

Tab 1	SB 92 by Hooper ; (Similar to CS/H 00095) Yacht and Ship Brokers' Act					
Tab 2	SB 174 by Burgess (CO-INTRODUCERS) Collins ; (Compare to H 00725) Veterans' Long Term Care Facilities Admissions					
Tab 3	CS/SB 186 by HP, Brodeur (CO-INTRODUCERS) Pizzo, Wright, Boyd, Burgess, Rouson, Hutson, Davis, Ingoglia, Garcia, Book, Stewart ; (Similar to CS/H 00115) Progressive Supranuclear Palsy and Other Neurodegenerative Diseases Policy Committee					
Tab 4	SB 302 by Boyd ; (Similar to H 00855) Dental Services					
Tab 5	SB 304 by Hooper ; (Similar to H 00367) Household Moving Services					
Tab 6	CS/SB 328 by CA, Calatayud (CO-INTRODUCERS) Osgood, Stewart ; (Similar to H 01239) Affordable Housing					
720816	A	S	RS	FP, Calatayud	Delete L.80 - 505:	01/31 04:24 PM
143920	SA	S	RCS	FP, Calatayud	Delete L.80 - 505:	01/31 04:24 PM
Tab 7	CS/SB 514 by BI, Boyd (CO-INTRODUCERS) Stewart ; (Similar to CS/H 01569) Mortgage Brokering					
Tab 8	CS/SB 544 by HP, Hutson (CO-INTRODUCERS) Berman, Book ; (Similar to CS/H 00581) Swimming Lesson Voucher Program					
Tab 9	SB 674 by Boyd ; (Similar to H 00779) United States-produced Iron and Steel in Public Works Projects					
Tab 10	SB 694 by Perry (CO-INTRODUCERS) Rouson, Burgess, Stewart ; (Identical to H 00523) Florida Seal of Fine Arts Program					
Tab 11	CS/SB 770 by CA, Martin ; (Compare to H 00927) Improvements to Real Property					
692964	D	S	RCS	FP, Martin	Delete everything after	01/31 04:25 PM
Tab 12	CS/SB 1698 by AG, Burton ; (Identical to CS/H 01613) Food and Hemp Products					
Tab 13	CS/SB 1758 by CF, Brodeur ; (Similar to CS/CS/H 01271) Individuals with Disabilities					
890114	A	S	RCS	FP, Brodeur	btw L.323 - 324:	01/31 04:26 PM
Tab 14	SB 7020 by JU ; (Identical to CS/H 00513) Delivery of Notices					
Tab 15	SB 7028 by BI ; (Identical to H 01263) My Safe Florida Home Program					
332382	A	S	RCS	FP, Boyd	Delete L.70 - 309:	01/31 04:26 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

FISCAL POLICY
Senator Hutson, Chair
Senator Stewart, Vice Chair

MEETING DATE: Wednesday, January 31, 2024
TIME: 9:00 a.m.—6:00 p.m.
PLACE: *Toni Jennings Committee Room, 110 Senate Building*

MEMBERS: Senator Hutson, Chair; Senator Stewart, Vice Chair; Senators Albritton, Berman, Boyd, Burton, Calatayud, Collins, DiCeglie, Garcia, Jones, Mayfield, Osgood, Rodriguez, Simon, Thompson, Torres, Trumbull, Wright, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 92 Hooper (Similar CS/H 95)	Yacht and Ship Brokers' Act; Revising the definition of the term "yacht"; exempting a person who conducts business as a broker or salesperson in another state from licensure in this state for specified transactions; requiring, rather than authorizing, the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation to deny licenses for applicants who fail to meet certain requirements, etc. RI 12/06/2023 Favorable AEG 01/17/2024 Favorable FP 01/31/2024 Favorable	Favorable Yeas 19 Nays 0
2	SB 174 Burgess (Compare H 725)	Veterans' Long Term Care Facilities Admissions; Revising eligibility for residency in the Veteran's Domiciliary Home of Florida to include specified individuals; revising the definition of "resident"; revising the admission eligibility for veterans' nursing homes to include specified individuals, etc. MS 11/14/2023 Favorable AHS 01/11/2024 Favorable FP 01/31/2024 Favorable	Favorable Yeas 20 Nays 0
3	CS/SB 186 Health Policy / Brodeur (Similar CS/H 115)	Progressive Supranuclear Palsy and Other Neurodegenerative Diseases Policy Committee; Citing this act as the "Justo R. Cortes Progressive Supranuclear Palsy Act"; requiring the State Surgeon General to establish a progressive supranuclear palsy and other neurodegenerative diseases policy committee; requiring the Department of Health to provide staff and administrative support to the committee; providing for duties, membership, and meetings of the committee; requiring the State Surgeon General to submit a progress report and a final report by a specified date to the Governor and the Legislature, etc. HP 12/05/2023 Fav/CS AHS 01/11/2024 Favorable FP 01/31/2024 Favorable	Favorable Yeas 19 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Fiscal Policy

Wednesday, January 31, 2024, 9:00 a.m.—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 302 Boyd (Similar H 855)	Dental Services; Requiring every dentist and certain individuals, partnerships, corporations, and other entities to provide specified information to certain patients; requiring a dentist of record to remain primarily responsible for all dental treatments for a patient treated through telehealth; requiring advertisements of dental services provided through telehealth to include a specified disclaimer for certain dental services, etc. HP 01/16/2024 Favorable AHS 01/24/2024 Favorable FP 01/31/2024 Favorable	Favorable Yeas 20 Nays 0
5	SB 304 Hooper (Similar H 367)	Household Moving Services; Revising requirements for mover and moving broker estimates, contracts, and advertisements; prohibiting certain persons from operating as or holding themselves out to be a mover or moving broker without first registering with the department; revising alternative insurance coverage requirements for movers; requiring moving brokers to make a specified disclosure to shippers before providing any services, etc. CM 12/05/2023 Favorable AEG 01/17/2024 Favorable FP 01/31/2024 Favorable	Favorable Yeas 20 Nays 0
6	CS/SB 328 Community Affairs / Calatayud (Similar H 1239, Compare S 386)	Affordable Housing; Prohibiting counties and municipalities, respectively, from restricting the floor area ratio of certain proposed developments under certain circumstances; authorizing counties and municipalities, respectively, to restrict the height of proposed developments under certain circumstances; requiring counties and municipalities, respectively, to consider reducing parking requirements under certain circumstances; revising conditions for when multifamily projects are considered property used for a charitable purpose and are eligible to receive an ad valorem property tax exemption, etc. CA 01/09/2024 Fav/CS FP 01/18/2024 Temporarily Postponed FP 01/31/2024 Fav/CS	Fav/CS Yeas 19 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Fiscal Policy

Wednesday, January 31, 2024, 9:00 a.m.—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	CS/SB 514 Banking and Insurance / Boyd (Similar CS/H 1569)	Mortgage Brokering; Authorizing the Financial Services Commission to adopt rules prescribing criteria and processes for determining whether an organization is a bona fide nonprofit organization for a specified purpose; providing exemptions from regulation under ch. 494, F.S., for bona fide nonprofit organizations and certain employees of a bona fide nonprofit organization that meet specified criteria; requiring the Office of Financial Regulation to make a specified determination, etc. BI 01/16/2024 Fav/CS FP 01/31/2024 Favorable RC	Favorable Yeas 20 Nays 0
8	CS/SB 544 Health Policy / Hutson (Similar CS/H 581)	Swimming Lesson Voucher Program; Creating the program within the Department of Health for a specified purpose; requiring the department to contract with and establish a network of swimming lesson vendors to participate in the program; requiring the department to attempt to secure a vendor in each county; specifying eligibility criteria for the program, etc. HP 01/16/2024 Fav/CS AHS 01/24/2024 Favorable FP 01/31/2024 Favorable	Favorable Yeas 19 Nays 0
9	SB 674 Boyd (Similar H 779)	United States-produced Iron and Steel in Public Works Projects; Requiring governmental entities to include a requirement in certain contracts that certain iron or steel products be produced in the United States; authorizing the minimal use of foreign steel and iron materials in certain circumstances; exempting specified products from the requirement, etc. GO 01/16/2024 Favorable FP 01/31/2024 Favorable	Favorable Yeas 20 Nays 0
10	SB 694 Perry (Identical H 523)	Florida Seal of Fine Arts Program; Establishing the program within the Department of Education; providing the purpose of the program; specifying eligibility requirements for the awarding of the Seal of Fine Arts; defining the term “work of art”; requiring the Commissioner of Education and school districts to perform specified duties to administer the program, etc. ED 01/10/2024 Favorable AED 01/17/2024 Favorable FP 01/31/2024 Favorable	Favorable Yeas 20 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Fiscal Policy

Wednesday, January 31, 2024, 9:00 a.m.—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	CS/SB 770 Community Affairs / Martin (Compare H 927)	Improvements to Real Property; Allowing a program administrator to offer a program for financing qualifying improvements for residential or commercial property when authorized by a county or municipality; authorizing a program administrator to levy non-ad valorem assessments for a certain purpose; requiring certain financing agreement and contract provisions for change orders if the property owner or nongovernmental lessee and program administrator agree to allow change orders to complete a qualifying improvement; requiring a county or municipality to establish or approve a process for the registration of a qualifying improvement contractor to install qualifying improvements, etc. CA 01/22/2024 Fav/CS FP 01/31/2024 Fav/CS	Fav/CS Yeas 20 Nays 0
12	CS/SB 1698 Agriculture / Burton (Identical CS/H 1613)	Food and Hemp Products; Defining the term "total delta-9-tetrahydrocannabinol concentration"; providing conditions for the manufacture, delivery, hold, offer for sale, distribution, or sale of hemp extract; prohibiting businesses and food establishments from possessing hemp extract products that are attractive to children; prohibiting the Department of Agriculture and Consumer Services from granting permission to remove or use certain hemp extract products until it determines that such hemp extract products comply with state law, etc. AG 01/23/2024 Fav/CS FP 01/31/2024 Favorable	Favorable Yeas 17 Nays 2
13	CS/SB 1758 Children, Families, and Elder Affairs / Brodeur (Similar CS/CS/H 1271, Compare H 1047, S 1170)	Individuals with Disabilities; Revising provisions related to programs and services provided by the Agency for Persons with Disabilities; requiring the agency to develop and implement an online application process; revising which types of clients are eligible for an individual support plan; clarifying the timeframe within which a family or individual support plan must be developed, etc. CF 01/23/2024 Fav/CS FP 01/31/2024 Fav/CS	Fav/CS Yeas 19 Nays 0
14	SB 7020 Judiciary (Identical CS/H 513)	Delivery of Notices; Revising the definition of the term "registered mail" for purposes of construction of the Florida Statutes; defining the term "return receipt requested" for purposes of construction of the Florida Statutes, etc. AEG 01/24/2024 Favorable FP 01/31/2024 Favorable	Favorable Yeas 19 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Fiscal Policy

Wednesday, January 31, 2024, 9:00 a.m.—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
15	SB 7028 Banking and Insurance (Identical H 1263, Compare CS/H 989, H 1143, CS/S 1098, S 1208)	My Safe Florida Home Program; Specifying eligibility requirements for hurricane mitigation inspections under the program; authorizing an applicant to receive a home inspection under the program without being eligible for a grant or applying for a grant; specifying eligibility requirements for hurricane mitigation grants; revising the improvements for which grants may be used, etc. FP 01/31/2024 Fav/CS	Fav/CS Yeas 20 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 Fiscal Policy

BILL: SB 92

INTRODUCER: Senator Hooper

SUBJECT: Yacht and Ship Brokers' Act

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2.	<u>Davis</u>	<u>Betta</u>	<u>AEG</u>	Favorable
3.	<u>Oxamendi</u>	<u>Yeatman</u>	<u>FP</u>	Favorable

I. Summary:

SB 92 revises the regulation of yacht and ship brokers and salespersons by the Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation (DBPR).

The definition for the term “yacht” is revised by the bill to require the vessel be manufactured or operated primarily for pleasure or leased, rented, or chartered to someone other than the owner for the other person’s pleasure. The bill retains current law that a yacht is a vessel which is propelled by sail or machinery in the water which exceeds 32 feet in length, but deletes the requirement for the vessel to weigh less than 300 gross tons.

The bill provides a license (for a broker or salesperson) is not required for a person who conducts business as a broker or salesperson in another state as his or her primary profession and engages in the purchase of a yacht under ch. 326, F.S., if the transaction is executed in its entirety with a broker or salesperson licensed in Florida.

The bill revises the requirements for licensure as a broker by:

- Deleting the requirement that an applicant for a broker license must have been licensed as a salesperson for two consecutive years, and
- Requiring that the applicant has been licensed as a salesperson and can either:
 - Demonstrate that he or she has been directly involved in at least four transactions that resulted in the sale of a yacht, or
 - Certify that he or she has obtained 20 continuing education credits approved by the division.

The bill has a negative fiscal impact on state expenditures. See Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2024.

II. Present Situation:

Division of Florida Condominiums, Timeshares and Mobile Homes

The Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the DBPR has jurisdiction over yacht and ship brokers and sales persons under ch. 326, F.S., timeshares under ch. 721, F.S., and mobile homes under ch. 723, F.S., condominiums under ch. 718, F.S., cooperatives under ch. 719, F.S., and limited jurisdiction over homeowners' associations under ch. 720, F.S.

Yacht and Ship Broker Branch Office Licenses

Chapter 326, F.S., which may be cited as the “Yacht and Ship Brokers' Act,”¹ governs the licensing and regulation of yacht and shipbrokers, salespersons, and related business organizations in the state. The Yacht and Ship Broker Section, a unit of the division, processes license applications and responds to consumer complaints and inquiries by monitoring activities and compliance within the yacht brokerage industry.²

Definitions

A broker or yacht and ship broker is a “person who, for or in expectation of compensation: sells, offers, or negotiates to sell; buys, offers, or negotiates to buy; solicits or obtains listings of; or negotiates the purchase, sale, or exchange of, yachts for other persons.”³

A salesperson is “a person who, for or in expectation of compensation, is employed by a broker to perform any acts of a broker.”⁴

The term “yacht” means “any vessel which is propelled by sail or machinery in the water which exceeds 32 feet in length, and which weighs less than 300 gross tons.”

Licensing

A person may not act as a yacht or ship broker or salesperson unless licensed under ch. 326, F.S.

To qualify for a broker's license, a person must have been licensed as a salesperson for at least two consecutive years.⁵ Current law gives the division the discretion to deny an application for a broker or salesperson license if the applicant does not:

- Furnish proof satisfactory to the division that he or she is of good moral character.⁶
- Certify that he or she has never been convicted of a felony.

¹ Section 326.001, F.S.

² See ch. 326, F.S., and Department of Business and Professional Regulation, *Yacht and Ship*, available at: <http://www.myfloridalicense.com/DBPR/yacht-and-ships/> (last visited Nov. 30, 2023).

³ Section 326.002(1), F.S.

⁴ Section 326.002(3), F.S.

⁵ Section 326.004(8), F.S.

⁶ See Fla. Admin. Code R. 61B-60.003(3)(a), providing the factors that bear upon good moral character.

- Post the bond required by the Yacht and Ship Brokers' Act.
- Demonstrate that he or she is a resident of this state or that he or she conducts business in this state.
- Furnish a full set of fingerprints taken within the six months immediately preceding the submission of the application.
- Have a current license and has operated as a broker or salesperson without a license.⁷

The applicant must also deliver to the division a good and sufficient surety bond or irrevocable letter of credit, executed by the broker as principal, in the sum of \$25,000 before any license may be issued to a broker.⁸ A salesperson must have a bond or equivalent securities in the sum of \$10,000.⁹

The fee for an initial license application for a salesperson or broker license, and for the biennial renewal of a license, is \$500. Additionally, there is a \$51 fee for national fingerprint processing during the initial application process.¹⁰

A broker is not required to complete any continuing education hours as a condition for licensure or renewal of a license.

A license is not required for:

- A person who sells his or her own yacht.
- An attorney at law for services rendered in his or her professional capacity.
- A receiver, trustee, or other person acting under a court order.
- A transaction involving the sale of a new yacht.
- A transaction involving the foreclosure of a security interest in a yacht.¹¹

A broker must maintain a principal place of business in Florida and may establish branch offices in Florida.¹² The biennial fee for a branch office is \$100 for each branch office.¹³

The division is required to provide by rule for the issuance of a temporary 90-day license to an applicant while the Florida Department of Law Enforcement (FDLE) conducts a national criminal history analysis of the applicant by means of fingerprint identification.¹⁴

There are currently 2,810 licensed salespersons and 337 licensed brokers.¹⁵

⁷ Section 326.004(6), F.S.

⁸ Section 326.004(7), F.S.

⁹ Section 326.004(9), F.S.

¹⁰ Fla. Admin. Code R. 61B-60.003(4).

¹¹ Section 326.004 (3), F.S.

¹² Section 326.004 (13), F.S.

¹³ Fla. Admin. Code R. 61B-60.003(4).

¹⁴ Section 326.004 (15), F.S. *See* Fla. Admin. Code R. 61B-60.001(1)(k) and 61B-60.003(2)(a), relating to the requirements for a temporary license.

¹⁵ Email from Derek Miller, Director of Legislative Affairs, Department of Business and Professional Regulation, to Patrick L. Imhof, Staff Director, Senate Regulated Industries Committee (Nov. 30, 2023) (on file with the Senate Regulated Industries Committee).

Under current law, there are no provisions for a license by endorsement, or licensure for a person who is licensed in another jurisdiction.

III. Effect of Proposed Changes:

The bill amends s. 326.002(4), F.S., to revise the term “yacht” to provide that the vessel be manufactured or operated primarily for pleasure or leased, rented, or chartered to a person other than the owner for such person’s pleasure. The bill deletes the requirement for the vessel to weigh less than 300 gross tons.

The bill amends s. 326.004(3), F.S., to exempt from the license requirements for a broker or salesperson a person who conducts business as a broker or salesperson in another state as his or her primary profession and engages in the purchase of a yacht under ch. 326, F.S., if the transaction is executed in its entirety with a broker or salesperson licensed in Florida. However, the bill does not apply the license exemption for the sale of a yacht under those provisions.

The bill amends s. 326.004(6), F.S., to clarify the division must deny a broker or salesperson license to a person who does not meet all of the requirements listed in this subsection.

The bill amends s. 326.004(8), F.S., to revise the requirements for licensure as a broker by:

- Deleting the requirement that an applicant for a broker license must have been licensed as a salesperson for two consecutive years, and
- Requiring that the applicant has been licensed as a salesperson and can either:
 - Demonstrate that he or she has been directly involved in at least four transactions that resulted in the sale of a yacht,¹⁶ or
 - Certify that he or she has obtained 20 continuing education¹⁷ credits approved by the division.

The bill takes effect October 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁶ The bill does not provide a time period during which the four must have been performed.

¹⁷ Salespersons and brokers licensed under ch. 326, F.S., are not required to complete continuing education as a condition for renewal of a license.

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:

An out-of-state sales broker or salesperson may engage in a transaction for purchase of a yacht under the conditions in the bill without applying for a license, including paying the \$500 license application fee.

Applicants for a broker license who opt to qualify for a license by obtaining at least 20 continuing education credits will incur costs related to completing those education credits.

C. Government Sector Impact:

Under the bill, a broker or salesperson in another state who is not licensed in Florida would be able to engage in the purchase of a yacht in Florida if the transaction is entirely executed through a licensed Florida broker or salesperson. The division may incur costs reviewing these transactions to ensure compliance with ch. 326, F.S., and developing the criteria for an education provider which license applicants may use as an option for qualifying as a broker. The DBPR states it will incur additional expenses related to the number of full-time employees (FTE) required to handle the workload needed to implement the bill. The division estimates it will need four additional staff and associated costs of \$342,742 (\$286,776 salaries and benefits and \$54,526 expenses).¹⁸ However, the division which oversees the yacht and ship program had 28.5 vacancies as of January 9, 2024. Of these, 11.5 positions have been vacant in excess of 150 days.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The definition for the term “yacht” is revised by the bill to require that the vessel be manufactured or operated primarily for pleasure or leased, rented, or chartered to a person other

¹⁸ See Department of Business and Professional Regulation, *2024 Agency Legislative Bill Analysis for SB 22*, pp. 2 and 5 (Nov. 2, 2023) (on file with the Senate Regulated Industries Committee).

than for such person's pleasure. The term "pleasure" is undefined. However, the term "pleasure" means, in part, "someone or something that provides amusement or enjoyment," and the term "recreation" is a synonym for this meaning of the term.¹⁹ The bill may be interpreted as defining "yacht" as a vessel used primarily for recreation.

