



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before it permanently expires; deleting a process by which a certificateholder may voluntarily place his or her certificate in inactive status; providing applicability; prohibiting the Department of Health from requiring certificateholders to pay a fee to voluntarily place their certificates in inactive status, beginning on a specified date; requiring that certain fees paid by a certificateholder before a specified date be credited toward any renewal fees required to be paid by the certificateholder; providing for retroactive application; providing an effective date.

By Senator Brodeur

10-00431-23

2023980__

A bill to be entitled

An act relating to 911 public safety telecommunicator certifications; amending s. 401.465, F.S.; increasing the timeframe within which an inactive 911 public safety telecommunicator certificate may be reactivated before it permanently expires; providing an effective date.

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

Section 1. Paragraph (f) of subsection (2) of section 401.465, Florida Statutes, is amended to read:

401.465 911 public safety telecommunicator certification.—

(2) PERSONNEL; STANDARDS AND CERTIFICATION.—

(f) A 911 public safety telecommunicator certificate expires automatically if not renewed at the end of the 2-year period and may be renewed if the holder meets the qualifications for renewal as established by the department. A certificate that is not renewed at the end of the 2-year period automatically reverts to an inactive status for a period that may not exceed 6 years ~~180 days~~. Such certificate may be reactivated and renewed within the 6-year ~~180-day~~ period if the certificateholder meets all other qualifications for renewal and pays a \$50 late fee. Reactivation shall be in a manner and on forms prescribed by department rule.

Section 2. This act shall take effect July 1, 2023.



The Florida Senate

Committee Agenda Request

To: Senator Joe Gruters, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: February 28, 2023

I respectfully request that **Senate Bill #980**, relating to 911 Public Safety Telecommunicator Certifications, be placed on the:

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

A handwritten signature in cursive script that reads "Jason Brodeur".

Senator Jason Brodeur
Florida Senate, District 10

From: Landry, Gary P <Gary.Landry@flhealth.gov>
Sent: Thursday, January 30, 2020 9:21 AM
To: Williams, Phil
Subject: Re: Last question was left off of previous email

Subject: RE: Followup to AED questions from last week
Good morning, our database shows 155 active approved 911 PST training programs.

Get [Outlook for iOS](#)

From: Williams, Phil <Williams.Phil@flsenate.gov>
Sent: Wednesday, January 29, 2020 6:52:35 PM
To: Landry, Gary P <Gary.Landry@flhealth.gov>
Subject: RE: Last question was left off of previous email

Thanks. And for the training programs that are approved, if you could somehow classify those, that would be helpful. Maybe along the lines of state colleges or technical centers or some other education entity

And one more question. In my ongoing back and forth with DOE, they provided the following:

- Part of the standard training includes training in cardiopulmonary resuscitation (CPR). Please confirm that. No, the current curriculum framework does not include CPR training. This learning objective was eliminated in 2014-2015, per FDOH.

Does anyone at DOH have any knowledge as to why this change might have been made in 2014-2015? Was this in some way legislatively driven?

Thanks.

Phil E. Williams
Deputy Staff Director
Committee on Health Policy
Florida Senate
850.487.5824
williams.phil@flsenate.gov

From: Landry, Gary P <Gary.Landry@flhealth.gov>
Sent: Wednesday, January 29, 2020 4:20 PM
To: Williams, Phil <Williams.Phil@flsenate.gov>
Subject: RE: Last question was left off of previous email

They are working on it.

Gary Landry
Office of Legislative Planning
2585 Merchants Row Blvd
(850) 617-1431

From: Williams, Phil [<mailto:Williams.Phil@flsenate.gov>]
Sent: Wednesday, January 29, 2020 2:31 PM
To: Landry, Gary P <Gary.Landry@flhealth.gov>
Subject: RE: Last question was left off of previous email

Hey, Gary. Can you folks tell me how many training programs are approved at present to provide public safety telecommunicator training? Thanks. Phil

Phil E. Williams
Deputy Staff Director
Committee on Health Policy
Florida Senate
850.487.5824
williams.phil@flsenate.gov

From: Williams, Phil
Sent: Friday, January 24, 2020 5:20 PM
To: 'Landry, Gary P' <Gary.Landry@flhealth.gov>
Subject: RE: Last question was left off of previous email

Thanks, Gary. I think I have what I need on SB 934.

For SB 1014, do I need to direct my questions to DOE, since they seem to be the ones who set the training standards? The document you provided did not have the level of detail needed to address my questions.

And, any idea if I will see a DOH analysis for either bill?

Phil

Phil E. Williams
Deputy Staff Director
Committee on Health Policy
Florida Senate
850.487.5824
williams.phil@flsenate.gov

From: Landry, Gary P <Gary.Landry@flhealth.gov>
Sent: Friday, January 24, 2020 1:24 PM
To: Williams, Phil <Williams.Phil@flsenate.gov>
Subject: Last question was left off of previous email

The bill directs the Surgeon General to adopt rule guidance on bleeding control kits , just as was previously done for AED placement in all state buildings, in conjunction with the Department of Management Services (DMS). Does DOH have any information on how many AEDs are in state buildings at present under s. 768.1326, F.S.? I ask you because DMS does not have a number.

The department does not track the number of AEDs in all state buildings. We are working on getting the number of AEDs placed for DOH but do not have an answer yet. There are 12 AED's spread throughout 4 buildings.

Gary Landry
Office of Legislative Planning

911 Public Safety Telecommunicator Certificates

- Public Safety Answering Points (PSAPs) commonly referred to as Communication Centers, are dealing with significant staffing shortages statewide. Some agencies have reported as a much as 25% vacancies of their current staffing levels. The Orange County Sheriff's Office (OCSO) is also experiencing staffing shortages.
- 911 Public Safety Telecommunicators (PSTs) certificates are valid for two years. Currently PSTs must complete 232 hours of training to obtain an initial PST certification. When a PST certificate is due for renewal, currently the PST must complete 20 hours of training for their biennial renewal certification.
- A 911 PST certificate expires automatically if not renewed at the end of the two-year period. Currently FSS 401.465 allows a PST certificate that expires to remain inactive for only six months. The PST must then complete the entire 232-hour certification again.

Note: There is an exception where the PST can request the certificate be in an inactive status for up to six years. The request must be before the expiration date and there is an application and fee associated. PSTs rarely know about this exception and it is not commonly used.

- Extending the inactive period from six months to six years would allow hundreds if not thousands of PSTs in Florida who have worked in the field, eligible to return and assist with staffing shortages. Within six years of their certification expiring, the PST would only need to complete the required biennial renewal training to be eligible to return to work.
- OCSO estimates this change would allow approximately 120 fully certified and experienced employees eligible to return to work as a PST. OCSO also has current employees who are former PSTs and they would eligible to return to work part-time to assist with current staffing levels.
- FSS 401.465 does allow the PST certification requirements to be waived for sworn law enforcement officers; however many former PSTs currently employed by OCSO are civilian employees in other divisions within OCSO.

County Name	# of Authorized Positions	# of Vacancies	Percentage of vacancies	# of Staff In Training	Length of Training Program
Alachua	89	19	21%	0	7 months
Baker					
Bay	76	11	14%	13	6 months
Bradford					
Brevard				16	varies by agency
Broward	468	97	21%		
Calhoun					
Charlotte				did not answer	did not answer
Citrus	50	20	40%	0	26 weeks
Clay	8	2	25%		
Collier				4	6-8 weeks
Columbia	28	3	11%		
DeSoto					
Dixie				22	varies by agency
Duval	215	58	27%	11	6 months
Escambia	95	14	15%	2	1 year
Flagler	22	0	0%		
Franklin					
Gadsden				1	6 weeks
Gilchrist	10	3	30%	1	12 weeks
Glades	6	1	17%	1	10 months
Gulf	9	2	22%		
Hamilton				1	until certified
Hardee	16	2	13%		
Hendry				12	12-15 weeks
Hernando	51	19	37%	5	7-12 months
Highlands	32	9	28%		
Hillsborough					
Holmes				5	varies by agency
Indian River	45	19	42%	3	3-6 months
Jackson	15	0	0%	2	404 hours
Jefferson	6	2	33%	2	varies
Lafayette	9	3	33%		
Lake					
Lee					
Leon					
Levy					
Liberty				3	varies
Madison	12	2	17%		
Manatee				7	232 hours
Marion	110	17	15%	3	1 year
Martin	31	9	29%	29	1 year
Miami-Dade	219	23	11%	10	4-6 months
Monroe	43	10	23%		
Nassau				5	varies
Okaloosa	51	14	27%		
Okeechobee				25	3-12 months
Orange	503	131	26%	38	varies by agency
Osceola	297	70	24%	30	varies by agency
Palm Beach	460	56	12%	6	10 weeks
Pasco	110	11	10%	9	20 weeks
Pinellas	106	36	34%	20	232 hours
Polk	225	28	12%	1	9-12 months
Putnam	24	12	50%		
Santa Rosa				18	22 weeks
Sarasota	116	32	28%		
Seminole					
St. Johns				6	440 hours
St. Lucie	69	17	25%	7	varies by agency
Sumter	54	13	24%		
Suwannee					
Taylor				2	6 months - 1 year
Union	10	0		11	at least 7 weeks
Volusia	127	55	43%	1	242 hours
Wakulla	12	6	50%	14	varies by agency
Walton	60	5	8%		
Washington					
TOTALS	3889	831	21%	346	