Section 326.004(8), F.S., is amended by the bill to revise the requirements for licensure as a broker. Under the bill, an applicant for a broker license must demonstrate that he or she has been directly involved in at least four transactions that resulted in the sale of a yacht. The bill does not provide a time period during which the four sales must have been performed.

Under the bill, a broker or salesperson in another state who is not licensed in Florida would be able to engage in the purchase of a yacht in Florida if the transaction is entirely executed through a licensed Florida broker or salesperson. The division notes that, if the non-Florida licensed broker violates ch. 326, F.S., the division would only have regulatory jurisdiction over the Florida-licensed broker or salesperson.²⁰

The bill permits a person to qualify for a broker license if he or she has been directly involved in at least four transactions that resulted in the sale of a yacht or certifies that they have obtained 20 continuing education credits approved by the division. The division states that it is unclear whether the continuing education requirements are recurring for each licensure period or only apply to initial licensure.²¹

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 326.002 and 326.004.

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.

¹⁹ See Merriam-Webster.com, "Pleasure," <https://www.merriam-webster.com/thesaurus/pleasure> (last visited Nov. 20, 2023).

²⁰ See *infra*, note 18 at 2.

²¹ *Id.*

By Senator Hooper

21-00176-24

202492__

1 A bill to be entitled
 2 An act relating to the Yacht and Ship Brokers' Act;
 3 amending s. 326.002, F.S.; revising the definition of
 4 the term "yacht"; amending s. 326.004, F.S.; exempting
 5 a person who conducts business as a broker or
 6 salesperson in another state from licensure in this
 7 state for specified transactions; requiring, rather
 8 than authorizing, the Division of Florida
 9 Condominiums, Timeshares, and Mobile Homes of the
 10 Department of Business and Professional Regulation to
 11 deny licenses for applicants who fail to meet certain
 12 requirements; revising requirements for licensure as a
 13 broker; providing an effective date.
 14
 15 Be It Enacted by the Legislature of the State of Florida:
 16
 17 Section 1. Subsection (4) of section 326.002, Florida
 18 Statutes, is amended to read:
 19 326.002 Definitions.—As used in ss. 326.001-326.006, the
 20 term:
 21 (4) "Yacht" means any vessel that ~~which~~ is propelled by
 22 sail or machinery in the water, ~~which~~ exceeds 32 feet in length,
 23 and is:
 24 (a) Manufactured or operated primarily for pleasure; or
 25 (b) Leased, rented, or chartered to someone other than the
 26 owner for the other person's pleasure ~~which weighs less than 300~~
 27 ~~gross tons.~~
 28 Section 2. Subsections (6) and (8) of section 326.004,
 29 Florida Statutes, are amended, and paragraph (f) is added to

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21-00176-24

202492__

30 subsection (3) of that section, to read:
 31 326.004 Licensing.—
 32 (3) A license is not required for:
 33 (f) A person who conducts business as a broker or
 34 salesperson in another state as his or her primary profession
 35 and engages in the purchase of a yacht under this act, if the
 36 transaction is executed in its entirety with a broker or
 37 salesperson licensed in this state.
 38 (6) The division ~~must~~ may deny a license to any applicant
 39 who does not meet all of the following requirements:
 40 (a) Furnish proof satisfactory to the division that he or
 41 she is of good moral character.
 42 (b) Certify that he or she has never been convicted of a
 43 felony.
 44 (c) Post the bond required by the Yacht and Ship Brokers'
 45 Act.
 46 (d) Demonstrate that he or she is a resident of this state
 47 or that he or she conducts business in this state.
 48 (e) Furnish a full set of fingerprints taken within the 6
 49 months immediately preceding the submission of the application.
 50 (f) Have a current license and has operated as a broker or
 51 salesperson without a license.
 52 (8) A person may not be licensed as a broker unless he or
 53 she has been licensed as a salesperson and can demonstrate that
 54 he or she has been directly involved in at least four
 55 transactions that resulted in the sale of a yacht or can certify
 56 that he or she has obtained at least 20 continuing education
 57 credits approved by the division for at least 2 consecutive
 58 ~~years, and may not be licensed as a broker unless he or she has~~

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21-00176-24

202492__

59 ~~been licensed as a salesperson for at least 2 consecutive years.~~

60 Section 3. This act shall take effect October 1, 2024.

1/31/24

The Florida Senate
APPEARANCE RECORD

SB 92

Meeting Date

Bill Number or Topic

Fiscal Policy

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

Committee

Amendment Barcode (if applicable)

Name

Cody Rogers

Phone

954-591-6437

Address

1 E Broward Blvd

Email

Crogers@beckerlawyers.com

Street

Fort. Lauderdale FL

33334

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:

International Yacht Brokers Assoc.

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 Fiscal Policy

BILL: SB 174

INTRODUCER: Senators Burgess and Collins

SUBJECT: Veterans' Long Term Care Facilities Admissions

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Proctor</u>	<u>MS</u>	Favorable
2.	<u>Howard</u>	<u>McKnight</u>	<u>AHS</u>	Favorable
3.	<u>Brown</u>	<u>Yeatman</u>	<u>FP</u>	Favorable

I. Summary:

SB 174 expands the eligibility for residency at a veterans' home to include a spouse or surviving spouse of a qualifying veteran, or a parent of a child who died while serving in the United States Armed Forces.

The bill revises the priority order for admission to a veterans' home. The bill ranks in 5th place for admission a spouse or surviving spouse of a veteran and in 6th (last) place a parent of a child who died while in military service. These rankings preserve as a higher priority admission of a veteran over a nonveteran.

The bill has no fiscal impact on state revenues or state expenditures.

The bill takes effect on July 1, 2024.

II. Present Situation:

Veterans Homes

Cost and Funding of Resident Care

A resident of a state veterans' home must contribute to the cost of his or her care if the resident receives a pension, compensation, gratuity from the federal government, or income from any other source if the monthly amount exceeds \$160.¹

¹ Section 296.37(1), F.S. This contribution for care may be 100 percent of the cost if an otherwise eligible veteran is able to fund his or her own support (s. 296.37(2), F.S.).

The average cost of care at a state veterans' nursing home in Florida is \$394.15 a day.² The cost of care is funded through multiple sources, including from the resident. Costs charged to residents ranges from an average \$98.63 a day for a resident on limited income, to the average cost of \$358.93 a day for a self-paying resident.³ If a resident veteran is between 70 and 100 percent disabled, the resident pays nothing.⁴

In addition to the resident's portion of payment, a federal subsidy in the form of reimbursement supplements the cost of care. Federal reimbursement is based on a per diem rate established by the United States Department of Veterans Affairs (VA) Administration.⁵ Current VA per diem for basic care is set at \$129.97 a day, while per diem for disabled veterans who are determined to be at least 70 percent disabled is set at \$474.45 a day.⁶ To qualify for reimbursement, federal law requires a facility to maintain a population of at least 75 percent veterans.⁷ If facility construction or renovation is funded solely by the state, then the facility is only required to maintain a population of at least 50 percent veterans.⁸

Federal law authorizes a state veterans' home to house non-veteran residents who are spouses of veterans or parents whose children died while in military service.⁹ These residents are required to pay the full cost.

Eligibility for Admission

To be considered for admission to a veterans' home in Florida, a veteran must have been discharged from the military with either an honorable or an upgrade to an honorable discharge.¹⁰

The state provides for veterans' homes as both Veterans' Domiciliary Homes¹¹ and Veterans' Nursing Homes.¹² Both veterans of wartime service and of peacetime service are eligible for admission. The order of admission to a veterans' home is ranked by priority.

Domiciliary Homes

Domiciliary care which is defined to mean shelter, sustenance, and incidental medical care for a person who is ambulatory and can otherwise provide self-care, but not a person in need of hospitalization or nursing home care services.¹³ A domiciliary home is an assisted living facility.

To be eligible for admission, a veteran must:

² Fla. Dep't of Veterans' Affairs, *2023 Agency Legislative Bill Analysis, SB 174* (Nov. 7, 2023) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

³ *Id.*

⁴ *Id.*

⁵ 38 CFR 51.210 (2023).

⁶ Fla. Dep't of Veterans' Affairs, *supra* note 2.

⁷ 38 CFR 51.210(d) (2023).

⁸ *Id.*

⁹ *Id.*

¹⁰ Sections 296.02(9) and 1.01(14), F.S.

¹¹ A Veterans' Domiciliary Home of Florida is a home for veterans established by the state (ss. 296.02 (10), and 296.03, F.S.).

¹² Chapter 296, Laws of Florida.

¹³ Section 296.02(4), F.S.

- Be a resident of the state at the time of application;
- Not be mentally ill, habitually inebriated, or addicted to drugs;
- Not owe money to the Florida Department of Veterans' Affairs (FDVA) for services rendered during a previous stay at a FDVA facility;
- Have applied for all financial assistance reasonably available through governmental sources; and
- Have been approved as eligible for care and treatment by the VA.¹⁴

Residents are admitted in order of priority as follows:

- A veteran with wartime service who has a service-connected disability but are not in need of hospitalization or nursing home care.
- A veteran with wartime service who has a non-service-connected disability but are not in need of hospitalization or nursing home care.
- A veteran with wartime service and no disability.
- A veteran with peacetime service.¹⁵

An applicant must file with the administrator all necessary information for admission purposes, including a certificate of eligibility and a certified copy of discharge.¹⁶

Nursing Homes

In addition to assisted-living facilities, Florida law provides for veterans' nursing homes.¹⁷ Each nursing home is overseen by an administrator who is selected by the Executive Director (director) of the FDVA.¹⁸

To be eligible for admission to a nursing home, a veteran must:

- Be in need of nursing care;
- Be a resident of the state at the time of application;
- Not owe money to the FDVA for services rendered during a previous stay at a FDVA facility;
- Have applied for all financial assistance reasonably available through governmental sources; and
- Have been approved as eligible for care and treatment by the VA.¹⁹

Residents are admitted in the following order of priority for an eligible veteran:

- Who is a resident of the state.
- Who has a service-connected disability as determined by the VA, or who was discharged or released from service for a disability incurred or aggravated in the line of duty and the disability is the condition for the nursing home need.

¹⁴ Section 296.06(2), F.S.

¹⁵ Section 296.08, F.S.

¹⁶ Section 296.08(2), F.S.

¹⁷ Section 296.32, F.S.

¹⁸ Section 296.34, F.S.

¹⁹ Section 296.36(1), F.S.

- Who has a non-service-connected disability and is unable to defray the cost of nursing home care.²⁰

Veterans Facilities in Florida

Currently, nine state veterans' homes operate in the state: eight skilled nursing facilities and one assisted living facility. Nursing homes are located in Daytona Beach (Emory L. Bennett State Veterans' Nursing Home), Orlando (Alwyn C. Cashe State Veterans' Nursing Home), Land O'Lakes (Baldomero Lopez State Veterans' Nursing Home), Pembroke Pines (Alexander "Sandy" Nininger Veterans' Nursing Home), Panama City (Clifford C. Sims State Veterans' Nursing Home), Port Charlotte (Douglas T. Jacobson State Veterans' Nursing Home), Port St. Lucie (Ardie R. Copas State Veterans' Nursing Home) and St. Augustine (Clyde E. Lassen State Veterans' Nursing Home), Florida. The assisted living facility is in Lake City (Robert H. Jenkins, Jr. Veterans' Domiciliary Home), and to be admitted, veterans must be able to eat and dress.²¹

As of October 2023, the occupancy rate for fully operational state veterans' nursing homes is at 94 percent.²² Only the Alwyn C. Cashe facility is not fully operational.²³ The FDVA is in the process of appealing a decision by the VA that the home does not pass certification, and correcting deficiencies identified by the Agency for Health Care Administration.²⁴ As such, the home currently has 23 private-pay, non-veteran residents.²⁵

Currently, 11 people statewide are on the waiting list for residential admission.²⁶ Veterans who are at least 70 percent disabled advance to the top of the list.²⁷

III. Effect of Proposed Changes:

This bill expands the eligibility for residency at a veterans' home to include a:

- Spouse of a qualifying veteran;
- Surviving spouse of a qualifying veteran; and
- Parent of a child who died while serving in the United States Armed Forces.

The bill revises the definition of "applicant" to mean the spouse or surviving spouse of a qualifying veteran, or a parent of a child who died while serving in the United States Armed Forces.

The bill revises the definition of "resident" to mean an eligible applicant to a state veterans' home.

²⁰ Section 296.36(3), F.S.

²¹ Fla. Dep't of Veterans Affairs, *Agency Update*, PowerPoint (Oct. 10, 2023) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

²² Fla. Dep't of Veterans Affairs, *The Florida Cabinet, Weekly EOG Agency Report, Week Ending Nov. 4, 2023* (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ Fla. Dep't of Veterans' Affairs, *supra* note 2.

²⁷ *Id.*

The bill revises priority order for admission to a veterans' home. The bill ranks in 5th place the admission of a spouse or surviving spouse of a veteran and in 6th (last) place a parent of a child who died while serving in the Armed Forces of the United States. These rankings preserve as a higher priority admission of a veteran over a nonveteran.

The bill takes effect on July 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:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

A qualifying nonveteran resident will have to pay full cost to reside in a state veterans' home. However, the resident would otherwise have to pay at another home, or for a private residence. For the spouse of a resident veteran, cost savings may be realized through the spouses sharing a room or assisted living arrangement.

C. Government Sector Impact:

The bill has no fiscal impact on state revenues or state expenditures, as a qualifying nonveteran resident will be charged the full cost of care and housing.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 296.02, 296.03, 296.08, 296.32, 296.33, and 296.36.

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

23-00312A-24

2024174__

A bill to be entitled

An act relating to veterans' long term care facilities admissions; amending s. 296.02, F.S.; revising definitions; amending s. 296.03, F.S.; revising eligibility for residency in the Veteran's Domiciliary Home of Florida to include specified individuals; amending s. 296.08, F.S.; adding such individuals to the priority of admittance schedule; amending s. 296.32, F.S.; revising the legislative purpose of part II of ch. 296, F.S., to conform to changes made by the act; amending s. 296.33, F.S.; revising the definition of "resident"; amending s. 296.36, F.S.; revising the admission eligibility for veterans' nursing homes to include specified individuals; revising the priority of admissions to include such individuals; providing an effective date.

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

Section 1. Subsections (1), (4), (8), and (10) of section 296.02, Florida Statutes, are amended to read:

296.02 Definitions.—For the purposes of this part, except where the context clearly indicates otherwise:

(1) "Applicant" means a veteran with wartime service or peacetime service, as defined in this section, the spouse or surviving spouse of such veteran, or a parent of a child who died while serving in the Armed Forces of the United States, who is not in need of hospitalization or nursing home care.

(4) "Domiciliary care" means shelter, sustenance, and

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

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incidental medical care provided on an ambulatory self-care basis to assist eligible applicants ~~veterans~~ who are disabled by age or disease, but who are not in need of hospitalization or nursing home care services.

(8) "Resident" means any eligible applicant ~~veteran~~ admitted to residency in the home.

(10) "Veterans' Domiciliary Home of Florida," hereinafter referred to as the "home," means a home established by the state for veterans who served in wartime service or in peacetime service, as defined in this section, the spouses or surviving spouses of such veterans, or the parents of a child who died while serving in the Armed Forces of the United States.

Section 2. Section 296.03, Florida Statutes, is amended to read:

296.03 Veterans' Domiciliary Home of Florida.—The Veterans' Domiciliary Home of Florida is for veterans who served in wartime service or peacetime service, as defined in s. 296.02, the spouses or surviving spouses of such veterans, or the parents of a child who died while serving in the Armed Forces of the United States, and is maintained for the use of those individuals ~~veterans~~ who are not in need of hospitalization or nursing home care and who can attend to their personal needs, dress themselves, and attend a general dining facility, or who are in need of extended congregate care.

Section 3. Paragraphs (e) and (f) are added to subsection (1) of section 296.08, Florida Statutes, to read:

296.08 Priority of admittance.—

(1) In determining the eligibility of applicants to the home, the administrator shall give admittance priority in

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59 accordance with the following schedule:

60 (e) Those spouses or surviving spouses of veterans.

61 (f) Those parents of children who died while serving in the
62 Armed Forces of the United States.

63 Section 4. Section 296.32, Florida Statutes, is amended to
64 read:

65 296.32 Purpose.—The purpose of this part is to provide for
66 the establishment of basic standards for the operation of
67 veterans' nursing homes for eligible veterans, the spouses or
68 surviving spouses of such veterans, or the parents of a child
69 who died while serving in the Armed Forces of the United States,
70 who are in need of such services.

71 Section 5. Subsection (5) of section 296.33, Florida
72 Statutes, is amended to read:

73 296.33 Definitions.—As used in this part, the term:

74 (5) "Resident" means any eligible veteran, the spouse or
75 surviving spouse of such veteran, or a parent of a child who
76 died while serving in the Armed Forces of the United States, who
77 is admitted to the home.

78 Section 6. Subsection (1) of section 296.36, Florida
79 Statutes, is amended, and paragraphs (d) and (e) are added to
80 subsection (3) of that section, to read:

81 296.36 Eligibility and priority of admittance.—

82 (1) To be eligible for admittance to the home, the person
83 must be a veteran as provided in s. 1.01(14) or have eligible
84 peacetime service as defined in s. 296.02, or be the spouse or
85 surviving spouse of a veteran, or the parents of a child who
86 died while serving in the Armed Forces of the United States and
87 must:

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88 (a) Be in need of nursing home care.

89 (b) Be a resident of the state at the time of application
90 for admission to the home.

91 (c) Not owe money to the department for services rendered
92 during any previous stay at a department facility.

93 (d) Have applied for all financial assistance reasonably
94 available through governmental sources.

95 (e) Have been approved as eligible for care and treatment
96 by the United States Department of Veterans Affairs.

97 (3) Admittance priority must be given to eligible veterans
98 in the following order of priority:

99 (d) A spouse or a surviving spouse of such veteran as
100 described in this subsection.

101 (e) A parent of a child who died while serving in the Armed
102 Forces of the United States.

103 Section 7. This act shall take effect July 1, 2024.

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APPEARANCE RECORD

1/31/24

174

Meeting Date

Bill Number or Topic

FISCAL Policy

Deliver both copies of this form to
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Committee

Amendment Barcode (if applicable)

Name

USA HURLEY

Phone

850.224.5081

Address

301 E. Park Ave

Email

hurley@smutab.org
andnypa.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:

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

COLLIER COUNTY

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)

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11/31/2024

The Florida Senate
APPEARANCE RECORD

SB 174

Meeting Date
FISCAL Policy

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Bill Number or Topic

Committee
Name MAJOR GENERAL JAMES HARTSELL

Amendment Barcode (if applicable)
Phone (950) 702-4308

Address 2601 S. BLAIR STONE Rd Suite C300

Email JAMES.HARTSELL@FDVA.FL.GOV

Street
HALLANDSBEE FL 32399
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.

January 31, 2024

Meeting Date

The Florida Senate
APPEARANCE RECORD

SB 174

Bill Number or Topic

Fiscal Policy

Committee

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

Amendment Barcode (if applicable)

Name **Rebecca Bush**

Phone **850-224-3907**

Address **307 W. Park Avenue**

Email **rbush@fhca.org**

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:

Florida Health Care 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.

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 Fiscal Policy

BILL: CS/SB 186

INTRODUCER: Health Policy Committee and Senator Brodeur and others

SUBJECT: Progressive Supranuclear Palsy and Other Neurodegenerative Diseases Policy Committee

DATE: January 29, 2024 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Morgan</u>	<u>Brown</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Gerbrandt</u>	<u>McKnight</u>	<u>AHS</u>	<u>Favorable</u>
3.	<u>Morgan</u>	<u>Yeatman</u>	<u>FP</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 186 creates undesignated sections of the Laws of Florida, requiring the State Surgeon General to establish a progressive supranuclear palsy and other neurodegenerative diseases policy committee (committee) to identify the impact of progressive supranuclear palsy and other neurodegenerative diseases on Floridians, while providing recommendations to improve health awareness, detection, and outcomes.

The bill provides administrative support to the committee, establishes the membership of the committee, and authorizes the committee chair to create subcommittees. The bill requires that members of the committee be appointed by September 1, 2024, and that the initial meeting be held by October 1, 2024. All meetings of the committee must take place via teleconference or other electronic means.

The bill requires the State Surgeon General to submit a progress report detailing committee activities, as well as findings and recommendations, to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 4, 2025. The bill requires the State Surgeon General to submit a final report to the Governor and the Legislature by January 4, 2026.

The bill provides that, once enacted, the act may be cited as the “Justo R. Cortes Progressive Supranuclear Palsy Act.”

The bill has no fiscal impact on state revenues or state expenditures.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

Neurodegenerative disease is an umbrella term used for a plethora of conditions that gradually damage and destroy parts of the nervous system, especially areas of the brain. The effects and symptoms of these diseases tend to appear later in life and usually develop slowly.¹

Cases of such disorders are rare, with researchers estimating that neurodegenerative diseases affect more than 50 million people worldwide; however, most of these conditions are strongly attributed to age and are far more likely in persons over 65 years old.² According to the U.S. Census Bureau's 2020 population estimates, more than 55 million Americans are age 65 or older, one-fourth of whom live in California, Florida, and Texas.³ Florida's older residents compose 21.3 percent of the population, or approximately 4,638,000 of the state's 21,733,000 estimated residents.⁴

Diagnosing a neurodegenerative disease varies based on the suspected condition:

- Neurologic exam by a healthcare provider to discuss symptoms and medical history.
- Laboratory testing, such as blood and genetic tests.
- Imaging scans, such as computed tomography and magnetic resonance imaging scans.
- Histopathology, or microscopic tissue analysis, after death. Some neurodegenerative diseases are suspected, but a confirmed diagnosis is only possible after examining brain samples post autopsy.

Other tests are possible and continue to be developed.⁵

Neurodegenerative diseases are incurable and irreversible, but some of them can be treated in order to manage, limit, or slow symptom advancement and the resulting complications. Other neurodegenerative diseases have no treatment, meaning a more reactionary approach is taken versus preventive, i.e. treat the symptoms to promote the best quality of life.⁶

Progressive Supranuclear Palsy

Progressive supranuclear palsy (PSP)⁷ is a rare, complex condition that affects the brain, resulting in muscle weakness that worsens over time, limiting the ability to walk, and causing

¹ Cleveland Clinic, *Neurodegenerative Diseases*, available at <https://my.clevelandclinic.org/health/diseases/24976-neurodegenerative-diseases> (last visited Dec. 1, 2023).

² *Supra* note 1.

³ Population Reference Bureau, *Which U.S. States Have the Oldest Populations?*, available at <https://www.prb.org/resources/which-us-states-are-the-oldest/> (last visited Dec. 1, 2023).

⁴ *Id.*

⁵ *Supra* note 1.

⁶ *Id.*

⁷ Johns Hopkins Medicine, *Progressive Supranuclear Palsy*, available at <https://www.hopkinsmedicine.org/health/conditions-and-diseases/progressive-supranuclear-palsy> (last visited Dec. 1, 2023).

visual impairment. It is known as an atypical form of parkinsonism⁸, as well as a motor neuron disease.⁹

PSP Risk Factors

PSP occurs when brain cells in an area of the brain stem become damaged, but how or why these cells are damaged remains unknown. Although anyone could develop PSP, it is more common in men and those of late middle age or older.¹⁰

PSP Symptoms and Complications

Early signs of PSP can be subtle, but disease progression increases symptom severity. Problems with balance and rigidity or discomfort while walking often tend to be the first indicators of PSP.¹¹

Other symptoms include:¹²

- Increased forgetfulness and irritability.
- Unusual emotional outbursts, such as crying or laughing unexpectedly or at inappropriate times.
- Irrational anger.
- Hand tremors.
- Trouble controlling eye movement.
- Blurred vision.
- Slurred speech.
- Trouble swallowing.
- Dementia.
- Depression.
- Inability to control the eyelids, such as unwanted blinking or eye opening difficulty.

A careful evaluation of symptoms can help diagnose PSP, but signs often mirror those of Parkinson's disease, or even an inner ear infection, increasing the likelihood of misdiagnosis. However, key differences include:¹³

- Significant difficulty with speech and swallowing.
- Problems with eye movement, specifically when looking up or down.
- Leaning and falling backward versus forward.

⁸ Cleveland Clinic, *Parkinsonism*, available at <https://my.clevelandclinic.org/health/diseases/22815-parkinsonism> (last visited Dec. 1, 2023).

⁹ Cleveland Clinic, *Neurodegenerative Diseases*, available at <https://my.clevelandclinic.org/health/diseases/24976-neurodegenerative-diseases> (last visited Dec. 1, 2023).

¹⁰ Johns Hopkins Medicine, *Progressive Supranuclear Palsy*, available at <https://www.hopkinsmedicine.org/health/conditions-and-diseases/progressive-supranuclear-palsy> (last visited Dec. 1, 2023).

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

While PSP is not fatal, symptoms will worsen and, like all neurodegenerative diseases, it cannot be cured. Nevertheless, complications, such as pneumonia from the inhalation of food particles while choking, can be life threatening.¹⁴

PSP Treatment

Although there is no medicine or procedure to completely control the symptoms of PSP, there are strategies and methods available to assist in the management of symptoms, such as medications for the treatment of Parkinson's disease to improve balance, flexibility of the muscles, and depression.¹⁵

Other treatment options include:¹⁶

- Special glasses with prisms to improve vision.
- A weighted tool or aid to assist in walking and prevent falling backwards.
- Physical therapy and exercise to improve flexibility and decrease muscle atrophy.
- A feeding tube for when swallowing becomes too difficult.

Other Neurodegenerative Diseases

Other types of neurodegenerative diseases include:¹⁷

- Dementia-type diseases, which can cause progressive damage to various areas of the brain, resulting in neuron death and a wide range of symptoms. These include Alzheimer's disease, frontotemporal dementia, chronic traumatic encephalopathy, Lewy body dementia, and limbic predominant age-related TDP-43 encephalopathy.
- Demyelinating diseases, which involve myelin damage or loss and can affect the sending and relaying of nerve signals. These include conditions such as multiple sclerosis and neuromyelitis optica spectrum disorder.
- Parkinsonism-type diseases, which involve damage to specific neurons in the brain that help manage coordination and precise control of muscle movements. These include Parkinson's disease and other forms of parkinsonism.
- Motor neuron diseases, which involve the death of neurons that control movement. These include conditions such as amyotrophic lateral sclerosis and PSP.

Risk Factors

Although there are multiple causation factors attributed to most neurodegenerative diseases, a few have been identified as a stronger indicator than others.¹⁸

- Age: Older individuals are more likely to develop a neurodegenerative disease.
- Genetics: Spontaneous mutations can occur, specific mutations can be inherited, and a combination of genes can increase the risk of developing a neurodegenerative disease.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Cleveland Clinic, *Neurodegenerative Diseases*, available at <https://my.clevelandclinic.org/health/diseases/24976-neurodegenerative-diseases> (last visited Dec. 1, 2023).

¹⁸ *Id.*

- Environment: Exposure to pollution, chemicals and toxins, certain types of infections, address, etc.
- Medical history: Specific medical events can catalyze or exacerbate some neurodegenerative conditions.
- Lifestyle: Habits, routine, and choices, such as food, fitness, smoking, etc.

Symptoms and Complications

The symptoms of neurodegenerative diseases can vary widely, even among people with the same condition, as each brain is unique, the causes of the disease can differ, and the symptoms are dependent on the part of the brain or nervous system that has been affected. However, a commonality in those diagnosed is the correlation between progression and independence, i.e., the further the disease advances, the less self-reliant an afflicted individual becomes.¹⁹

In general, the following symptoms and complications are associated with neurodegenerative diseases:²⁰

- Dementia-type diseases: Confusion, memory loss, trouble thinking or concentrating, and behavior changes.
- Demyelinating diseases: Tingling or numbness, pain, muscle spasms, weakness and paralysis, coordination issues, and fatigue.
- Parkinsonism-type diseases: Slowed movements, shaking and tremors, balance problems, shuffling steps, and hunched posture, as well as decreased strength, flexibility, agility, and reflexes, increasing the risk of falls and fractures.
- Motor neuron diseases: Muscle weakness that progresses to paralysis, as well as increased risk of pneumonia and other respiratory conditions.

Executive Branch Structure

Chapter 20, F.S., creates the organizational structure of the Executive Branch of state government, and s. 20.03, F.S., provides definitions for uniform nomenclature throughout the structure of the Executive Branch, including bodies created as adjuncts to Executive Branch departments, agencies, or offices. A “committee” or “task force” means an advisory body created without specific statutory enactment for a time not to exceed one year or created by specific statutory enactment for a time not to exceed three years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.

III. Effect of Proposed Changes:

Section 1 provides that, once enacted, the act may be cited as the “Justo R. Cortes Progressive Supranuclear Palsy Act.”

Section 2 creates a non-statutory section of the Laws of Florida to require the State Surgeon General to establish a progressive supranuclear palsy (PSP) and other neurodegenerative diseases policy committee, a committee as defined in s. 20.03, F.S. The bill requires the Department of

¹⁹ *Id.*

²⁰ *Id.*

Health (DOH) to provide staff and administrative support to the committee for the purposes of carrying out the following duties and responsibilities:

- Identifying the aggregate number of people diagnosed with PSP and other neurodegenerative diseases each year in this state.
- Identifying how data is collected regarding diagnoses of PSP and other neurodegenerative diseases and adverse health outcomes associated with such conditions.
- Identifying how PSP and other neurodegenerative diseases impact the lives of people in the state.
- Identifying the standard of care for the surveillance, detection, and treatment of PSP and other neurodegenerative diseases.
- Identifying emerging treatments, therapies, and research relating to PSP and other neurodegenerative diseases.
- Developing a risk surveillance system to help health care providers identify patients who may be at a higher risk of developing PSP and other neurodegenerative diseases.
- Developing policy recommendations to help improve patient awareness of PSP and other neurodegenerative diseases.
- Developing policy recommendations to help improve surveillance and detection of patients who may be at a higher risk of being diagnosed with PSP and other neurodegenerative diseases in licensed health care facilities, including hospitals, nursing homes, assisted living facilities, residential treatment facilities, and ambulatory surgical centers.
- Developing policy recommendations relating to guidelines that affect the standard of care for patients with PSP and other neurodegenerative diseases.
- Developing policy recommendations relating to providing patients and their families with written notice of increased risks of being diagnosed with PSP and other neurodegenerative diseases.

The bill requires that the committee be composed of 20 members, including the State Surgeon General, health care providers, family members or caretakers of patients who have been diagnosed with PSP and other neurodegenerative diseases, advocates, and other interested parties and associations.

The bill requires the President of the Senate and the Speaker of the House of Representatives to each appoint two members, and the State Surgeon General to appoint the chair and all other members of the committee. Members of the committee must be appointed by September 1, 2024, under the bill and shall serve without compensation for the entirety of the committee's existence.

The bill authorizes the chair to create subcommittees to help with research, scheduling speakers on important subjects, and drafting a committee report and policy recommendations. Meetings of the committee must be held through teleconference or other electronic means. The committee must meet for its initial meeting by October 1, 2024. Thereafter, the committee must meet upon the call of the chair or the request of a majority of the members. Notices for any scheduled meetings of the committee must be published in advance on the DOH's website.

The bill requires the State Surgeon General to submit a progress report detailing committee activities, as well as findings and recommendations, to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 4, 2025. The bill also requires the

State Surgeon General to submit a final report to the Governor and the Legislature by January 4, 2026. Both reports must be made available on the DOH's website.

The bill provides that the committee will sunset July 1, 2026, and this section of law will be repealed on that date.

Section 3 provides an effective date of July 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:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires the DOH to provide administrative support for the committee. The costs of which can be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates undesignated sections of the Laws of Florida.

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

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

CS by Health Policy on December 5, 2023:

The CS:

- Changes the workgroup to a committee, as defined in s. 20.03, F.S., and establishes the committee as the duty and responsibility of the State Surgeon General and the DOH in the Laws of Florida.
- Provides a September 1, 2024, deadline for committee appointments, and requires that members serve for the entirety of the committee's existence.
- Requires, rather than allows, meetings to be held via teleconference or other electronic means. The initial committee meeting must be held by October 1, 2024, and all meetings thereafter occur upon the call of the chair or the request of a majority of the members. Notices for scheduled meetings of the committee must be published in advance on the DOH's website.
- Requires both a progress and a final report that include details as to committee activities, in addition to findings and recommendations. These reports must be published on the DOH's website. A submission deadline for the progress report is established as January 4, 2025.
- Provides a sunset date of July 1, 2026, for the committee.

B. Amendments:

None.

By the Committee on Health Policy; and Senators Brodeur, Pizzo, Wright, Boyd, Burgess, Rouson, Hutson, Davis, Ingoglia, and Garcia

588-01774-24

2024186c1

A bill to be entitled

An act relating to a progressive supranuclear palsy and other neurodegenerative diseases policy committee; providing a short title; requiring the State Surgeon General to establish a progressive supranuclear palsy and other neurodegenerative diseases policy committee; requiring the Department of Health to provide staff and administrative support to the committee; providing for duties, membership, and meetings of the committee; requiring the State Surgeon General to submit a progress report and a final report by a specified date to the Governor and the Legislature; requiring the reports to be made available on the department's website; providing for the expiration of the committee; providing an effective date.

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

Section 1. This act may be cited as the "Justo R. Cortes Progressive Supranuclear Palsy Act."

Section 2. Progressive supranuclear palsy and other neurodegenerative diseases policy committee.-

(1) The State Surgeon General shall establish a progressive supranuclear palsy and other neurodegenerative diseases policy committee, a committee as defined in s. 20.03, Florida Statutes. The Department of Health shall provide staff and administrative support to the committee for purposes of carrying out its duties and responsibilities.

(2) The committee shall do all of the following:

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588-01774-24

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(a) Identify the aggregate number of people in the state diagnosed with progressive supranuclear palsy or other neurodegenerative diseases annually.

(b) Identify how data is collected regarding diagnoses of progressive supranuclear palsy or other neurodegenerative diseases and adverse health outcomes associated with such conditions.

(c) Identify how progressive supranuclear palsy and other neurodegenerative diseases impact the lives of people in the state.

(d) Identify the standard of care for the surveillance, detection, and treatment of progressive supranuclear palsy and other neurodegenerative diseases.

(e) Identify emerging treatments, therapies, and research relating to progressive supranuclear palsy and other neurodegenerative diseases.

(f) Develop a risk surveillance system to help health care providers identify patients who may be at a higher risk of developing progressive supranuclear palsy and other neurodegenerative diseases.

(g) Develop policy recommendations to help improve patient awareness of progressive supranuclear palsy and other neurodegenerative diseases.

(h) Develop policy recommendations to help improve surveillance and detection of patients who may be at a higher risk of being diagnosed with progressive supranuclear palsy and other neurodegenerative diseases in licensed health care facilities, including hospitals, nursing homes, assisted living facilities, residential treatment facilities, and ambulatory

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

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59 surgical centers.

60 (i) Develop policy recommendations relating to guidelines
 61 that affect the standard of care for patients with progressive
 62 supranuclear palsy or other neurodegenerative diseases.

63 (j) Develop policy recommendations relating to providing
 64 patients and their families with written notice of increased
 65 risks of being diagnosed with progressive supranuclear palsy and
 66 other neurodegenerative diseases.

67 (3) The committee shall be composed of 20 members,
 68 including the State Surgeon General. Members of the committee
 69 must be appointed by September 1, 2024.

70 (a) The State Surgeon General shall appoint health care
 71 providers, family members or caretakers of patients who have
 72 been diagnosed with progressive supranuclear palsy and other
 73 neurodegenerative diseases, advocates, and other interested
 74 parties and associations.

75 (b) The President of the Senate and the Speaker of the
 76 House of Representatives shall each appoint two members to the
 77 committee.

78 (c) Members of the committee shall serve without
 79 compensation and for the entirety of the committee's existence.

80 (d) The State Surgeon General shall appoint the chair of
 81 the committee.

82 (e) The chair of the committee may create subcommittees to
 83 help conduct research, schedule speakers on important subjects,
 84 and draft reports and policy recommendations.

85 (f) Meetings of the committee shall be held through
 86 teleconference or other electronic means. The committee shall
 87 meet for its initial meeting by October 1, 2024. Thereafter, the

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88 committee may meet upon the call of the chair or upon the
 89 request of a majority of its members. Notices for any scheduled
 90 meetings of the committee must be published in advance on the
 91 department's website.

92 (4) (a) The State Surgeon General shall submit a progress
 93 report detailing committee activities, as well as his or her
 94 findings and recommendations, to the Governor, the President of
 95 the Senate, and the Speaker of the House of Representatives by
 96 January 4, 2025. The report must be made available on the
 97 department's website.

98 (b) The State Surgeon General shall submit a final report
 99 detailing committee activities, as well as his or her findings
 100 and recommendations, to the Governor, the President of the
 101 Senate, and the Speaker of the House of Representatives by
 102 January 4, 2026. The report must be made available on the
 103 department's website.

104 (5) The committee shall sunset July 1, 2026, and this
 105 section is repealed on that date.

106 Section 3. This act shall take effect July 1, 2024.

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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186
Bill Number or Topic

1-31-24
Meeting Date

Fiscal Policy
Committee

Name Bob Centes

Amendment Barcode (if applicable)
Phone 407-463-8257

Address (20) Bunnell Rd

Email bob@bobcentes.com

Street Alt. Group FL 32714

City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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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)

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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 Fiscal Policy

BILL: SB 302

INTRODUCER: Senator Boyd

SUBJECT: Dental Services

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto Van Winkle	Brown	HP	Favorable
2.	Gerbrandt	McKnight	AHS	Favorable
3.	Rossitto Van Winkle	Yeatman	FP	Favorable

I. Summary:

SB 302 requires dentists and any individual, partnership, corporation, or other entity that provides dental services through telehealth to make available the dentist's name, telephone number, after-hours contact information for emergencies, and upon request, licensure information to patients.

The bill requires the dentist of record to remain primarily responsible for all dental treatment for any patient who is treated through telehealth, whether care is rendered by the dentist of record, another dentist, dental hygienist, or dental assistant.

The bill creates a definition for advertisement, and requires that an advertisement for dental services provided through telehealth must include a specific disclaimer that an in-person examination with a dentist is recommended before certain services are performed.

The bill creates a standard that would require a dentist of record to perform an in-person examination of a patient or obtain records from an in-person examination within the last six months before the initial diagnosis and correction of a malposition of human teeth or initial use of an orthodontic appliance.

The bill has an indeterminate, yet significant negative fiscal impact on the Department of Health, however, current resources are adequate to absorb these costs. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

The Practice of Dentistry

The Board of Dentistry (BOD), within the Department of Health (DOH), regulates the practice of dentistry in Florida, including dentists, dental hygienists, and dental assistants under the Dental Practice Act.¹ A dentist is licensed to examine, diagnose, treat, and care for conditions within the human oral cavity and its adjacent tissues and structures.² A dental hygienist provides education, preventive, and delegated therapeutic dental services.³

License Display Requirements

Every dentist or dental hygienist licensed in Florida must post and keep conspicuously displayed his or her license in the office wherein she or he practices, in plain sight of patients. Any dentist or dental hygienist who practices at more than one location shall be required to display a copy of his or her license in each location where she or he practices.⁴

Dental Patient Records

Every dentist must maintain written dental records and medical history records on every patient which must justify the dentist's course of treatment for the patient. The records must include, but not be limited to:

- Patient history;
- Examination results;
- Test results; and,
- X rays, if taken.⁵

In a multi-dentist practice, the owner dentist(s) must maintain either the original or duplicates of all patient records, including dental charts, patient histories, examination and test results, study models, and X rays, of any patient treated by a dentist at the owner dentist's practice facility for four years from the date of the last patient's visit.⁶ The owner dentist(s) of a multi-dentist practice may be relieved of this responsibility if, upon request of the patient or the patient's legal representative, the dentist transfers custody of the records to another dentist, the patient, or the patient's legal representative and retains, in lieu of the records, a written statement, signed by the owner dentist, the person who received the records, and two witnesses, that lists the date, the records that were transferred and the persons to whom the records were transferred. The owner dentist(s) must provide reasonable access to duplicate records at cost.⁷

Dentist of Record

Section 466.018, F.S., requires that each dental patient shall have a dentist of record. The dentist of record must remain primarily responsible for all dental treatment on a patient regardless of

¹ Section 466.004, F.S.

² Section 466.003(3), F.S.

³ Section 466.003(4) and (5), F.S.

⁴ Section 466.016, F.S.

⁵ Section 466.018 (3), F.S.

⁶ Section 466.018(5), F.S.

⁷ Section 466.018(4), F.S.

whether the treatment is rendered by the dentist or by another dentist, dental hygienist, or dental assistant rendering such treatment in conjunction with, at the direction or request of, or under the supervision of such dentist of record. The dentist of record must be identified in the record of the patient. If treatment is rendered by a dentist other than the dentist of record or by a dental hygienist or assistant, the name or initials of such person must be placed in the record of the patient. In any disciplinary proceeding against a dentist, it is presumed as a matter of law that treatment was rendered by the dentist of record unless otherwise noted on the patient record.⁸

Section 466.028, F.S., sets forth the offenses that constitute grounds for disciplinary action by the BOD. Currently, failure by the dentist of record to perform an in-person exam or obtain records from an in-person exam within the last 6 months, before the initial diagnosis and correction of a malposition of teeth or the initial use of an orthodontic appliance, does not constitute grounds for disciplinary action by the Board.

Delegation of Duties

A dentist may not delegate irremediable tasks to a dental hygienist or dental assistant, except as provided by law. A dentist may delegate remediable tasks to a dental hygienist or dental assistant when such tasks pose no risk to the patient. A dentist may only delegate remediable tasks so defined by law or BOD rule.⁹

The BOD designates by rule which tasks are remediable and delegable, except that the following are found by law to be remediable and delegable:

- Taking impressions for study casts but not for the purpose of fabricating any intraoral restorations or orthodontic appliance;
- Placing periodontal dressings;
- Removing periodontal or surgical dressings;
- Removing sutures;
- Placing or removing rubber dams;
- Placing or removing matrices;
- Placing or removing temporary restorations;
- Applying cavity liners, varnishes, or bases;
- Polishing amalgam restorations;
- Polishing clinical crowns of the teeth for the purpose of removing stains but not changing the existing contour of the tooth;
- Obtaining bacteriological cytological specimens not involving cutting of the tissue; and
- Administering local anesthesia.¹⁰

All other remediable tasks must be performed under the direct, indirect, or general supervision of a dentist, after such additional training as required by BOD rule.¹¹

⁸ Section 466.018,(1), F.S.

⁹ Section 466.024, (1), F.S.

¹⁰ *Id.*

¹¹ Section 466.024(7), F.S.

A dentist may not delegate to anyone other than another licensed dentist:

- Any prescription of drugs or medications requiring the written order or prescription of a licensed dentist or physician; or
- Any diagnosis for treatment or treatment planning.¹²

Dental Advertising

A licensed dentist's advertisements may not contain any false, fraudulent, misleading, or deceptive statement or claim or any statement or claim which:

- Contains misrepresentations of fact;
- Is likely to mislead or deceive because, in context, it makes only a partial disclosure of relevant facts;
- Contains laudatory statements about the dentist or group of dentists;
- Is intended or is likely to create false, unjustified expectations of favorable results;
- Relates to the quality of dental services provided as compared to other available dental services;
- Is intended or is likely to appeal primarily to a layperson's fears;
- Contains fee information without a disclaimer that such is a minimum fee only; or
- Contains other representations or implications that in reasonable probability will cause an ordinary, prudent person to misunderstand or to be deceived.¹³

Telehealth

Section 456.47, F.S., defines the term "telehealth" as the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include e-mail messages or facsimile transmissions.

In a general sense, "synchronous" telehealth happens in live, real-time settings where the patient interacts with a provider, usually via phone or video. Providers and patients communicate directly, often resulting in a diagnosis, treatment plan, or prescription. Synchronous telehealth can include additional at-home devices such as a blood pressure or heart rate monitors, thermometers, oximeters, cameras, or scales to help the provider more accurately assess the patient's health status.¹⁴

¹² Section 466.024(8), F.S.

¹³ Section 466.019, F.S.

¹⁴ TELEHEALTH.HHS.GOV, "Synchronous direct-to-consumer telehealth," available at <https://telehealth.hhs.gov/providers/direct-to-consumer/synchronous-direct-to-consumer-telehealth/> (last visited Jan. 10, 2024).

“Asynchronous” telehealth, also known as “store-and-forward,” is often used for patient intake or follow-up care. For example, a patient sends a photo of a skin condition that is later reviewed by a dermatologist who recommends treatment.¹⁵

Section 456.47, F.S., also authorizes out-of-state health care providers to use telehealth to deliver health care services to Florida patients if they register¹⁶ with the DOH or the applicable board¹⁶ and meet certain eligibility requirements.¹⁷ A registered out-of-state telehealth provider may use telehealth, within the relevant scope of practice established by Florida law and rule, to provide health care services to Florida patients but is prohibited from opening an office in Florida and from providing in-person health care services to patients located in Florida¹⁸ without first becoming licensed by the state of Florida.

A telehealth provider must document in the patient’s medical record the health care services rendered using telehealth according to the same standard as used for in-person services. Medical records, including video, audio, electronic, or other records generated as a result of providing such services, are confidential pursuant to ss. 395.3025(4), and 456.057, F.S.¹⁹

The website of an out-of-state telehealth provider registered under s. 456.47, F.S., must prominently display a hyperlink to the DOH’s website, and the DOH’s website must publish a list of all out-of-state registrants and include the following information for each:

- Name;
- Health care occupation;
- Health care training and education, including completion dates and any certificates or degrees obtained;
- Out-of-state health care licenses, including license numbers;
- Florida telehealth provider registration number;
- Specialty, if any;
- Board certification, if any;
- Five-years of disciplinary history, including sanctions imposed and board actions;
- Medical malpractice insurance provider and policy limits, including whether the policy covers claims that arise in Florida; and
- The name and address of the registered agent designated for service of process in this state.²⁰

A health care professional may not register under s. 456.47, F.S., if his or her license to provide health care services is subject to a pending disciplinary investigation or action; or has been revoked in any state or jurisdiction. A health care professional registered under this subsection must notify the appropriate board, or the DOH if there is no board, of any restrictions placed on

¹⁵ TELEHEALTH.HHS.GOV, “Asynchronous direct-to-consumer telehealth,” available at <https://telehealth.hhs.gov/providers/direct-to-consumer/asynchronous-direct-to-consumer-telehealth/> (last visited Jan. 10, 2024).

¹⁶ Under s. 456.001(1), F.S., the term “board” is defined as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within DOH or, in some cases, within DOH’s Division of Medical Quality Assurance (MQA).

¹⁷ Section 456.47(4), F.S.

¹⁸ *Id.*

¹⁹ Section 456.47(3), F.S.

²⁰ Section 456.47(4)(h), F.S.

his or her license to practice, or any disciplinary action taken or pending against him or her, in any state or jurisdiction. The notification must be provided within five business days after the restriction is placed or disciplinary action is initiated or taken.²¹

The applicable board, or the DOH if there is no board, may take disciplinary action against an out-of-state telehealth provider registered under s. 456.47, F.S., if the registrant:

- Fails to notify the applicable board, or the DOH if there is no board, of any adverse actions taken against his or her license;
- Has restrictions placed on, or disciplinary action taken against, his or her license in any state or jurisdiction;
- Violates any of the requirements of s. 456.47, F.S.; or
- Commits any act that constitutes grounds for disciplinary action under s. 456.072, F.S, or the applicable practice act for similarly licenses Florida providers.²²

Venue for civil or administrative actions initiated by the DOH, a board, or a patient who receives telehealth services from an out-of-state telehealth provider may be located in the patient's county of residence or in Leon County.²³ A health care professional who is not licensed to provide health care services in Florida, but who holds an active license to provide health care services in another state or jurisdiction, and who provides such services using telehealth to a patient located in Florida, is not subject to the registration requirement under s. 456.47, F.S., if the services are provided:

- In response to an emergency medical condition; or
- In consultation with a health care professional licensed Florida who has ultimate authority over the diagnosis and care of the patient.²⁴

III. Effect of Proposed Changes:

Section 1 defines “digital scanning” for dentistry as the use of digital technology to create a computer-generated replica of the hard and soft tissue of the oral cavity using enhanced digital photography, lasers, or other optical scanning devices.

Section 2 amends s. 466.016, F.S., to require that every dentist must provide each of his or her patients with the dentist's name, contact telephone number, after-hours contact information for emergencies, and, upon the patient's request, license information. Any individual, partnership, corporation, or other entity that provides dental services through telehealth must also provide its patients with the name, contact telephone number, after-hours contact information for emergencies, and, upon the patient's request, the license information of each dentist who provides dental services to the patient.

Section 3 requires that for any dental patient treated through telehealth there must be a dentist of record as described in s. 466.018, F.S., who remains primarily responsible for all dental treatment on the patient regardless of whether the treatment is rendered by the dentist of record,

²¹ Section 456.47 (4)(d), F.S.

²² Section 456.47(4)(i), F.S.

²³ Section 456.47(5), F.S.

²⁴ Section 456.47(6), F.S.

another dentist, a dental hygienist, or dental assistant, in conjunction, or at the direction of, or under the supervision of, the dentist of record. A dentist of record for a telehealth patient is subject to all of the requirements S. 466.018, F.S., applicable to dentists of record.

The bill requires that any individual, partnership, corporation, or other entity that provides dental services through telehealth must also make available to the patient, before services are rendered, the name, the telephone number, practice address, and state license number for the dentist of record and any other dentist who will be providing dental services to the patient, and at any time requested by a patient.

The bill clarifies that s. 466.018, F.S., is not to be construed to assign any responsibility to a dentist of record for treatment rendered pursuant to a proper referral to another dentist who is not in the same practice with the dentist of record or to prohibit a patient from voluntarily selecting a new dentist without permission of the dentist of record.

Section 4 defines advertisement for s. 466.019, F.S., as a representation disseminated in any manner or by any means to solicit patients and includes, but is not limited to, business cards, circulars, pamphlets, newspapers, websites, and social media.

The bill amends s. 466.019, F.S., to require that an advertisement for dental services provided through telehealth must include a disclaimer that reads, in a clearly legible font and size, “An in-person examination with a dentist licensed under chapter 466, Florida Statutes, is recommended before beginning telehealth treatment in order to prevent injury or harm” for each of the following dental services, if advertised:

- The taking of an impression or the digital scanning of the human tooth, teeth, or jaws by any means or method, directly or indirectly;
- Furnishing, supplying, constructing, reproducing, or repairing any prosthetic denture, bridge, or appliance or any other structure designed to be worn in the human mouth;
- Placing an appliance or a structure in the human mouth or adjusting or attempting to adjust the appliance or structure; and
- Correcting or attempting to correct malformations of teeth or jaws.

Section 5 amends s. 466.028, F.S., to create additional offenses that constitute grounds for the denial of a dental license or disciplinary action against a dentist:

- Failure by the dentist of record, before the initial diagnosis and correction of a malposition of human teeth or initial use of an orthodontic appliance, to perform an in-person examination of the patient or obtain records from an in-person examination within the last six months and to perform a review of the patient’s most recent diagnostic digital or conventional radiographs or other equivalent bone imaging suitable for orthodontia. However, this provision does not apply to:
 - Providing emergent care;
 - Providing care in connection with a public health program; or
 - In making an initial diagnosis of a malposition of teeth and a determination of the need for an orthodontic appliance. However, such an initial diagnosis and determination must be confirmed through an in-person examination and the review of the patient’s most recent diagnostic digital or conventional radiographs before the patient begins using the orthodontic appliance.

- For dental services provided in-person or through telehealth by an individual, a partnership, a corporation, or any other entity, failing to provide each patient with the name, contact telephone number, after-hours contact information for emergencies, and, upon the patient's request, the license information of each dentist who is providing dental services to the patient; and
- For dental services provided through telehealth by an individual, a partnership, a corporation, or any other entity, failing to designate a dentist of record and make available, before the rendering of such services and upon the patient's request, the name, telephone number, practice address, and state license number for the dentist of record and any other dentist who will be involved in the provision of dental services to the patient through telehealth.

According to the DOH, a direct-to-consumer teeth aligner business model currently exists for consumers. Dental impressions are being taken by the consumer using a dental impression kit mailed by the aligner company, or the consumer visits a location for a digital scan by a technician. The impression or image is then reviewed by a dentist to create custom aligners, which are shipped back to the consumer for use. This business model does not include an in-person examination by a licensed dentist or direct supervision by a licensed dentist when digital scanning is performed.²⁵

The bill takes effect July 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:

None.

E. Other Constitutional Issues:

None.

²⁵ Florida Department of Health, *2023 Agency Legislative Bill Analysis, Senate Bill 356*, Jan. 25, 2023 (on file with the Senate Committee on Health Policy).

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

None.

B. Private Sector Impact:

According to the Department of Health (DOH), the provisions of the bill may result in an increase in revenues for individual dentistry practices due to the creation of a standard that would require a dentist of record to perform an in-person examination of a patient or obtain records from an in-person examination within the last six months before the initial diagnosis and correction of a malposition of human teeth or initial use of an orthodontic appliance.²⁶

C. Government Sector Impact:

The bill has an indeterminate, yet significant negative fiscal impact on the DOH, however, current resources are adequate to absorb these costs. According to the DOH, the department will experience an increase in workload associated with complaints and investigations under the bill. The fiscal impact is indeterminate; therefore, the fiscal impact cannot be calculated at this time.²⁷

The DOH has also indicated it will incur nonrecurring costs for rulemaking, which current budget authority is adequate to absorb.

The department will also experience a nonrecurring increase in workload and costs associated with updating the Licensing and Enforcement Information Database System, Online Service Portal, Artificial Intelligence Virtual Customer Contact Agent, Continuing Education Tracking System, License Verification Search Site, and Board of Dentistry (BOD) website. Resources and budget authority are adequate to absorb.²⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 466.003, 466.016, 466.018, 466.019, and 466.028.

²⁶ Florida Department of Health, *2023 Agency Legislative Bill Analysis, Senate Bill 356*, Jan. 25, 2023 (on file with the Senate Committee on Health Policy).

²⁷ *Id.*

²⁸ *Id.*

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 Boyd

20-00342-24

2024302__

1 A bill to be entitled
 2 An act relating to dental services; amending s.
 3 466.003, F.S.; defining the term "digital scanning";
 4 amending s. 466.016, F.S.; requiring every dentist and
 5 certain individuals, partnerships, corporations, and
 6 other entities to provide specified information to
 7 certain patients; amending s. 466.018, F.S.; requiring
 8 a dentist of record to remain primarily responsible
 9 for all dental treatments for a patient treated
 10 through telehealth; requiring any individual,
 11 partnership, corporation, or other entity that
 12 provides dental services through telehealth to make
 13 available specified information; providing
 14 construction; amending s. 466.019, F.S.; defining the
 15 term "advertisement"; requiring advertisements of
 16 dental services provided through telehealth to include
 17 a specified disclaimer for certain dental services;
 18 amending s. 466.028, F.S.; providing grounds for
 19 disciplinary action; providing applicability;
 20 providing an effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Present subsections (8) through (15) of section
 25 466.003, Florida Statutes, are redesignated as subsections (9)
 26 through (16), respectively, a new subsection (8) is added to
 27 that section, and present subsection (15) of that section is
 28 amended, to read:

29 466.003 Definitions.—As used in this chapter:

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30 (8) "Digital scanning" means the use of digital technology
 31 that creates a computer-generated replica of the hard and soft
 32 tissue of the oral cavity using enhanced digital photography,
 33 lasers, or other optical scanning devices.
 34 ~~(16)(15)~~ "School-based prevention program" means preventive
 35 oral health services offered at a school by one of the entities
 36 defined in subsection ~~(15)~~ ~~(14)~~ or by a nonprofit organization
 37 that is exempt from federal income taxation under s. 501(a) of
 38 the Internal Revenue Code, and described in s. 501(c)(3) of the
 39 Internal Revenue Code.
 40 Section 2. Section 466.016, Florida Statutes, is amended to
 41 read:
 42 466.016 License to be displayed.—
 43 (1) Every practitioner of dentistry or dental hygiene
 44 within the meaning of this chapter shall post and keep
 45 conspicuously displayed her or his license in the office wherein
 46 she or he practices, in plain sight of the practitioner's
 47 patients. Any dentist or dental hygienist who practices at more
 48 than one location shall ~~be required to~~ display a copy of her or
 49 his license in each office where she or he practices.
 50 (2) Every dentist shall provide each of her or his patients
 51 with her or his name, contact telephone number, after-hours
 52 contact information for emergencies, and, upon the patient's
 53 request, license information.
 54 (3) Any individual, partnership, corporation, or other
 55 entity that provides dental services through telehealth as
 56 defined in s. 456.47(1) shall provide each patient with the
 57 name, contact telephone number, after-hours contact information
 58 for emergencies, and, upon the patient's request, license

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59 information of each dentist who provides dental services through
60 telehealth to that patient.

61 Section 3. Subsection (6) is added to section 466.018,
62 Florida Statutes, to read:

63 466.018 Dentist of record; patient records.—

64 (6) For any patient treated through telehealth as defined
65 in s. 456.47(1), there must be a dentist of record who remains
66 primarily responsible for all dental treatments on the patient,
67 regardless of whether the treatment is rendered by the dentist
68 of record or by another dentist, dental hygienist, or dental
69 assistant rendering such treatment in conjunction with, at the
70 direction or request of, or under the supervision of such
71 dentist of record. A dentist of record for a patient treated
72 through telehealth is subject to all of the requirements of this
73 section applicable to dentists of record.

74 (a) Any individual, partnership, corporation, or other
75 entity that provides dental services through telehealth shall
76 make available the name, contact telephone number, practice
77 address, and state license number for the dentist of record and
78 any other dentist who provides dental services to a patient
79 before the rendering of such services and at any time such
80 information is requested by a patient.

81 (b) This subsection may not be construed to assign any
82 responsibility to a dentist of record for treatment rendered
83 pursuant to a proper referral to another dentist who is not in
84 the same practice with the dentist of record or to prohibit a
85 patient from voluntarily selecting a new dentist without
86 permission of the dentist of record.

87 Section 4. Section 466.019, Florida Statutes, is amended to

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88 read:

89 466.019 Advertising by dentists.—

90 (1) As used in this section, the term "advertisement" means
91 a representation disseminated in any manner or by any means to
92 solicit patients, including, but not limited to, business cards,
93 circulars, pamphlets, newspapers, websites, and social media
94 platforms.

95 (2) The purpose of this section is to ensure that the
96 public has access to information ~~that which~~ provides a
97 sufficient basis upon which to make an informed selection of
98 dentists while also ensuring that the public is protected from
99 false or misleading advertisements ~~that which~~ would detract from
100 a fair and rational selection process. The board shall adopt
101 rules to carry out the intent of this section, the purpose of
102 which ~~is shall be~~ to regulate the manner of such advertising in
103 keeping with the provisions hereof.

104 (3) ~~(2)~~ An ~~no~~ advertisement by a licensed dentist may not

105 ~~shall~~ contain any false, fraudulent, misleading, or deceptive

106 statement or claim or any statement or claim ~~that which~~:

107 (a) Contains misrepresentations of fact;

108 (b) Is likely to mislead or deceive because in context it

109 makes only a partial disclosure of relevant facts;

110 (c) Contains laudatory statements about the dentist or

111 group of dentists;

112 (d) Is intended or is likely to create false, unjustified

113 expectations of favorable results;

114 (e) Relates to the quality of dental services provided as

115 compared to other available dental services;

116 (f) Is intended or is likely to appeal primarily to a

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117 layperson's fears;

118 (g) Contains fee information without a disclaimer that such
119 is a minimum fee only; or

120 (h) Contains other representations or implications that in
121 reasonable probability will cause an ordinary, prudent person to
122 misunderstand or to be deceived.

123 (4) An advertisement for dental services provided through
124 telehealth as defined in s. 456.47(1) must include a disclaimer
125 that reads, in a clearly legible font and size, "An in-person
126 examination with a dentist licensed under chapter 466, Florida
127 Statutes, is recommended before beginning telehealth treatment
128 in order to prevent injury or harm" for each of the following
129 services, if advertised:

130 (a) The taking of an impression or the digital scanning of
131 the human tooth, teeth, or jaws, directly or indirectly and by
132 any means or method.

133 (b) Furnishing, supplying, constructing, reproducing, or
134 repairing any prosthetic denture, bridge, or appliance or any
135 other structure designed to be worn in the human mouth.

136 (c) Placing an appliance or a structure in the human mouth
137 or adjusting or attempting to adjust the appliance or structure.

138 (d) Correcting or attempting to correct malformations of
139 teeth or jaws.

140 (5)-(3) For purposes of this section, D.D.S. or D.M.D. are
141 synonymous and may be used interchangeably by licensed dentists
142 who have graduated from an accredited American dental school
143 with a D.D.S. or D.M.D. degree, when advertising dental
144 services.

145 Section 5. Present paragraph (mm) of subsection (1) of

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146 section 466.028, Florida Statutes, is redesignated as paragraph
147 (pp), and a new paragraph (mm) and paragraphs (nn) and (oo) are
148 added to that subsection, to read:

149 466.028 Grounds for disciplinary action; action by the
150 board.-

151 (1) The following acts constitute grounds for denial of a
152 license or disciplinary action, as specified in s. 456.072(2):

153 (mm) Failure by the dentist of record, before the initial
154 diagnosis and correction of a malposition of human teeth or
155 initial use of an orthodontic appliance, to perform an in-person
156 examination of the patient or obtain records from an in-person
157 examination within the last 6 months and to perform a review of
158 the patient's most recent diagnostic digital or conventional
159 radiographs or other equivalent bone imaging suitable for
160 orthodontia. This paragraph does not apply to providing emergent
161 care, to providing care in connection with a public health
162 program, or to making an initial diagnosis of a malposition of
163 teeth and a determination of the need for an orthodontic
164 appliance. Such an initial diagnosis and determination must be
165 confirmed through an in-person examination and review of the
166 patient's most recent diagnostic digital or conventional
167 radiographs before the patient begins using the orthodontic
168 appliance.

169 (nn) For dental services provided in person or through
170 telehealth by an individual, a partnership, a corporation, or
171 any other entity, failing to provide each patient with the name,
172 contact telephone number, after-hours contact information for
173 emergencies, and, upon the patient's request, the license
174 information of each dentist who is providing dental services to

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175 the patient.

176 (oo) For dental services provided through telehealth by an
177 individual, a partnership, a corporation, or any other entity,
178 failing to designate a dentist of record and make available,
179 before the rendering of such services and upon the patient's
180 request, the name, contact telephone number, practice address,
181 and state license number for the dentist of record and any other
182 dentist who will provide dental services to the patient through
183 telehealth.

184 Section 6. This act shall take effect July 1, 2024.

1/31/2024

The Florida Senate
APPEARANCE RECORD

SB 302

Meeting Date
Fiscal Policy

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

Bill Number or Topic

Committee
Anita Berry

Amendment Barcode (if applicable)

Name **Anita Berry** Phone **301-524-0172**

Address **21748 State Road 54, Suite 101** Email **anita@johnstonstewart.com**

Street

Lutz FL 33549

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:

**American Association of
Orthodontists**

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

Jan. 31, 2024

Meeting Date

SB 302

Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Joe Anne Hart

Phone 850-224-1089

Address 118 East Jefferson St

Email jahart@floridadental.org

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 Dental 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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-JointRules.pdf)

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

S-001 (08/10/2021)

APPEARANCE RECORD

SB 302

Bill Number or Topic

01-31-2024

Meeting Date

Fiscal Policy

Committee

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

Amendment Barcode (if applicable)

Name E. Ivonne Fernandez Phone 954-850-7262

Address 215 S Monroe Street - 601 Email ifernandez@aarp.org

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:

AARP

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 Fiscal Policy

BILL: SB 304

INTRODUCER: Senator Hooper

SUBJECT: Household Moving Services

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McMillan</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Blizzard</u>	<u>Betta</u>	<u>AEG</u>	Favorable
3.	<u>McMillan</u>	<u>Yeatman</u>	<u>FP</u>	Favorable

I. Summary:

SB 304 broadens protections for consumers who use intrastate moving services by:

- Providing additional registration and proof of registration requirements for movers and moving brokers;
- Providing for a required performance bond or certificate of deposit in certain circumstances for shippers' moved goods;
- Requiring a binding estimate of the cost of services, including any applicable fees of a moving broker, to be provided by the mover to a prospective shipper;
- Requiring a moving broker to arrange with a registered mover for the loading, transportation, shipment, or unloading of household goods as part of a household move;
- Requiring a moving broker to include certain information on any document provided by the moving broker to a shipper; and
- Requiring the Department of Agriculture and Consumer Services to suspend a mover's or moving broker's registration under certain circumstances.

The bill has an indeterminate, but likely insignificant impact on state revenues or expenditures.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

Moving Scams

The Better Business Bureau (BBB) has seen a marked increase in complaints and negative reviews about movers in recent years.¹ In 2022, nearly 15,198 complaints were filed with the BBB against moving companies.² Additionally, consumers reported more than \$129,040 lost to moving scams to the BBB Scam Tracker.³

One frequent moving scam involves an initial low-ball estimate (usually provided without an in-person visit to review the belongings that need to be moved) that turns into a demand for a much higher price once all of the household belongings are on the moving truck and awaiting delivery. The truck driver can simply drive away if the consumer refuses to pay the higher price.^{4,5}

Another scam requires the shipper to sign a blank or incomplete estimate or contract, which results in a higher than expected price demanded at the time of delivery.⁶

On December 8, 2022, Attorney General Moody filed legal action against three individuals, two holding companies, and multiple fraudulent moving brokerage businesses.⁷ According to the consumer protection investigation, the businesses acted as a common enterprise to deceive more than 400 Floridians into believing the company professionally handled moving services, and promised to provide refunds if anything went wrong. Instead, the companies hired third parties to complete the moving services at subpar quality and refused to provide refunds.⁸

Florida (Intrastate) Mover Regulations

Chapter 507, F.S., governs the loading, transportation, shipment, unloading, and affiliated storage of household goods as part of intrastate household moves. The chapter applies to any mover or moving broker engaged in intrastate transportation or shipment of household goods that

¹ Better Business Bureau, *Know Your Mover: BBB Study Reveals Scammers Price Gouge, Take Belongings Hostage, and Destroy Goods* (Jun. 30, 2020), available at <https://www.bbb.org/article/news-releases/22659-know-your-mover-bbb-study-reveals-scammers-price-gouge-take-belongings-hostage-and-destroy-goods> (last visited Dec. 4, 2023).

² Better Business Bureau, *BBB Scam Alert: Avoid Moving Scams this National Moving Month* (May 17, 2023) available at <https://www.bbb.org/article/scams/24198-bbb-scam-alert-avoid-moving-scams-this-national-moving-month> (last visited Dec. 4, 2023).

³ *Id.*

⁴ Better Business Bureau, *Know Your Mover: BBB Study Reveals Scammers Price Gouge, Take Belongings Hostage, and Destroy Goods* (Jun. 30, 2020), available at <https://www.bbb.org/article/news-releases/22659-know-your-mover-bbb-study-reveals-scammers-price-gouge-take-belongings-hostage-and-destroy-goods> (last visited Dec. 4, 2023).

⁵ See, e.g., Jackie Callaway, *Record Number of People File Complaints About Florida Movers in 2021; BBB rates 1,300 Companies 'F'*, (Dec. 2, 2021), available at <https://www.abcactionnews.com/money/consumer/taking-action-for-you/record-number-of-people-file-complaints-about-florida-movers-in-2021-bbb-rates-1-300-companies-f> (last visited Dec. 4, 2023).

⁶ Florida Attorney General's Office, *Scams at a Glance: On the Move*, available at [http://myfloridalegal.com/webfiles.nsf/WF/TDGT-BYLQQL/\\$file/Movers_Scams+at+a+Glance_English.pdf](http://myfloridalegal.com/webfiles.nsf/WF/TDGT-BYLQQL/$file/Movers_Scams+at+a+Glance_English.pdf) (last visited Dec. 4, 2023).

⁷ See Office of Attorney General Ashley Moody, *Attorney General Moody Takes Action to Shut Down Massive Moving Scam* (Dec. 8, 2022), available at [News Release - Attorney General Moody Takes Action to Shut Down Massive Moving Scam \(myfloridalegal.com\)](https://www.myfloridalegal.com/news-release-attorney-general-moody-takes-action-to-shut-down-massive-moving-scam) (last visited Dec. 4, 2023).

⁸ *Id.*

originates and terminates in Florida.⁹ These regulations co-exist with federal law, which governs interstate moving of household goods.¹⁰

A “mover” is a person who, for compensation, contracts for or engages in the loading, transportation, shipment, or unloading of household goods as part of a household move.¹¹ A “moving broker” arranges for another person to load, transport, ship, or unload household goods as part of a household move or who refers a shipper to a mover by telephone, postal, or electronic mail, website, or other means.¹²

Movers and moving brokers who do business in Florida must register annually with the Department of Agriculture and Consumer Services (Department).¹³ As of December 4, 2023, there were 1,348 movers and 39 moving brokers with active Florida registrations.¹⁴ In order to obtain a registration certificate, the mover or moving broker must file an application, pay a \$300 annual registration fee, and meet certain statutory qualifications, including proof of insurance coverage.¹⁵

Insurance Coverage and Liability Limitations

Movers and moving brokers must maintain liability and motor vehicle insurance. A mover who operates more than two vehicles is required to maintain liability insurance of at least \$10,000 per shipment, and not less than 60 cents per pound, per article.¹⁶ Movers who operate fewer than two vehicles are required only to carry either a \$25,000 performance bond or a \$25,000 certificate of deposit in lieu of liability insurance.¹⁷

Any contractual limitation to a mover’s liability for loss incurred to a shipper’s goods must be disclosed in writing to the shipper, along with the valuation rate, but a mover’s attempt to limit its liability beyond the minimum 60 cents per pound, per article rate is void under s. 507.04(4), F.S. If the mover offers valuation insurance, it must inform the shipper of the opportunity to purchase valuation coverage to compensate the shipper for household goods that are lost or damaged during a household move, prior to execution of the contract for moving services.¹⁸

⁹ Section 507.02, F.S.

¹⁰ Interstate movers in the U.S. must be licensed by the Department of Transportation’s Federal Motor Carrier Safety Administration (FMCSA).

¹¹ Section 507.01(9), F.S.

¹² Section 507.01(10), F.S.

¹³ Florida Department of Agriculture and Consumer Services (FDACS), *Moving Companies: Who has to Register?*, available at <https://www.fdacs.gov/Business-Services/Moving-Companies> (last visited Dec. 4, 2023).

¹⁴ FDACS, *License/Complaint Lookup*, available at <https://csapp.fdacs.gov/cspublicapp/businesssearch/businesssearch.aspx> (last visited Dec. 4, 2023). Search by “program.”

¹⁵ Section 507.03, F.S.

¹⁶ Sections 507.04(1)(a)1. and 507.04(4), F.S.

¹⁷ Section 507.04(1)(b), F.S.

¹⁸ Section 507.04(5), F.S.

Violations and Penalties

Section 507.05, F.S., requires an intrastate mover to provide an estimate and contract to the shipper before commencing the move. Should a dispute arise over payment or costs, s. 507.06, F.S., provides that the mover may place the shipper's goods in a storage unit until payment is tendered. Because of ambiguity regarding what payment may legally be demanded, some shippers have been taken advantage of by deceptive or fraudulent moving practices. Often, moving fraud manifests as an increased fee assessed by the mover, who then refuses to relinquish the shipper's goods until the inflated price has been paid in full.

While administrative, civil, and criminal penalties exist in ch. 507, F.S., for such fraudulent moving practices and other violations, the aggrieved shipper is not guaranteed the return of his or her goods until after such remedies have been finalized.

In March of 2021, the Florida Consumer Protection Division within the Office of the Attorney General secured four judgments against moving companies that used deceptive advertising, failed to provide proper estimates, failed to relinquish household goods, and failed to provide timely pick-up or delivery of goods in accordance with service contracts.¹⁹

Local Ordinances and Regulations

Chapter 507, F.S., preempts local ordinances or regulations that relate to household moving, unless the local regulation was adopted prior to January 1, 2011.²⁰ Broward,²¹ Miami-Dade,²² Palm Beach,²³ and Pinellas²⁴ counties currently have such ordinances. Movers or moving brokers whose principal place of business is located in a county or municipality with such an ordinance are required to register under local and state laws. State law also allows for local taxes, fees, and bonding related to movers and moving brokers, so long as any local registration fees are reasonable and do not exceed the cost of administering the ordinance or regulation.²⁵

III. Effect of Proposed Changes:

Definitions and Legislative Intent

Section 1 amends the following definitions in s. 507.01, F.S.;

¹⁹ Office of the Attorney General, *Attorney General Moody Shuts Down Moving Scams and Recovers Millions for Consumers Duped by Malicious Movers* (Mar. 2, 2021), available at <http://www.myfloridalegal.com/newsrel.nsf/newsreleases/0BFF0224649D124D8525868C005A765F?Open&> (last visited Dec. 4, 2023).

²⁰ Section 507.13, F.S.

²¹ Broward County Government, *Movers*, available at <https://www.broward.org/Consumer/ConsumerProtection/Movers/Pages/default.aspx> (last visited Dec. 4, 2023).

²² Miami-Dade County, *Moving Companies—Laws & Tips*, available at <https://www.miamidade.gov/global/economy/consumer-protection/moving-companies.page#:~:text=Movers%20must%20insure%20your%20property,the%20value%20of%20your%20property.&text=The%20amount%20of%20added%20value%20you%20purchase%20is%20up%20to%20you.> (last visited Dec. 4, 2023).

²³ Palm Beach County, *Moving*, available at <https://discover.pbcbgov.org/publicsafety/consumeraffairs/pages/moving.aspx> (last visited Dec. 4, 2023).

²⁴ Pinellas County, *Moving*, available at <https://www.pinellascounty.org/consumer/moving.htm> (last visited Dec. 4, 2023).

²⁵ Section 507.13, F.S.

- “Contract for service” or “bill of lading” means a written document prepared by a registered mover which is approved and electronically acknowledged or signed by the shipper in writing before the performance of any service by the mover and which authorizes the named mover to perform the services and lists all costs associated with the household move and accessorial services to be performed;
- “Estimate” means a written document prepared by a registered mover which sets forth the total costs and describes the basis of those costs, related to a shipper’s household move, including, but not limited to, the loading, transportation or shipment, and unloading of household goods and accessorial services; and
- “Moving broker” or “broker” means a person who, for compensation, arranges with a registered mover for loading, transporting or shipping, or unloading of household goods as part of a household move or who, for compensation, refers a shipper to a registered mover.

Section 2 amends s. 507.02, F.S., to provide that the bill is intended to establish the law of Florida governing the brokering of moves of household goods by moving brokers.

Mover Registration

Section 3 amends s. 507.03, F.S., to clarify that “broker” means “moving broker.”

The bill clarifies that each estimate or contract of a “mover” must include a phrase that contains the following:

- The name of the firm;
- A Statement that includes the firm is registered with the State of Florida as a mover; and
- A Florida mover registration number.

The bill also clarifies that any document from a “moving broker” must include:

- The name of the firm;
- A statement that includes the firm is registered with the State of Florida as a moving broker; and
- A Florida moving broker registration number.

Additionally, the bill states that each advertisement of a “moving broker” must include the following:

- A Florida moving broker registration number;
- The name of the firm; and
- A phrase that states the firm is paid by a shipper to arrange, or offer to arrange, the transportation of property by a registered mover.

The bill requires each moving broker to provide the Department of Agriculture and Consumer Services (department) with a complete list of registered movers that the moving broker has contracted or is affiliated with, advertises on behalf of, arranges moves for, or refers shippers to, including each mover’s complete name, address, telephone number, email address, and registration number and the name of each mover’s owners, corporate officers, and directors. Additionally, a moving broker must notify the department of any changes to the provided

information, and the department must publish and maintain a list of all moving brokers and the registered movers each moving broker is contracted with on its website.

The bill provides that a person may not hold themselves out to be a mover or moving broker without first registering with the department.

The bill requires the department to immediately issue a cease and desist order to a person upon finding that such person is operating as a mover or moving broker without registering. Additionally, the department may seek an immediate injunction from the appropriate circuit court that prohibits the person from operating in Florida until the person complies with the registration requirement, a civil penalty not to exceed \$5,000, and court costs.

Insurance Requirement

Section 4 amends the insurance requirements in s. 507.04, F.S. The bill authorizes a mover that operates two or fewer vehicles, in lieu of maintaining liability insurance coverage, to maintain one of the following alternative coverages:

- A performance bond in the amount of \$50,000, up from the current \$25,000, for which the surety of the bond must be a surety company authorized to conduct business in Florida; or
- A certificate of deposit in a Florida banking institution in the amount of \$50,000, up from the current \$25,000.

The bill also requires a moving broker to maintain one of the above listed coverages.

The bill requires the department to immediately suspend a mover's or moving broker's registration if the mover or moving broker fails to maintain the required performance bond, certificate of deposit, or the appropriate insurance. In such cases, the mover or moving broker must immediately cease operating as a mover or moving broker in Florida. Additionally, the department may seek an immediate injunction from the appropriate circuit court that prohibits the person from operating in Florida until the person complies with the aforementioned requirements, a civil penalty not to exceed \$5,000, and court costs.

Estimates and Contracts for Service

Section 5 amends s. 507.05, F.S., to require that an estimate and a contract must be prepared by a registered mover and provided to a prospective shipper in writing, and the shipper, mover, and moving broker must sign or electronically acknowledge and date the estimate and contract.

The bill requires the estimate and contract for service to include the following:

- The name, telephone number, and physical address where the mover's and moving broker's employees are available during normal business hours;
- The date the estimate and contract were prepared by the mover and the proposed date or dates of the shipper's household move, including, but not limited to, loading, transportation, shipment, and unloading of household goods and accessorial services;
- The name and address of the shipper, the addresses where the articles are to be picked up and delivered, and a telephone number where the shipper may be reached;

- The name, telephone number, and physical address of the location where the household goods will be held pending further transportation, including situations in which the mover retains possession of household goods pending resolution of a fee dispute with the shipper;
- An itemized breakdown and description and total of all costs and services for loading, transportation or shipment, unloading, and accessorial services to be provided during a household move or storage of household goods, including the fees of a moving broker, if used; and
- Acceptable forms of payment, which must be clearly and conspicuously disclosed to the shipper on the binding estimate and the contract for services.

Moving Brokers

Section 6 creates s. 507.056, F.S., to provide requirements specific to moving brokers.

The bill establishes that a moving broker may only arrange with a registered mover for the loading, transportation, shipment, or unloading of household goods as part of a household move or refer a shipper to a registered mover. Moving brokers may not give a verbal estimate or prepare a written estimate or contract for services that sets forth the total costs and describes the basis of those costs relating to a shipper's household move, including, but not limited to, the loading, transportation, shipment, or unloading of household goods and accessorial services.

The bill provides that before providing any service to a prospective shipper, a moving broker must disclose to the shipper that the broker may only arrange, or offer to arrange, the transportation of property by a registered mover. Additionally, a moving broker's fees may not include the cost of the shipper's household move, including, but not limited to, the loading, transportation, shipment, or unloading of household goods and accessorial services.

The bill requires any document provided to a shipper by a moving broker to include the following:

- The name of the moving broker and the moving broker's registration number;
- The following statement displayed at the top of the document:
 - The name of the moving broker firm and that the firm is not a mover; and
 - The name of the moving broker firm and a phrase stating the moving broker is paid by the shipper to arrange, or offer to arrange, the transportation of property by a registered mover. The moving broker's fees do not include the cost of the shipper's household move, including, but not limited to, the loading, transportation, shipment, or unloading of household goods and accessorial services;
- The name, telephone number, and physical address where the moving broker's employees are available during normal business hours;
- An itemized breakdown and description and total of all costs for the moving broker's fees to arrange with a registered mover for the loading, transportation, shipment, or unloading of household goods as part of a household move or to refer the shipper to a registered mover;
- A list of all of the registered movers the moving broker has contracted with or is affiliated with, advertises on behalf of, arranges moves for, or refers shippers to, including each mover's complete name, address, telephone number, email address, Florida Intrastate Registration Number, and the name of each mover's owners, corporate officers, and directors; and

- A list of acceptable forms of payment, which must include all of the forms of payment listed in at least two of the following subparagraphs:
 - Cash, cashier's check, money order, or traveler's check;
 - Valid personal check, showing upon its face the name and address of the shipper or authorized representative; and
 - Valid credit card, which shall include, but not be limited to, Visa or MasterCard.

Violations and Penalties

Section 7 amends s. 507.07, F.S., to prohibit a moving broker from providing an estimate or entering into a contract or agreement for moving, loading, shipping, transporting, or unloading services with a shipper which was not prepared and electronically acknowledged or signed by a mover who is registered with the department.

Section 8 amends s. 507.09, F.S., to provide that upon notification and subsequent written verification by a law enforcement agency, a court, a state attorney, or the Department of Law Enforcement, the department must immediately suspend a registration or the processing of an application for a registration if the registrant, applicant, or officer or director of the registrant or applicant is formally charged with a crime involving;

- Fraud;
- Theft;
- Larceny;
- Embezzlement;
- Fraudulent conversion;
- Misappropriation of property; or
- A crime arising from conduct during a movement of household goods until final disposition of the case or removal or resignation of that officer or director.

Section 9 makes conforming changes to s. 507.10, F.S., to incorporate amendments made elsewhere in the bill.

Section 10 amends s. 507.11, F.S., to clarify that it is a felony of the third degree, if a mover or mover's employee, agent, or contractor refuses to comply with an order from a law enforcement officer to relinquish a shipper's household goods in the following scenarios:

- After the officer determines that the shipper has tendered payment of the amount of a written estimate or contract, and, if applicable, amendments to the contract for services reflecting the price adjustment signed by the shipper; or
- If the officer determines that the mover did not produce a signed or electronically acknowledged binding estimate or contract for service and, if applicable, amendments to the contract for services reflecting the price adjustment signed by the shipper.

Effective Date

Section 11 creates an effective date of July 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:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The public may see a faster resolution to moving disputes that arise due to the provisions in the bill.

C. Government Sector Impact:

Implementation of this bill will have an indeterminate fiscal impact to the department. Any additional operating costs will be absorbed within existing resources. There may be additional revenues collected, but will likely be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides that upon notification and subsequent written verification by a law enforcement agency, a court, a state attorney, or the Department of Law Enforcement that a registrant, applicant, or officer or director of the registrant or applicant is formally charged with a crime involving fraud, theft, larceny, embezzlement, or fraudulent conversion, the Department of

Agriculture and Consumer Services (department) is required to suspend a registration or the processing of an application for registration until final disposition of the case or removal or resignation of that officer or director. However, it is unclear if the department is receiving notification and subsequent written verification by a law enforcement agency, a court, a state attorney, or the Department of Law Enforcement, or alternatively, if the department is receiving notification from any person or entity, and then getting a subsequent written verification from one of the aforementioned entities.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 507.01, 507.02, 507.03, 507.04, 507.05, 507.07, 507.09, 507.10, and 507.11.

This bill creates section 507.056 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 Hooper

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1 A bill to be entitled
 2 An act relating to household moving services; amending
 3 s. 507.01, F.S.; revising definitions; amending s.
 4 507.02, F.S.; providing construction; amending s.
 5 507.03, F.S.; revising requirements for mover and
 6 moving broker estimates, contracts, and
 7 advertisements; conforming a cross-reference; revising
 8 requirements relating to lists that moving brokers
 9 must provide to the Department of Agriculture and
 10 Consumer Services; requiring the department to publish
 11 and maintain a specified list on its website;
 12 prohibiting certain persons from operating as or
 13 holding themselves out to be a mover or moving broker
 14 without first registering with the department;
 15 requiring the department to issue cease and desist
 16 orders to certain persons under certain circumstances;
 17 authorizing the department to seek an immediate
 18 injunction under certain circumstances; making
 19 technical changes; amending s. 507.04, F.S.; revising
 20 alternative insurance coverage requirements for
 21 movers; revising liability coverage requirements for
 22 moving brokers; requiring the department to
 23 immediately suspend a mover's or moving broker's
 24 registration under certain circumstances; authorizing
 25 the department to seek an immediate injunction under
 26 certain circumstances; conforming cross-references;
 27 amending s. 507.05, F.S.; revising requirements for
 28 contracts and estimates for prospective shippers;
 29 creating s. 507.056, F.S.; providing limitations and

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30 prohibitions for moving brokers; requiring moving
 31 brokers to make a specified disclosure to shippers
 32 before providing any services; prohibiting moving
 33 brokers' fees from including certain costs; requiring
 34 that the documents moving brokers provide to shippers
 35 contain specified information; amending s. 507.07,
 36 F.S.; providing that it is a violation of ch. 507,
 37 F.S., for moving brokers to provide estimates or enter
 38 into contracts or agreements that were not prepared
 39 and signed or electronically acknowledged by a
 40 registered mover; amending s. 507.09, F.S.; conforming
 41 a cross-reference; requiring the department, upon
 42 verification by certain entities, to immediately
 43 suspend a registration or the processing of an
 44 application for a registration in certain
 45 circumstances; amending s. 507.10, F.S.; conforming a
 46 cross-reference; amending s. 507.11, F.S.; conforming
 47 provisions to changes made by the act; providing an
 48 effective date.

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

51
 52 Section 1. Subsections (4), (6), and (10) of section
 53 507.01, Florida Statutes, are amended to read:
 54 507.01 Definitions.—As used in this chapter, the term:
 55 (4) "Contract for service" or "bill of lading" means a
 56 written document prepared by a registered mover which is
 57 approved and electronically acknowledged or signed by the
 58 shipper in writing before the performance of any service by the

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59 ~~move~~ and which authorizes ~~services from~~ the named mover to to
60 perform ~~and lists~~ the services and lists all costs associated
61 with the household move and accessorial services to be
62 performed.

63 (6) "Estimate" means a written document prepared by a
64 registered mover which ~~that~~ sets forth the total costs and
65 describes the basis of those costs, relating to a shipper's
66 household move, including, but not limited to, the loading,
67 transportation or shipment, and unloading of household goods and
68 accessorial services.

69 (10) "Moving broker" or "broker" means a person who, for
70 compensation, arranges with a registered mover for loading,
71 transporting or shipping, or unloading of ~~for another person to~~
72 ~~load, transport or ship, or unload~~ household goods as part of a
73 household move or who, for compensation, refers a shipper to a
74 registered mover by telephone, postal or electronic mail,
75 ~~Internet website, or other means.~~

76 Section 2. Present paragraph (b) of subsection (1) of
77 section 507.02, Florida Statutes, is redesignated as paragraph
78 (c), and a new paragraph (b) is added to that subsection, to
79 read:

80 507.02 Construction; intent; application.—

81 (1) This chapter shall be construed liberally to:

82 (b) Establish the law of this state governing the brokering
83 of moves of household goods by moving brokers.

84 Section 3. Subsections (1), (2), (5), (6), (7), (9), and
85 (11) of section 507.03, Florida Statutes, are amended, and
86 subsections (12) and (13) are added to that section, to read:

87 507.03 Registration.—

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88 (1) Each mover and moving broker must register with the
89 department, providing its legal business and trade name, mailing
90 address, and business locations; the full names, addresses, and
91 telephone numbers of its owners, ~~or~~ corporate officers, and
92 directors and the Florida agent of the corporation; a statement
93 whether it is a domestic or foreign corporation, its state and
94 date of incorporation, its charter number, and, if a foreign
95 corporation, the date it registered with the Department of
96 State; the date on which the mover or moving broker registered
97 its fictitious name if the mover or moving broker is operating
98 under a fictitious or trade name; the name of all other
99 corporations, business entities, and trade names through which
100 each owner of the mover or moving broker operated, was known, or
101 did business as a mover or moving broker within the preceding 5
102 years; and proof of the insurance or alternative coverages
103 required under s. 507.04.

104 (2) A certificate evidencing proof of registration shall be
105 issued by the department and must be prominently displayed in
106 the mover's or moving broker's primary place of business.

107 (5) (a) Each estimate or contract of a mover ~~or moving~~
108 ~~broker~~ must include the phrase "... (NAME OF FIRM) ... is
109 registered with the State of Florida as a Mover ~~or Moving~~
110 ~~Broker~~. Fla. Mover Registration No."

111 (b) Any document from a moving broker must include the
112 phrase "... (NAME OF FIRM) ... is registered with the State of
113 Florida as a Moving Broker. Fla. Moving Broker Registration No.
114"

115 (6) (a) Each advertisement of a mover ~~or moving broker~~ must
116 include the phrase "Fla. Mover Reg. No." or "Fla. IM No.

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117” Each of the mover’s vehicles must clearly and
 118 conspicuously display a sign on the driver’s side door which
 119 includes at least one of these phrases in lettering of at least
 120 1.5 inches in height.

121 (b) Each advertisement of a moving broker must include the
 122 phrase “Fla. Moving Broker Reg. No. (NAME OF MOVING
 123 BROKER)... is a moving broker. ... (NAME OF MOVING BROKER)... is
 124 paid by a shipper to arrange, or offer to arrange, the
 125 transportation of property by a registered mover.”

126 (7) A registration is not valid for any mover or moving
 127 broker transacting business at any place other than that
 128 designated in the mover’s or moving broker’s application, unless
 129 the department is first notified in writing before any change of
 130 location. A registration issued under this chapter is not
 131 assignable, and the mover or moving broker may not conduct
 132 business under more than one name except as registered. A mover
 133 or moving broker desiring to change its registered name or
 134 location or designated agent for service of process at a time
 135 other than upon renewal of registration must notify the
 136 department of the change.

137 (9) The department shall deny or refuse to renew the
 138 registration of a mover or a moving broker or deny a
 139 registration or renewal request by any of the mover’s or moving
 140 broker’s directors, officers, owners, or general partners if the
 141 mover or moving broker has not satisfied a civil penalty or
 142 administrative fine for a violation of s. 507.07(10) ~~s.~~
 143 ~~507.07(9)~~.

144 (11) ~~At the request of the department,~~ Each moving broker
 145 shall provide the department with a complete list of the

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146 registered movers that the moving broker has contracted or is
 147 affiliated with, advertises on behalf of, arranges moves for, or
 148 refers shippers to, including each mover’s complete name,
 149 address, telephone number, ~~and~~ e-mail address, and registration
 150 number and the name of each mover’s owners, corporate officers,
 151 and directors ~~owner or other principal~~. A moving broker must
 152 notify the department of any changes to the provided
 153 information. The department shall publish and maintain on its
 154 website a list of all moving brokers and the registered movers
 155 each moving broker is contracted with.

156 (12) A person required to register pursuant to this section
 157 may not operate as or hold itself out to be a mover or moving
 158 broker without first registering with the department pursuant to
 159 this section.

160 (13) The department must immediately issue a cease and
 161 desist order to a person upon finding that the person is
 162 operating as a mover or a moving broker without registering
 163 pursuant to this section. In addition, and notwithstanding the
 164 availability of any administrative relief under chapter 120, the
 165 department may seek from the appropriate circuit court an
 166 immediate injunction prohibiting the person from operating in
 167 this state until the person complies with this section and pays
 168 a civil penalty not to exceed \$5,000 and court costs.

169 Section 4. Present subsections (3), (4), and (5) of section
 170 507.04, Florida Statutes, are redesignated as subsections (4),
 171 (5), and (6), respectively, a new subsection (3) is added to
 172 that section, and subsection (1) and present subsections (4) and
 173 (5) of that section are amended, to read:

174 507.04 Required insurance coverages; liability limitations;

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175 valuation coverage.—

176 (1) LIABILITY INSURANCE.—

177 (a)1. Except as provided in paragraph (b), each mover
178 operating in this state must maintain current and valid
179 liability insurance coverage of at least \$10,000 per shipment
180 for the loss or damage of household goods resulting from the
181 negligence of the mover or its employees or agents.

182 2. The mover must provide the department with evidence of
183 liability insurance coverage before the mover is registered with
184 the department under s. 507.03. All insurance coverage
185 maintained by a mover must remain in effect throughout the
186 mover's registration period. A mover's failure to maintain
187 insurance coverage in accordance with this paragraph constitutes
188 an immediate threat to the public health, safety, and welfare.

189 (b) A mover that operates two or fewer vehicles, in lieu of
190 maintaining the liability insurance coverage required under
191 paragraph (a), may, ~~and each moving broker must,~~ maintain one of
192 the following alternative coverages:

193 1. A performance bond in the amount of \$50,000 ~~\$25,000~~, for
194 which the surety of the bond must be a surety company authorized
195 to conduct business in this state; or

196 2. A certificate of deposit in a Florida banking
197 institution in the amount of \$50,000 ~~\$25,000~~.

198 (c) A moving broker must maintain one of the following
199 coverages:

200 1. A performance bond in the amount of \$50,000, for which
201 the surety of the bond must be a surety company authorized to
202 conduct business in this state; or

203 2. A certificate of deposit in a Florida banking

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204 institution in the amount of \$50,000.

205
206 The original bond or certificate of deposit must be filed with
207 the department and must designate the department as the sole
208 beneficiary. The department must use the bond or certificate of
209 deposit exclusively for the payment of claims to consumers who
210 are injured by the fraud, misrepresentation, breach of contract,
211 misfeasance, malfeasance, or financial failure of the mover or
212 moving broker or by a violation of this chapter by the mover or
213 moving broker. Liability for these injuries may be determined in
214 an administrative proceeding of the department or through a
215 civil action in a court of competent jurisdiction. However,
216 claims against the bond or certificate of deposit must only be
217 paid, in amounts not to exceed the determined liability for
218 these injuries, by order of the department in an administrative
219 proceeding. The bond or certificate of deposit is subject to
220 successive claims, but the aggregate amount of these claims may
221 not exceed the amount of the bond or certificate of deposit.

222 (3) REGISTRATION SUSPENSION.—The department must
223 immediately suspend a mover's or moving broker's registration if
224 the mover or moving broker fails to maintain the performance
225 bond or certificate of deposit required under subsection (1) or
226 the insurance required under subsection (2), and the mover or
227 moving broker must immediately cease operating as a mover or
228 moving broker in this state. In addition, and notwithstanding
229 the availability of any administrative relief pursuant to
230 chapter 120, the department may seek from a circuit court an
231 immediate injunction prohibiting the mover or moving broker from
232 operating in this state until the mover or moving broker

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233 complies with subsections (1) and (2) and pays a civil penalty
 234 not to exceed \$5,000 and court costs.

235 ~~(5)-(4)~~ LIABILITY LIMITATIONS; VALUATION RATES.—A mover may
 236 not limit its liability for the loss or damage of household
 237 goods to a valuation rate that is less than 60 cents per pound
 238 per article. A provision of a contract for moving services is
 239 void if the provision limits a mover's liability to a valuation
 240 rate that is less than the minimum rate under this subsection.
 241 If a mover limits its liability for a shipper's goods, the mover
 242 must disclose the limitation, including the valuation rate, to
 243 the shipper in writing at the time that the estimate and
 244 contract for services are executed and before any moving or
 245 accessorial services are provided. The disclosure must also
 246 inform the shipper of the opportunity to purchase valuation
 247 coverage if the mover offers that coverage under subsection (6)
 248 ~~(5)~~.

249 (6)~~(5)~~ VALUATION COVERAGE.—A mover may offer valuation
 250 coverage to compensate a shipper for the loss or damage of the
 251 shipper's household goods that are lost or damaged during a
 252 household move. If a mover offers valuation coverage, the
 253 coverage must indemnify the shipper for at least the minimum
 254 valuation rate required under subsection (5) ~~(4)~~. The mover must
 255 disclose the terms of the coverage to the shipper in writing at
 256 the time that the estimate and contract for services are
 257 executed and before any moving or accessorial services are
 258 provided. The disclosure must inform the shipper of the cost of
 259 the valuation coverage, the valuation rate of the coverage, and
 260 the opportunity to reject the coverage. If valuation coverage
 261 compensates a shipper for at least the minimum valuation rate

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262 required under subsection (5) ~~(4)~~, the coverage satisfies the
 263 mover's liability for the minimum valuation rate.

264 Section 5. Section 507.05, Florida Statutes, is amended to
 265 read:

266 507.05 Estimates and contracts for service.—Before
 267 providing any moving or accessorial services, an estimate and a
 268 contract ~~and estimate~~ must be prepared by a registered mover and
 269 provided to a prospective shipper in writing, and the shipper,
 270 the mover, and, if applicable, the moving broker must sign or
 271 electronically acknowledge and date the estimate and contract.
 272 At a minimum, the estimate and contract for service ~~must be~~
 273 signed and dated by the shipper and the mover, and must include:

274 (1) The name, telephone number, and physical address where
 275 the mover's and, if applicable, the moving broker's employees
 276 are available during normal business hours.

277 (2) The date the estimate and contract were ~~or estimate is~~
 278 prepared by the mover and the ~~any~~ proposed date or dates of the
 279 shipper's household move, including, but not limited to,
 280 loading, transportation, shipment, and unloading of household
 281 goods and accessorial services.

282 (3) The name and address of the shipper, the addresses
 283 where the articles are to be picked up and delivered, and a
 284 telephone number where the shipper may be reached.

285 (4) The name, telephone number, and physical address of the
 286 ~~any~~ location where the household goods will be held pending
 287 further transportation, including situations in which ~~where~~ the
 288 mover retains possession of household goods pending resolution
 289 of a fee dispute with the shipper.

290 (5) An itemized breakdown and description and total of all

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291 costs and services for loading, transportation or shipment,
 292 unloading, and accessorial services to be provided during a
 293 household move or storage of household goods, including the fees
 294 of a moving broker, if used.

295 (6) Acceptable forms of payment, which must be clearly and
 296 conspicuously disclosed to the shipper on the binding estimate
 297 and the contract for services. A mover must ~~shall~~ accept at
 298 least a minimum of two of the three following forms of payment:

299 (a) Cash, cashier's check, money order, or traveler's
 300 check;

301 (b) Valid personal check, showing upon its face the name
 302 and address of the shipper or authorized representative; or

303 (c) Valid credit card, which shall include, but not be
 304 limited to, Visa or MasterCard.

305

306 A mover must clearly and conspicuously disclose to the shipper
 307 in the estimate and contract for services the forms of payments
 308 the mover will accept, including the forms of payment described
 309 in paragraphs (a)-(c).

310 Section 6. Section 507.056, Florida Statutes, is created to
 311 read:

312 507.056 Moving brokers; services.—

313 (1) A moving broker may only arrange with a registered
 314 mover for the loading, transportation or shipment, or unloading
 315 of household goods as part of a household move or refer a
 316 shipper to a registered mover. Moving brokers may not give a
 317 verbal estimate or prepare a written estimate or contract for
 318 services which sets forth the total costs and describes the
 319 basis of those costs relating to a shipper's household move,

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320 including, but not limited to, the loading, transportation or
 321 shipment, or unloading of household goods and accessorial
 322 services.

323 (2) Before providing any service to a prospective shipper,
 324 a moving broker must disclose to the shipper that the broker may
 325 only arrange, or offer to arrange, the transportation of
 326 property by a registered mover. A moving broker's fees may not
 327 include the cost of the shipper's household move, including, but
 328 not limited to, the loading, transportation or shipment, or
 329 unloading of household goods and accessorial services. Any
 330 document provided to a shipper by a moving broker must include
 331 all of the following:

332 (a) The name of the moving broker and the moving broker's
 333 registration number.

334 (b) The following statement displayed at the top of the
 335 document: "... (Name of Moving Broker) ... is not a mover.
 336 ... (Name of Moving Broker) ... is paid by the shipper to arrange,
 337 or offer to arrange, the transportation of property by a
 338 registered mover. The moving broker's fees do not include the
 339 cost of the shipper's household move, including, but not limited
 340 to, the loading, transportation or shipment, or unloading of
 341 household goods and accessorial services."

342 (c) The name, telephone number, and physical address where
 343 the moving broker's employees are available during normal
 344 business hours.

345 (d) An itemized breakdown, description, and total of all
 346 fees the moving broker charges to arrange with a registered
 347 mover for the loading, transportation or shipment, or unloading
 348 of household goods as part of a household move or to refer the

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349 shipper to a registered mover.

350 (e) A list of all of the registered movers the moving
 351 broker has contracted with or is affiliated with, advertises on
 352 behalf of, arranges moves for, or refers shippers to, including
 353 each mover's complete name, address, telephone number, e-mail
 354 address, and Florida Intrastate Registration Number and the name
 355 of each mover's owners, corporate officers, and directors.

356 (f) A list of acceptable forms of payment, which must
 357 include all of the forms of payment listed in at least two of
 358 the following subparagraphs:

- 359 1. Cash, cashier's check, money order, or traveler's check.
- 360 2. Valid personal check, showing upon its face the name and
 361 address of the shipper or authorized representative.
- 362 3. Valid credit card, including, but not limited to, Visa
 363 or MasterCard.

364 Section 7. Present subsections (8) and (9) of section
 365 507.07, Florida Statutes, are redesignated as subsections (9)
 366 and (10), respectively, and a new subsection (8) is added to
 367 that section, to read:

368 507.07 Violations.—It is a violation of this chapter:

369 (8) For a moving broker to provide an estimate or enter
 370 into a contract or agreement for moving, loading, shipping or
 371 transporting, or unloading services with a shipper which was not
 372 prepared and electronically acknowledged or signed by a mover
 373 who is registered with the department pursuant to this chapter.

374 Section 8. Section 507.09, Florida Statutes, is amended to
 375 read:

376 507.09 Administrative remedies; penalties.—

377 (1) The department may enter an order doing one or more of

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378 the following if the department finds that a mover or moving
 379 broker, or a person employed or contracted by a mover or moving
 380 broker, has violated or is operating in violation of this
 381 chapter or the rules or orders issued pursuant to this chapter:

- 382 (a) Issuing a notice of noncompliance under s. 120.695.
- 383 (b) Imposing an administrative fine in the Class II
 384 category pursuant to s. 570.971 for each act or omission.
 385 However, the department must impose an administrative fine in
 386 the Class IV category for each violation of s. 507.07(10) s-
 387 507.07(9) if the department does not seek a civil penalty for
 388 the same offense.
- 389 (c) Directing that the person cease and desist specified
 390 activities.
- 391 (d) Refusing to register or revoking or suspending a
 392 registration.
- 393 (e) Placing the registrant on probation, subject to the
 394 conditions specified by the department.
- 395 (2) The department, upon notification and subsequent
 396 written verification by a law enforcement agency, a court, a
 397 state attorney, or the Department of Law Enforcement, must
 398 immediately suspend a registration or the processing of an
 399 application for a registration if the registrant, applicant, or
 400 officer or director of the registrant or applicant is formally
 401 charged with a crime involving fraud, theft, larceny,
 402 embezzlement, or fraudulent conversion or misappropriation of
 403 property or a crime arising from conduct during a movement of
 404 household goods until final disposition of the case or removal
 405 or resignation of that officer or director.
- 406 (3) The administrative proceedings ~~that~~ which could result

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407 in the entry of an order imposing any of the penalties specified
 408 in subsection (1) or subsection (2) are governed by chapter 120.
 409 ~~(4)-(3)~~ The department may adopt rules under ss. 120.536(1)
 410 and 120.54 to administer this chapter.

411 Section 9. Subsection (2) of section 507.10, Florida
 412 Statutes, is amended to read:

413 507.10 Civil penalties; remedies.—

414 (2) The department may seek a civil penalty in the Class II
 415 category pursuant to s. 570.971 for each violation of this
 416 chapter. However, the department must seek a civil penalty in
 417 the Class IV category for each violation of s. 507.07(10) ~~or~~
 418 ~~507.07(9)~~ if the department does not impose an administrative
 419 fine for the same offense.

420 Section 10. Subsection (1) of section 507.11, Florida
 421 Statutes, is amended to read:

422 507.11 Criminal penalties.—

423 (1) The refusal of a mover or a mover's employee, agent, or
 424 contractor to comply with an order from a law enforcement
 425 officer to relinquish a shipper's household goods after the
 426 officer determines that the shipper has tendered payment of the
 427 amount of a written estimate or contract, and, if applicable,
 428 amendments to the contract for services reflecting the price
 429 adjustment signed by the shipper or after the officer determines
 430 that the mover did not produce a signed or electronically
 431 acknowledged binding estimate or contract for service and, if
 432 applicable, amendments to the contract for services reflecting
 433 the price adjustment signed by the shipper upon which demand is
 434 being made for payment, is a felony of the third degree,
 435 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Page 15 of 16

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

21-00170A-24 2024304__

436 A mover's compliance with an order from a law enforcement
 437 officer to relinquish goods to a shipper is not a waiver or
 438 finding of fact regarding any right to seek further payment from
 439 the shipper.

440 Section 11. This act shall take effect July 1, 2024.

Page 16 of 16

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

The Florida Senate

APPEARANCE RECORD

SB 304

1/31/2024

Meeting Date

FISCAL POLICY

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Gloria Pugh Professional Movers Association of Florida**

Phone **850-877-7131**

Address **319 Ross Road**

Email **gloria@amwatmovers.com**

Street

TLH

City

FL

State

32305

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 \(flisenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 304

01-31-2024

Meeting Date

Fiscal Policy

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name **E. Ivonne Fernandez** Phone **954-850-7262**

Address **215 S Monroe Street - 601** Email **ifernandez@aarp.org**

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:

AARP

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 Fiscal Policy

BILL: CS/CS/SB 328

INTRODUCER: Fiscal Policy Committee; Community Affairs Committee; and Senator Calatayud and others

SUBJECT: Affordable Housing

DATE: February 2, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Hunter</u>	<u>Yeatman</u>	<u>FP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 328 amends various provisions of the Live Local Act (act), passed during the 2023 Regular Session, which made substantial changes and additions to affordable housing related programs and policies at both the state and local level.

As it pertains to the act’s preemption of certain local zoning and land use regulations to expedite the development of affordable housing, the bill:

- Preempts a local government’s “floor area ratio” for qualifying developments.
- Modifies the height preemption provisions to address situations where a qualifying development is adjacent to single family parcels.
- Prohibits qualifying developments within one-quarter mile of a military installation from utilizing the act’s administrative approval process and exempts certain airport impacted areas from the act’s provisions.
- Clarifies that a local government’s “currently allowed” density, height, and floor area ratio does not include any bonuses, variances, or other special exceptions provided in their regulations.
- Requires developments authorized under the act to be treated as a conforming use even after expiration of the development’s affordability period and after the expiration of the applicable statutes.
- Modifies parking reduction requirements for qualifying developments located near certain transportation facilities.

- Requires local governments to publish on its website a policy containing procedures and expectations for the administrative approval of qualifying developments.
- Clarifies that only the affordable units in a qualifying development must be rental units.
- Requires a qualifying development within a transit-oriented development or area to be mixed-use residential.
- Clarifies provisions concerning local government bonuses for height, density, and floor area ratio for qualifying developments.

As it pertains to the act's ad valorem tax exemptions for newly constructed multifamily developments, the bill makes the following changes:

- Requires 10 units, rather than 70 units, to be set aside for income-limited persons and families in Florida Keys to qualify for the exemption.
- Clarifies that the Florida Housing Finance Corporation's (FHFC) duties are ministerial in certifying eligibility for exemption, while local property appraisers maintain authority to grant tax exemptions.
- Outlines the method for property appraisers to determine values of tax exempt units.

The bill also aligns certain provisions of the local option property tax exemption with the exemption for newly constructed developments for consist application of the law.

Finally, the bill appropriates \$100 million in non-recurring funds from the General Revenue Fund to the FHFC to administer the Florida Hometown Hero Program and makes one programmatic change, and expands the authority for the FHFC to preclude developers from participating in its programs for certain violations.

The bill takes effect upon becoming a law.

II. Present Situation:

Affordable Housing

One major goal at all levels of government is to ensure that citizens have access to affordable housing. Housing is considered affordable when it costs less than 30 percent of a family's gross income. A family paying more than 30 percent of its income for housing is considered "cost burdened," while those paying more than 50 percent are considered "extremely cost burdened."

What makes housing "affordable" is a decrease in monthly rent so that income eligible households can pay less for the housing than it would otherwise cost at "market rate."¹ Lower monthly rent payment is a result of affordable housing financing that comes with an enforceable agreement from the developer to restrict the rent that can be charged based on the size of the household and the number of bedrooms in the unit.² The financing of affordable housing is made possible through government programs such as the federal Low-Income Housing Tax Credit Program and the Florida's State Apartment Incentive Loan program.³

¹ The Florida Housing Coalition, *Affordable Housing in Florida*, p. 3, available at: <https://flhousing.org/wp-content/uploads/2022/07/Affordable-Housing-in-Florida.pdf> (last visited Jan. 6, 2024).

² *Id.*

³ *Id.*

Resident eligibility for Florida's state and federally funded housing programs is typically governed by area median income (AMI) levels. These levels are published annually by the U.S. Department of Housing and Urban Development for every county and metropolitan area.⁴ Florida Statutes categorizes the levels of household income as follows:

- Extremely low income – households at or below 30% AMI;⁵
- Very low income – households at or below 50% AMI;⁶
- Low income – households at or below 80% AMI;⁷ and
- Moderate income – households at or below 120% AMI.⁸

Florida Housing Finance Corporation

The Florida Housing Finance Corporation (FHFC) is a public-private entity created by the Legislature in 1997 to assist in providing a range of affordable housing opportunities for Floridians.⁹ The FHFC is a corporation held by the state and housed within the Department of Commerce (department). The FHFC is a separate budget entity and its operations are not subject to control, supervision, or direction by the department.¹⁰

The goal of the FHFC is to increase the supply of safe, affordable housing for individuals and families with very low to moderate incomes by stimulating investment of private capital and encouraging public and private sector housing partnerships. As a financial institution, the FHFC administers federal and state resources to finance the development and preservation of affordable rental housing and assist homebuyers with financing and down payment assistance.

The FHFC may preclude an applicant or an affiliate from participation in any of its programs under certain circumstances if the applicant or affiliate has:¹¹

- Made a material misrepresentation or engaged in fraudulent actions in connection with any corporation program.
- Been convicted or found guilty of, or entered a plea of guilty or no contest to, a crime in any jurisdiction which directly relates to the financing, construction, or management of affordable housing or the fraudulent procurement of state or federal funds.
- Been excluded from any federal funding program related to the provision of housing.
- Been excluded from any Florida procurement programs.
- Offered or given consideration, other than the consideration to provide affordable housing, with respect to a local contribution.
- Demonstrated a pattern of noncompliance and a failure to correct any such noncompliance after notice from the corporation in the construction, operation, or management of one or more developments funded through a corporation program.

⁴ U.S. Department of Housing and Urban Development, *Income Limits, Access Individual Income Limits Areas – Click Here for FY 2023 IL Documentation*, available at <https://www.huduser.gov/portal/datasets/il.html#2021> (last visited Jan. 8, 2024).

⁵ Section 420.0004(9), F.S.

⁶ Section 420.0004(17), F.S.

⁷ Section 420.0004(11), F.S.

⁸ Section 420.0004(12), F.S.

⁹ Chapter 97-167, Laws of Fla. From 1980 through 1997, the former Florida Housing Finance Agency, placed within the former Department of Community Affairs, performed similar duties.

¹⁰ Section 420.504(1), F.S.

¹¹ Section 420.518(1)(a-f), F.S.

Zoning and Land Use Preemption for Affordable Developments

The Growth Management Act requires every city and county to create and implement a comprehensive plan to guide future development.¹² All development, both public and private, and all development orders¹³ approved by local governments must be consistent with the local government's comprehensive plan unless otherwise provided by law.¹⁴ The Future Land Use Element in a comprehensive plan establishes a range of allowable uses and densities and intensities over large areas, and the specific use and intensities for specific parcels¹⁵ within that range are decided by a more detailed, implementing zoning map.¹⁶

The Live Local Act (act)¹⁷ preempts certain county and municipal zoning and land use decisions to encourage development of affordable multifamily rental housing in targeted land use areas. Specifically, the act requires counties and municipalities to allow a multifamily or mixed-use residential¹⁸ rental development in any area zoned for commercial, industrial, or mixed-use if the development meets certain affordability requirements.¹⁹ To qualify, the proposed development must reserve 40 percent of the units for residents with incomes up to 120% AMI, for a period of at least 30 years.

Additionally, the local government may not restrict the density²⁰ of qualifying developments below the highest allowed density on land within its jurisdiction where residential development is allowed, and may not restrict the height below the highest currently allowed height for a commercial or residential development in its jurisdiction within 1 mile of the proposed development or 3 stories, whichever is higher.

An application for a development must be administratively approved and no further action is required from the governing body of the local government if the development satisfies the local government's land development regulations for multifamily in areas zoned for such use and is otherwise consistent with the jurisdiction's comprehensive plan.

¹² Section 163.3167(2), F.S.

¹³ "Development order" means any order granting, denying, or granting with conditions an application for a development permit. See s. 163.3164(15), F.S. "Development permit" includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land. See s. 163.3164(16), F.S.

¹⁴ Section 163.3194(3), F.S.

¹⁵ When local governments make changes to their zoning regulations or comprehensive plans some structures may no longer be in compliance with the newly approved zoning and may be deemed a "nonconforming use." A nonconforming use or structure is one in which the use or structure was legally permitted prior to a change in the law, and the change in law would no longer permit the re-establishment of such structure or use.

¹⁶ Richard Grosso, A Guide to Development Order "Consistency" Challenges Under Florida Statutes Section 163.3215, 34 J. Envtl. L. & Litig. 129, 154 (2019) citing *Brevard Cty. v. Snyder*, 627 So. 2d 469, 475 (Fla. 1993).

¹⁷ The "Live Local Act", Ch. 2023-17, Laws of Fla., made various changes to affordable housing related programs and policies at the state and local levels, including zoning and land use preemptions favoring affordable housing, funding for state affordable housing programs, and tax provisions intended to incentivize affordable housing development.

¹⁸ For mixed-use residential, at least 65 percent of the total square footage must be used for residential purposes.

¹⁹ See ss. 125.01055(7) and 166.04151(7), F.S.

²⁰ "Density" means an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre, see s. 163.3164(12), F.S. While the act expressly preempted density, it did not address intensity. Intensity is often measured in terms of floor area ratio (FAR). FAR is the measurement of a building's floor area in relation to the parcel or lot that the structure is built on. For a general overview of FAR, see: Metropolitan Council, Local Planning Handbook, *Calculating Floor Area Ratio*, available at: <https://metro council.org/Handbook/Files/Resources/Fact-Sheet/LAND-USE/How-to-Calculate-Floor-Area-Ratio.aspx> (last visited Jan. 5, 2024).

A local government must consider reducing parking requirements for these developments if they are located within one-half mile of a major transit stop, as such term is the local government's land development code, and the major transit stop is accessible from the development.

These provisions do not apply to recreational and commercial working waterfronts in industrial areas, and only mixed-use residential developments must be authorized under these provisions in areas where commercial or industrial capacity is exceptionally limited.

The act specifically requires that except as otherwise provided in the act, a qualifying development must comply with all applicable state and local laws and regulations.

These provisions are effective until October 1, 2033.

Live Local Ad Valorem Property Tax Exemptions

The ad valorem tax²¹ or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts based on the taxable value of property as of January 1 of each year.²² The Florida Constitution allows the Legislature to exempt from ad valorem taxation portions of property that are used predominantly for educational, literary, scientific, religious or charitable purposes.²³ The Legislature has implemented these exemptions and set forth criteria to determine whether property is entitled to an exemption.²⁴

Property Tax Exemption for Newly Constructed Developments

The Live Local Act established a new ad valorem tax exemption for owners of newly constructed multifamily rental developments who use a portion of the development to provide affordable housing.²⁵ Eligible property includes units in a newly constructed multifamily development containing more than 70 units dedicated to housing natural persons or families below certain income thresholds. However, units subject to an agreement with FHFC are not eligible for the exemption.

“Newly constructed” is defined as an improvement substantially completed within 5 years before the property owner's first application for this exemption. The units must be occupied by such individuals or families and rent limited so as to provide affordable housing at either the 80 or 120 percent AMI threshold. Rent for such units also may not exceed 90 percent of the fair market value rent as determined by a rental market study.

²¹ For an in depth review of ad valorem taxation and the specific taxes discussed herein, *see* Florida Senate Committee on Appropriations, *Bill Analysis and Fiscal Impact Statement, CS/SB 102 (2023)* pages 30-34, Feb. 24, 2023, available at <https://flsenate.gov/Session/Bill/2023/102/Analyses/2023s00102.ap.PDF> (last visited Jan. 7, 2024).

²² Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

²³ FLA. CONST. art. VII, s. 3(a).

²⁴ Section 196.196, F.S.

²⁵ Section 196.1978(3), F.S.

Qualified property used to provide affordable housing at the 80 to 120 percent AMI threshold receives an exemption of 75 percent of the assessed value of the affordable units, while such property providing affordable housing up to the 80 percent AMI threshold receives a complete ad valorem tax exemption for the affordable units.

To receive this exemption, a property owner must submit an application by March 1 to the property appraiser, accompanied by a certification notice from the FHFC. To receive a FHFC certification, a property owner must submit a request on a form including the most recent market study, which must have been conducted by an independent certified general appraiser in the preceding 3 years; a list of units for which the exemption is sought; the rent amount received for each unit, and a sworn statement restricting the property for a period of not less than 3 years to provide affordable housing.

The certification process is administered within the FHFC. Their responsibilities include publishing the deadline for submission, reviewing each request, sending certification notices to both the successful property owner and appropriate property appraiser, notifying unsuccessful property owners with reasons for denial.

This exemption first applied to the 2024 tax roll and will expire on December 31, 2059.

Local Option Property Tax Exemption

Section 196.1979, F.S., authorizes the governing body of a county or municipality to adopt by ordinance an ad valorem tax exemption for certain property used for providing affordable housing. Portions of property eligible for such an exemption must be utilized to house persons or families meeting the extremely-low- or very-low-income limits specified in s. 420.0004, F.S, be contained in a multifamily project of at least 50 units where at least 20 percent are reserved for affordable housing, and have rent set such that it provides affordable housing to people in the target income bracket, or no higher than 90 percent of the fair market rent value as determined by a rental market study, whichever is less.

In adopting this exemption, a local government may choose to offer either or both an exemption for two income groups: those earning up to 30 percent AMI and those earning between 30 to 60 percent AMI. The value of the exemption is up to 75 percent of the assessed value of each unit if less than 100 percent of the multifamily project's units are used to provide affordable housing, or up to 100 percent of the assessed value if 100 percent of the project's units are used to provide affordable housing.

An ordinance authorizing this exemption must expire before the fourth January 1 after adoption, however the governing body may adopt a new ordinance renewing the exemption.

Florida Hometown Hero Program

The Live Local Act established in statute the Florida Hometown Hero Program,²⁶ a homeownership assistance program administered by the FHFC. Under the program, eligible first time homebuyers have access to zero-interest loans to reduce the amount of down payment and

²⁶ Section 420.5096, F.S.

closing costs by a minimum of \$10,000 and up to 5 percent of the first mortgage loan, not exceeding \$35,000. Loans must be repaid when the property is sold, refinanced, rented, or transferred unless otherwise approved by the FHFC. Repayments for loans made under this program must be retained within the program to make additional loans.

Such loans are available to those first-time homebuyers²⁷ seeking first mortgages whose family incomes do not exceed 150 percent of the state or local AMI, whichever is greater, and is employed full-time by a Florida-based employer. The borrower must provide documentation of full-time employment, or full-time status for self-employed individuals, of 35 hours or more per week.

The Live Local Act appropriated \$100 million in non-recurring funds to the FHFC to implement the Florida Hometown Hero Program for the 2023-2034 fiscal year.²⁸ The FHFC obligated the full appropriation by August 22, 2023, assisting over 6,400 families and leveraging approximately \$2 billion in first mortgages.²⁹

III. Effect of Proposed Changes:

Live Local Zoning and Land Use Preemption

Sections 1 and 2 of the bill amend ss. 125.01055 and 166.04151, F.S., respectively, to modify certain provisions pertaining to the zoning and land use preemption for approving affordable multifamily rental developments.

The bill preempts counties and municipalities on “floor area ratio” for qualifying developments. As such, a local government may not restrict the floor area ratio of a proposed development below the highest currently allowed floor area ratio on any land within the locality’s jurisdiction where development is allowed. The bill clarifies that the term floor area ratio includes floor lot ratio.

The bill changes height entitlements to provide that if a proposed development is adjacent to, on two or more sides, a parcel zoned for single-family residential use that is within a single-family residential development with at least 25 contiguous single-family homes, a local government may restrict the height of the proposed development to 150 percent of the tallest building on property within one-quarter mile of the proposed development or 3 stories, whichever is higher.

The bill clarifies that the highest currently allowed density, height, or floor area ratio does not include the density, height, or floor area ratio of any development authorized under the act or the density, height, or floor area ratio of any development which has received any bonus, variance, or other special exception as provided in the local government’s land development regulations as incentives for development.

²⁷ The requirement to be a first-time homebuyer does not apply to those qualifying as servicemembers or veterans.

²⁸ Chapter 2013-17, s. 44, Laws of Fla.

²⁹ See Florida Senate Committee on Community Affairs, *Presentation by the Florida Housing Finance Corporation on its implementation of the Live Local Act (SB 102 – 2023 Regular Session)*, Nov. 7, 2023, available at https://www.flsenate.gov/Committees/Show/CA/MeetingPacket/5940/10486_MeetingPacket_5940_2.pdf (last visited Jan. 8, 2024).

The bill modifies the parking reduction requirements for qualifying developments by requiring local governments to reduce parking requirements by 20 percent if the development:

- Is located within one-half mile of a major transportation hub that is accessible from the proposed development by safe, pedestrian-friendly means, such as sidewalks, crosswalks, elevated pedestrian or bike paths, or other multimodal design features; and
- Has available parking within 600 feet of the proposed development which may consist of options such as on-street parking, parking lots, or parking garages available for use by residents of the proposed development.

A local government must eliminate parking requirements for a proposed mixed-use residential development authorized under this subsection within an area recognized by the county as a transit-oriented development or area.

The bill further requires a qualifying development within a transit-oriented development or area to be mixed-use residential and to otherwise comply with requirements of the local government's regulations applicable to the transit-oriented development except for use, height, density, and floor area ratio.

The bill precludes a proposed development located within one-quarter mile of a military installation identified in s. 163.3175(2), F.S., from being approved administratively, and requires counties and cities to publish on their website a policy containing procedures and expectations for the administrative approval of qualifying developments.

The bill provides that nothing in the act precludes a local government from granting a bonus, variance, conditional use, or other special exception for height, density, or floor area ratio in addition to the required entitlements. It also provides that nothing precludes a qualifying development from received a bonus for density, height, or floor area ratio pursuant to local ordinance or regulation if the development satisfies the conditions to receive the bonus except for any condition that conflicts with the act.

The bill additionally provides that qualifying developments must be treated as a conforming use after expiration of the development's affordability period of at least 30 years and after the sunset of ss. 125.01055(7) and 166.04151(7), F.S., on October 1, 2033. However, if at any point during the development's affordability period the development violates the affordability requirement, the development must be allowed a reasonable time to cure such violation. If the violation is not cured within a reasonable time, the development must be treated as a nonconforming use.

Section 6 of the bill amends s. 333.03, F.S., to identify certain airport-impact areas where the land use preemption provisions of the act do not apply. Specifically, ss. 125.01055(7) and 166.04151(7), F.S., do not apply to proposed developments:

- Near a runway within one-quarter of a mile laterally from the runway edge and within an area that is the width of one-quarter of a mile extending at right angles from the end of the

runway for a distance of 10,000 feet of any existing airport runway or planned airport runway identified in the local government's airport master plan.

- Within any airport noise zone identified in the federal land use compatibility table or in a land-use zoning or airport noise regulation adopted by the local government.
- A proposed development that exceeds maximum height restrictions identified in the political subdivision's airport zoning regulation.

Live Local Ad Valorem Property Tax Exemptions

Section 3 of the bill amends s. 196.1978, F.S., to make the following changes to the ad valorem tax exemption for newly constructed developments:

- Requires fewer units in developments located in the Florida Keys³⁰ to be set aside for income-limited persons and families (10 instead of 70). This acknowledges the stricter land development regulations for that area as compared to the rest of the state.
- Clarifies that FHFC duties are ministerial while property appraisers maintain the ultimate authority to grant exemptions.
- Outlines the method for property appraisers to determine values of exempted units in a manner that is similar to other exemptions in statute.

Section 4 of the bill amends the local option property tax exemption in s. 196.1979, F.S., to align certain administrative procedures with the exemption in s. 196.1978, F.S., for consistency in implementation among property appraisers and local governments. Specifically, the bill clarifies that the exemption applies to individual units, clarifies what is part of the value of a unit for calculating the exemption, clarifies that property appraisers maintain the authority to grant the exemption, and revises deadlines to ensure consistency with the property tax administration calendar.

Section 5 of the bill provides that these changes are intended to be remedial and clarifying in nature and apply retroactively to January 1, 2024.

Florida Hometown Hero Program

Section 8 of the bill amends s. 420.5096, F.S., to remove the requirement that borrowers provide documentation to the FHFC that their full-time employment or self-employment status equates to 35 hours or more per week.

Section 10 of the bill appropriates \$100 million in nonrecurring funds from the General Revenue Fund to the FHFC to implement the Florida Hometown Hero Program.

Precluding Participation in FHFC Programs

Section 9 of the bill amends s. 420.518, F.S., to expand the authority for the FHFC to preclude developers and sponsors from participating in its programs for certain violations, which include:

³⁰ As provided in the bill, "...an area of critical state concern, as designated by s. 380.0552 or chapter 28-36, Florida Administrative Code..." refers to the City of Key West and the Florida Keys Area, which includes unincorporated Monroe County and the municipalities of Layton, Islamorada, Marathon and Key Colony Beach.

- Being debarred from participation in federal housing programs by the U.S. Department of Housing and Urban Development; and
- Materially or repeatedly violating any condition imposed by the corporation in connection with the administration of the FHFC, including a land use restriction agreement, an extended use agreement, or any other financing or regulatory agreement with the FHFC.

Section 7 of the bill amends s. 420.507, F.S., to conform to the changes provided in section 9.

Effective Date

Section 11 provides that the bill shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the Florida Constitution provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. The mandate requirement does not apply to laws having an insignificant impact,³¹ which for Fiscal Year 2024-2025 is forecast at approximately \$2.3 million.³²

The Revenue Estimating Conference has not reviewed the portions of the bill related to the ad valorem tax exemption on newly constructed affordable housing developments, which lowers the minimum number of affordable units in a development from 70 units to 10 units in order to qualify for the exemption. If the bill does qualify as a mandate, in order to be binding upon cities and counties the bill must be approved by a two-thirds vote of the membership of each house.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

³¹ FLA. CONST. art. VII, s. 18(d).

³² An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See FLA. SENATE COMM. ON CMTY. AFFAIRS, *Interim Report 2012-115: Insignificant Impact* (Sept. 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf>.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

With the funding of the Florida Hometown Hero Program, Floridians who are first-time homebuyers will have access to zero-interest loans to help pay for their down payment and closing costs.

C. Government Sector Impact:

The bill amends the ad valorem tax exemption on newly constructed affordable housing to provide a reduction in required units in areas of critical state concern. To the extent that this change attracts further development or alters administration of the exemption, local governments may see a negative impact.

The bill appropriates \$100 million in non-recurring funds from the General Revenue Fund to the Florida Housing Finance Corporation to implement the Florida Hometown Hero Program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.01055, 166.04151, 196.1978, 196.1979, 333.03, 420.507, 420.5096, and 420.518

This bill creates undesignated section of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Fiscal Policy on January 31, 2024:

The CS makes the following changes to the bill:

- Restores the directive for local governments to approve qualifying developments in industrial areas.
- Specifies that for qualifying developments, a local government cannot restrict the floor area ratio below the highest currently allowed floor area ratio on land where any development is allowed, as opposed to residential parcels only.
- Provides that floor area ratio includes floor lot ratio.
- Restores current law, entitling qualifying developments to highest currently allowed height within “one mile.”
- Modifies height preemption provisions in situations where a qualifying development is adjacent to single family parcels.
- Modifies parking provisions to require local governments to reduce parking requirements by “20 percent.”
- Adds an additional qualifier for the parking reduction provision, requiring a qualifying development to have available parking within 600 feet of the development.
- Provides that local government are not precluded from granting a bonus, variance, or other special exception for height, density, or floor area ratio in addition to the required entitlements in the law.
- Provides that qualifying developments are not precluded from receiving bonuses for height, density, or floor area ratio for which they qualify.
- Modifies the provisions exempting certain airport impacted areas from the Live Local land use preemption provisions.
- Removes reference to “substantial rehabilitation” for purposes of the property tax exemption for newly constructed affordable housing developments.
- Amends administrative provisions for the local option property tax exemption.

CS by Community Affairs on January 9, 2024:

The CS makes the following changes to the bill:

- Changes a percentage relating to height entitlements from 125% to 135%.
- Clarifies that the non-restricted units in qualifying developments may be offered for sale or for rent, but maintains that the affordable units must be rental units.
- Requires a qualifying development within a transit-oriented development or area to be mixed-use residential.
- Requires counties and cities to publish on its website a policy containing procedures and expectations for the administrative approval of qualifying developments.
- Modifies parking reduction requirements for certain qualifying developments.
- Expands the authority for the FHFC to preclude developers from participating in its programs for certain violations.
- Changes the title of the bill to Affordable Housing.
- Clarifies that the bill does not preclude a proposed development from receiving a density, height, or floor area ratio bonus upon satisfying requirements to receive such bonus.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
01/31/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Calatayud) recommended the following:

Senate Amendment (with title amendment)

Delete lines 80 - 505
and insert:
residential as allowable uses in any area zoned for commercial,
industrial, or mixed use if at least 40 percent of the
residential units in a proposed multifamily ~~rental~~ development
are rental units that, for a period of at least 30 years, are
affordable as defined in s. 420.0004. Notwithstanding any other
law, local ordinance, or regulation to the contrary, a county



11 may not require a proposed multifamily development to obtain a
12 zoning or land use change, special exception, conditional use
13 approval, variance, or comprehensive plan amendment for the
14 building height, zoning, and densities authorized under this
15 subsection. For mixed-use residential projects, at least 65
16 percent of the total square footage must be used for residential
17 purposes.

18 (b) A county may not restrict the density of a proposed
19 development authorized under this subsection below the highest
20 currently allowed density on any unincorporated land in the
21 county where residential development is allowed under the
22 county's land development regulations. The currently allowed
23 density does not include the density of any development that
24 meets the requirements of this subsection or any bonus,
25 variance, or other special exception for density provided in the
26 county's land development regulations as an incentive for
27 development.

28 (c) A county may not restrict the floor area ratio of a
29 proposed development authorized under this subsection below the
30 highest currently allowed floor area ratio on any unincorporated
31 land in the county where development is allowed under the
32 county's land development regulations. The currently allowed
33 floor area ratio does not include the floor area ratio of any
34 development that meets the requirements of this subsection or
35 any bonus, variance, or other special exception for floor area
36 ratio provided in the county's land development regulations as
37 an incentive for development. For purposes of this subsection,
38 the term floor area ratio includes floor lot ratio.

39 (d)1. ~~(e)~~ A county may not restrict the height of a proposed



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40 development authorized under this subsection below the highest
41 currently allowed height for a commercial or residential
42 building development located in its jurisdiction within 1 mile
43 of the proposed development or 3 stories, whichever is higher.
44 The currently allowed height does not include the height of any
45 development that meets the requirements of this subsection or
46 any bonus, variance, or other special exception for height
47 provided in the county's land development regulations as an
48 incentive for development.

49 2. If the proposed development is adjacent to, on two or
50 more sides, a parcel zoned for single-family residential use
51 that is within a single-family residential development with at
52 least 25 contiguous single-family homes, the county may restrict
53 the height of the proposed development to 150 percent of the
54 tallest building on property within one-quarter mile of the
55 proposed development or 3 stories, whichever is higher.

56 (e) ~~(d)~~ A proposed development authorized under this
57 subsection must be administratively approved and no further
58 action by the board of county commissioners is required if the
59 development satisfies the county's land development regulations
60 for multifamily developments in areas zoned for such use and is
61 otherwise consistent with the comprehensive plan, with the
62 exception of provisions establishing allowable densities,
63 height, and land use. Such land development regulations include,
64 but are not limited to, regulations relating to setbacks and
65 parking requirements. A proposed development located within one-
66 quarter mile of a military installation identified in s.
67 163.3175(2) may not be administratively approved. Each county
68 shall maintain on its website a policy containing procedures and



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69 expectations for administrative approval pursuant to this
70 subsection.

71 (f)1.(e) A county must consider reducing parking
72 requirements for a proposed development authorized under this
73 subsection if the development is located within one-quarter ~~one-~~
74 ~~half~~ mile of a ~~major~~ transit stop, as defined in the county's
75 land development code, and the ~~major~~ transit stop is accessible
76 from the development.

77 2. A county must reduce parking requirements by 20 percent
78 for a proposed development authorized under this subsection if
79 the development:

80 a. Is located within one-half mile of a major
81 transportation hub that is accessible from the proposed
82 development by safe, pedestrian-friendly means, such as
83 sidewalks, crosswalks, elevated pedestrian or bike paths, or
84 other multimodal design features; and

85 b. Has available parking within 600 feet of the proposed
86 development which may consist of options such as on-street
87 parking, parking lots, or parking garages available for use by
88 residents of the proposed development.

89 3. A county must eliminate parking requirements for a
90 proposed mixed-use residential development authorized under this
91 subsection within an area recognized by the county as a transit-
92 oriented development or area, as provided in paragraph (h).

93 4. For purposes of this paragraph, the term "major
94 transportation hub" means any transit station, whether bus,
95 train, or light rail, which is served by public transit with a
96 mix of other transportation options.

97 (g)(f) For proposed multifamily developments in an



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98 unincorporated area zoned for commercial or industrial use which
99 is within the boundaries of a multicounty independent special
100 district that was created to provide municipal services and is
101 not authorized to levy ad valorem taxes, and less than 20
102 percent of the land area within such district is designated for
103 commercial or industrial use, a county must authorize, as
104 provided in this subsection, such development only if the
105 development is mixed-use residential.

106 (h) A proposed development authorized under this subsection
107 which is located within a transit-oriented development or area,
108 as recognized by the county, must be mixed-use residential and
109 otherwise comply with requirements of the county's regulations
110 applicable to the transit-oriented development or area except
111 for use, height, density, and floor area ratio as provided in
112 this subsection or as otherwise agreed to by the county and the
113 applicant for the development.

114 (i) ~~(g)~~ Except as otherwise provided in this subsection, a
115 development authorized under this subsection must comply with
116 all applicable state and local laws and regulations. Nothing in
117 this subsection precludes a county from granting a bonus,
118 variance, conditional use, or other special exception for
119 height, density, or floor area ratio in addition to the height,
120 density, and floor area ratio requirements in this subsection.

121 (j) ~~(h)~~ This subsection does not apply to:

122 1. Airport-impacted areas as provided in s. 333.03.

123 2. Property defined as recreational and commercial working
124 waterfront in s. 342.201(2)(b) in any area zoned as industrial.

125 (k) ~~(i)~~ This subsection expires October 1, 2033.

126 (8) Any development authorized under paragraph (7)(a) must



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127 be treated as a conforming use even after the expiration of
128 subsection (7) and the development's affordability period as
129 provided in paragraph (7) (a), notwithstanding the county's
130 comprehensive plan, future land use designation, or zoning. If
131 at any point during the development's affordability period the
132 development violates the affordability period requirement
133 provided in paragraph (7) (a), the development must be allowed a
134 reasonable time to cure such violation. If the violation is not
135 cured within a reasonable time, the development must be treated
136 as a nonconforming use.

137 Section 2. Subsection (7) of section 166.04151, Florida
138 Statutes, is amended, and subsection (8) is added to that
139 section, to read:

140 166.04151 Affordable housing.—

141 (7) (a) A municipality must authorize multifamily and mixed-
142 use residential as allowable uses in any area zoned for
143 commercial, industrial, or mixed use if at least 40 percent of
144 the residential units in a proposed multifamily ~~rental~~
145 development are rental units that, for a period of at least 30
146 years, are affordable as defined in s. 420.0004. Notwithstanding
147 any other law, local ordinance, or regulation to the contrary, a
148 municipality may not require a proposed multifamily development
149 to obtain a zoning or land use change, special exception,
150 conditional use approval, variance, or comprehensive plan
151 amendment for the building height, zoning, and densities
152 authorized under this subsection. For mixed-use residential
153 projects, at least 65 percent of the total square footage must
154 be used for residential purposes.

155 (b) A municipality may not restrict the density of a



156 proposed development authorized under this subsection below the
157 highest currently allowed density on any land in the
158 municipality where residential development is allowed under the
159 municipality's land development regulations. The currently
160 allowed density does not include the density of any development
161 that meets the requirements of this subsection or any bonus,
162 variance, or other special exception for density provided in the
163 municipality's land development regulations as an incentive for
164 development.

165 (c) A municipality may not restrict the floor area ratio of
166 a proposed development authorized under this subsection below
167 the highest currently allowed floor area ratio on any land in
168 the municipality where development is allowed under the
169 municipality's land development regulations. The currently
170 allowed floor area ratio does not include the floor area ratio
171 of any development that meets the requirements of this
172 subsection or any bonus, variance, or other special exception
173 for floor area ratio provided in the municipality's land
174 development regulations as an incentive for development. For
175 purposes of this subsection, the term floor area ratio includes
176 floor lot ratio.

177 (d)1.(e) A municipality may not restrict the height of a
178 proposed development authorized under this subsection below the
179 highest currently allowed height for a commercial or residential
180 building development located in its jurisdiction within 1 mile
181 of the proposed development or 3 stories, whichever is higher.
182 The currently allowed height does not include the height of any
183 development that meets the requirements of this subsection or
184 any bonus, variance, or other special exception for height



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185 provided in the municipality's land development regulations as
186 an incentive for development.

187 2. If the proposed development is adjacent to, on two or
188 more sides, a parcel zoned for single-family residential use
189 that is within a single-family residential development with at
190 least 25 contiguous single-family homes, the municipality may
191 restrict the height of the proposed development to 150 percent
192 of the tallest building on property within one-quarter mile of
193 the proposed development or 3 stories, whichever is higher.

194 (e)~~(d)~~ A proposed development authorized under this
195 subsection must be administratively approved and no further
196 action by the governing body of the municipality is required if
197 the development satisfies the municipality's land development
198 regulations for multifamily developments in areas zoned for such
199 use and is otherwise consistent with the comprehensive plan,
200 with the exception of provisions establishing allowable
201 densities, height, and land use. Such land development
202 regulations include, but are not limited to, regulations
203 relating to setbacks and parking requirements. A proposed
204 development located within one-quarter mile of a military
205 installation identified in s. 163.3175(2) may not be
206 administratively approved. Each municipality shall maintain on
207 its website a policy containing procedures and expectations for
208 administrative approval pursuant to this subsection.

209 (f)1.~~(e)~~ A municipality must consider reducing parking
210 requirements for a proposed development authorized under this
211 subsection if the development is located within one-quarter ~~one-~~
212 half mile of a ~~major~~ transit stop, as defined in the
213 municipality's land development code, and the ~~major~~ transit stop



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214 is accessible from the development.

215 2. A municipality must reduce parking requirements by 20
216 percent for a proposed development authorized under this
217 subsection if the development:

218 a. Is located within one-half mile of a major
219 transportation hub that is accessible from the proposed
220 development by safe, pedestrian-friendly means, such as
221 sidewalks, crosswalks, elevated pedestrian or bike paths, or
222 other multimodal design features.

223 b. Has available parking within 600 feet of the proposed
224 development which may consist of options such as on-street
225 parking, parking lots, or parking garages available for use by
226 residents of the proposed development.

227 3. A municipality must eliminate parking requirements for a
228 proposed mixed-use residential development authorized under this
229 subsection within an area recognized by the municipality as a
230 transit-oriented development or area, as provided in paragraph
231 (h).

232 4. For purposes of this paragraph, the term "major
233 transportation hub" means any transit station, whether bus,
234 train, or light rail, which is served by public transit with a
235 mix of other transportation options.

236 (g) ~~(f)~~ A municipality that designates less than 20 percent
237 of the land area within its jurisdiction for commercial or
238 industrial use must authorize a proposed multifamily development
239 as provided in this subsection in areas zoned for commercial or
240 industrial use only if the proposed multifamily development is
241 mixed-use residential.

242 (h) A proposed development authorized under this subsection



243 which is located within a transit-oriented development or area,
244 as recognized by the municipality, must be mixed-use residential
245 and otherwise comply with requirements of the municipality's
246 regulations applicable to the transit-oriented development or
247 area except for use, height, density, and floor area ratio as
248 provided in this subsection or as otherwise agreed to by the
249 municipality and the applicant for the development.

250 (i) ~~(g)~~ Except as otherwise provided in this subsection, a
251 development authorized under this subsection must comply with
252 all applicable state and local laws and regulations. Nothing in
253 this subsection precludes a municipality from granting a bonus,
254 variance, conditional use, or other special exception to height,
255 density, or floor area ratio in addition to the height, density,
256 and floor area ratio requirements in this subsection.

257 (j) ~~(h)~~ This subsection does not apply to:

258 1. Airport-impacted areas as provided in s. 333.03.

259 2. Property defined as recreational and commercial working
260 waterfront in s. 342.201(2) (b) in any area zoned as industrial.

261 (k) ~~(i)~~ This subsection expires October 1, 2033.

262 (8) Any development authorized under paragraph (7) (a) must
263 be treated as a conforming use even after the expiration of
264 subsection (7) and the development's affordability period as
265 provided in paragraph (7) (a), notwithstanding the municipality's
266 comprehensive plan, future land use designation, or zoning. If
267 at any point during the development's affordability period the
268 development violates the affordability period requirement
269 provided in paragraph (7) (a), the development must be allowed a
270 reasonable time to cure such violation. If the violation is not
271 cured within a reasonable time, the development must be treated



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272 as a nonconforming use.

273 Section 3. Amendments made in this act to ss. 125.01055 and
274 166.04151, Florida Statutes, are prospective in application. A
275 proposed development that meets the present requirements of ss.
276 125.01055(7) and 166.04151(7), Florida Statutes, for which an
277 application, written request, or notice of intent to utilize
278 such provisions was submitted to and accepted by the county or
279 municipality, as applicable, prior to the effective date of this
280 act shall be processed under the provisions of ss. 125.01055(7)
281 and 166.04151(7), Florida Statutes, as they existed at the time
282 of submittal.

283 Section 4. Subsection (3) of section 196.1978, Florida
284 Statutes, is amended to read:

285 196.1978 Affordable housing property exemption.-

286 (3) (a) As used in this subsection, the term:

287 1. "Corporation" means the Florida Housing Finance
288 Corporation.

289 2. "Newly constructed" means an improvement to real
290 property which was substantially completed within 5 years before
291 the date of an applicant's first submission of a request for a
292 certification notice ~~or an application for an exemption~~ pursuant
293 to this subsection ~~section, whichever is earlier.~~

294 3. "Substantially completed" has the same meaning as in s.
295 192.042(1).

296 (b) Notwithstanding ss. 196.195 and 196.196, portions of
297 property in a multifamily project are considered property used
298 for a charitable purpose and are eligible to receive an