Regions

Southwest

Pam Jones-RC

Agencies

Vacancies

%

Sarasota County SO	28
Charlotte County SO	3 of 40
Manatee County	11
Okeechobee SO	0
DeSoto County SO	3 of 16
Hendry County SO	2 of 10
Glades County SO	1 of 6
North Port PD	4 of 15
Collier County SO	15
Lee County SO	16
Lee County EMS	1

Monica Guttenfelder-RC

Total:

84

CENTRAL-EAST

Myra Allcock-RC

Eustis PD	2 PTE	17%
Lake County Board of County Commissioners	4 FTE	11%
Sumter County Sheriff's Office	5 FTE	16%
Orlando PD	15 FTE	20%
Orange County Sheriff's Office	67 FTE	30%
Polk County Sheriff's Office	17 FTE	11%
Volusia Sheriff's Office	44 FTE	25%
Osceola County Sheriff's Office	23 FTE	27%
Apopka PD	8 FTE	29%
Leesburg PD	4 FTE	29%
Mount Dora PD	1 FTE	13%
Marion County Sheriff's Office	4 FTE	17%
Groveland PD	3 FTE	30%
Seminole County Sheriff's Office	23 FTE	20%
Lake County Sheriff's Office	18 FTE	30%

Total

238

Central-West

Brittany DesRosiers-RC

Pasco	11
Hernando	20-49
Pinellas	30?
Sumter	9 of 22

Total	308
CENTRAL REGION TOTAL	546

Panhandle/Northwest	Escambia County SO.	8
	Santa Rosa	0
Lt Husar/Brian Hardin-RC	Okaloosa Co.	
	Walton Co.	5
	Washington Co.	0
	Jackson Co.	1
	Calhoun Co.	1
	Gulf Co.	1
	Franklin Co.	0
	Liberty Co.	1 FT-2PT
	Bay Co. EOC	3 Disp/4 CT
	Bay SO.	1

34/2PT/4CT

Total

NORTHEAST

Lisa Cahill/Lt. Rowell	Nassau	3
	MCPS	0

Awaiting other counties in this Region

3

Total

Southeast

Natalie Henecks-RC	PBSO	See below	
SE-1	Atlantis	Boca Raton	Boynton Beach
Number of FT positions	4	32	21
Number of vacancies	0	11	6
Staff in training	1	0	4
Length of training	1 month	6-8 months	8-12 months

Total

146

SE REGION 2

Deidre Burton	Broward	close to 100
Natalia Duran-RC vacant	MD-Fire	18/74
	MD-PD	16 Disp./3 CT
	Pinecrest PD	0
	Aventura	1
	Miami-Fire	
	Miami-PD	
	Coral Gables	

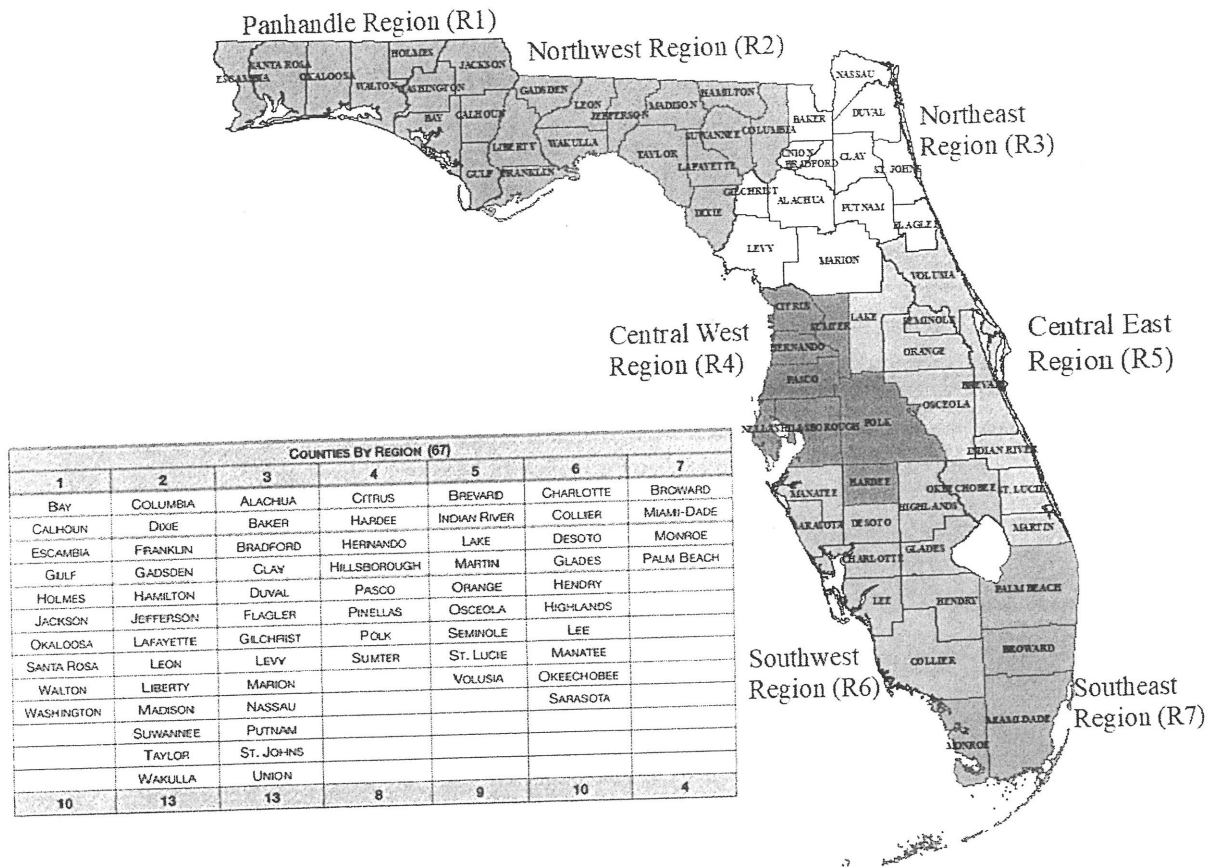
	Miami Beach	2 Disp/1CT
	Hialeah	23/55
Lt. Sprinkle	Monroe	4
	Key West PD	3/5 in training

Total		310
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STATE TOTALS	310 SE REGION
	3 NE REGION
	40 NW & PANHANDLE REGION
	546 CENTRAL (E & W) REGION
	84 SW REGION
	983

FL-TERT

ECC's Assessments as of June 2022



Delray Beach	FAU	Lantana	Manalapan	Ocean Ridge	Palm Beach	PBCFR	Palm Beach Gardens
15	12	7	2	6	16	67	36
4	2	1	0	2	2	9	1
2	1	1	0	0	0	0	1
6 months	8 months	10 weeks	4-6 weeks	8-12 weeks	25 weeks	10-12 weeks	36 weeks

PBSO	Palm Springs	Riviera Beach	West Palm Beach	CWD
182	8	16	36	460
6	1	5	6	56
18	1	0	1	30
10 months	4-6 months	4 months	6-7 months	

From: Smith, Charles <Charles.Smith@flhealth.gov>
Sent: Monday, March 13, 2023 5:29 PM
To: Schrader, Kurt <Schrader.Kurt@flsenate.gov>
Cc: Mohebpour, Victoria <Mohebpour.Victoria@flsenate.gov>
Subject: Re: SB 980

Hi Kurt,

I apologize for the delay. Please see information below:

1. How many Public Safety Telecommunicator certifications are currently active?
6,081
2. How many Public Safety Telecommunicator certifications are currently under inactive status. Of those, how many have been active for 1) 180 days or less, 2) 1 year or less, and 3) 6 years or less? (those that did not renew)
2,595 180 days or less
* 1 year or less (all PSTs expire on a common date of February 1 on odd numbered years)
4,435 2 year (can only determine due to 2 year renewal cycle)
5,692 6 years or less
3. How many licenses go involuntarily inactive per year pursuant to s. 401.465(2)(f), F.S. Of those, how many end up going beyond 180 days and are no longer eligible for renewal?
2017 1,965
2019 1,887
2021 1,840
*Note 2 year recertification cycles
4. Does the department have any statistics on the number of previously certified applicants whose license has fully lapsed that apply to be re-certified?
DOH does not have capability to track this data.
5. How many active approved PST training programs are currently in state?
177
6. Does the department know how many formerly certified persons this proposed change in statute would potentially impact?
5,692

In looking at your rules (specifically Rule 64J-3.003, F.A.C., and DOH Form 5068, 01/12, *Renewal/Change of Status 911 Public Safety Telecommunicator Certification Form*) it appears that DOH treats the situation in 401.465(2)(h)1. and 2. (i.e. a certificateholder on voluntary inactive status for 1 year or less vs. a certificateholder who has been on such status for at least 1 but less than 6 years) the same. It appears on DOH Form 5068, under Part E., that either way, the person must have completed all renewal requirements and pay \$50. There is no separate area on the form with reduced/different requirements for one who has only been inactive for 1 year or less). Is this correct?

Yes, that is correct.

Sincerely,
Charles P. Smith
Legislative Planning Director
Office of Legislative Planning
Florida Department of Health
Phone: 850.759.2693
Mobile: 727.560.1002
Email: charles.smith@flhealth.gov

From: Schrader, Kurt <Schrader.Kurt@flsenate.gov>
Date: Thursday, March 9, 2023 at 12:19 PM
To: Smith, Charles <Charles.Smith@flhealth.gov>
Cc: Mohebpour, Victoria <Mohebpour.Victoria@flsenate.gov>
Subject: SB 980

Charles,

Thank you for your call back today. Would you all be able to get us the following as related to s. 401.465, F.S. and the revisions to that statute proposed in SB 980:

1. How many Public Safety Telecommunicator certifications are currently active?
2. How many Public Safety Telecommunicator certifications are currently under inactive status. Of those, how many have been active for 1) 180 days or less, 2) 1 year or less, and 3) 6 years or less?
3. How many licenses go involuntarily inactive per year pursuant to s. 401.465(2)(f), F.S. Of those, how many end up going beyond 180 days and are no longer eligible for renewal?
4. Does the department have any statistics on the number of previously certified applicants whose license has fully lapsed that apply to be re-certified?
5. How many active approved PST training programs are currently in state?
6. Does the department know how many formerly certified persons this proposed change in statute would potentially impact?

I realize some of these statistics you may not have an answer/full answer; but any related information you all may have is much appreciated. Thank you for any assistance you all can give with this, and if you all have any other statistics or anything else you would like to share that may be relevant to our analysis, it would also be greatly appreciated.

Regards,
Kurt Schrader
Senior Attorney
Florida Senate Committee on Regulated Industries
525 Knott Building
404 South Monroe Street
Tallahassee, FL 32399
Ph: (850) 487-5957

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

980

Bill Number or Topic

198514

Amendment Barcode (if applicable)

3/14/23

Meeting Date

Reg Industries

Committee

Name

Richard Pinsky

Phone

Address

201 E Park Ave

Email

Street

Tallahassee FL

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

APPEARANCE RECORD

980

Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

3/14/23

Committee

Regulated Industries

Name

Katie Flury

Phone

Address

301 E. Pine St

Email

Katie.Flury@grat-robins.com

Street

Orlando

State

FL

Zip

32801

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☐I am appearing without
compensation or sponsorship.☒I am a registered lobbyist,
representing:

Orange County Sheriff's Office

☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

CourtSmart Tag Report

Room: SB 401

Case No.:

Type:

Caption: Committee on Regulated Industries

Judge:

Started: 3/14/2023 4:00:11 PM

Ends: 3/14/2023 4:52:15 PM

Length: 00:52:05

4:00:12 PM	Chair calls meeting to order
4:00:20 PM	Roll Call Quorum present
4:00:38 PM	Chair opening remarks
4:00:56 PM	Tab 2 SB 722 by Senator Burton
4:01:11 PM	Senator Burton to explain your bill
4:01:42 PM	Questions?
4:02:42 PM	Waiving in support
4:02:52 PM	Senator Burton closes on bill
4:03:03 PM	roll call Vote on SB 722
4:03:19 PM	Tab 5 SB 556by Senator Hooper
4:03:55 PM	Senator Hooper explains his bill
4:04:08 PM	Waives in support
4:04:50 PM	debate?
4:04:53 PM	Senator Hooper waives close
4:05:02 PM	roll call vote on SB 556
4:05:11 PM	Tab 5 SB 770 by Senator Bradley
4:05:32 PM	Senator Bradley explains her bill
4:06:31 PM	appearance cards?
4:07:30 PM	waives in support
4:07:35 PM	Zayne Smith speaks on bill
4:08:21 PM	debate?
4:08:37 PM	Senator Bradley to close on bill
4:08:51 PM	roll call vote on SB 770
4:09:23 PM	tab 1 by Senator DiCeglie
4:10:18 PM	Senator DiCeglie explains the bill
4:10:32 PM	barcode amendment 699710
4:10:47 PM	back on bill as amended
4:10:56 PM	Senator DiCeglie explains bill as amended
4:14:34 PM	questions
4:15:34 PM	Senator Hooper for a question
4:15:45 PM	Senator DiCeglie answers
4:17:02 PM	Senator Davis for a question
4:19:10 PM	Senator DiCeglie responds
4:20:12 PM	Senator Davis for another question
4:20:48 PM	Senator DeCeglie responds
4:21:56 PM	Jack Corey City of Jacksonville for comments
4:25:53 PM	Joe Earman Vero Beach for comments
4:29:27 PM	Jason Steele Cape Canaveral for comments
4:31:33 PM	Mark Ryan retired City Manager for comments
4:33:54 PM	Chair Gruters passed gavel over to Vice Chair Hooper
4:34:55 PM	Samantha Padgett Florida Restaurants and Lodging for comments
4:37:00 PM	Mayor Tyler Payne Treasure Island waives in support
4:38:00 PM	Senator Davis in debate
4:38:21 PM	Senator Osgood in debate
4:39:31 PM	Vice Chair Hooper to discuss issues community issues
4:40:41 PM	Senator DiCeglie to close on his bill
4:41:52 PM	roll call vote on CS/SB 714
4:42:52 PM	Tab 6 SB 980 by Senator Brodeur
4:43:19 PM	Senator Brodeur explains bills
4:43:59 PM	barcode amendment delete all #198514
4:45:00 PM	Senator Brodeur explains his amendment
4:45:10 PM	questions

4:46:00 PM	Richard Pinsky to speak on the amendment
4:46:18 PM	debate?
4:47:18 PM	Senator Brodeur waives close on the amendment
4:47:30 PM	voice vote on amendment
4:47:41 PM	Waives in support of bill
4:47:51 PM	debate on bill as amended
4:48:00 PM	Senator Brodeur waives close on bill as amended
4:48:15 PM	roll call vote on CS/SB 980
4:48:27 PM	tab 3 Senator Bradley presents SB 658 for Senator Burgess
4:48:44 PM	Senator Bradley explains the bill
4:48:57 PM	questions?
4:49:36 PM	waives in support
4:49:54 PM	debate?
4:50:40 PM	Senator Bradley to close on bill
4:50:47 PM	roll call vote on SB 658



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Committee on Education, *Vice Chair*
Commerce and Tourism
Education Postsecondary
Education Pre-K -12
Finance and Tax
Fiscal Policy
Regulated Industries
Rules

SENATOR SHEVRIN D. "SHEV" JONES

District 34

March 14, 2023

Hon. Joe Gruters
Chair, Florida Senate Committee on Regulated Industries
316 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Gruters,

I respectfully request an excused absence from the sitting of the Committee on Regulated Industries scheduled for today, Tuesday, March 14, 2023.

Thank you in advance for your consideration of this request. If I may be of assistance to answer any questions, comments, or concerns, please do not hesitate to contact me or my office.

Sincerely,

A handwritten signature in blue ink, appearing to be "Shev" followed by a stylized "Jones".

Shevrin D. "Shev" Jones
Florida State Senator – Senate District 34

REPLY TO:

☐ Capitol Office, 218 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 · (850) 487-5034
☐ District Office, 606 NW 183rd Street, Miami Gardens, FL 33169 · (305) 493-6002

Website: www.flsenate.gov/Senators/S34

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore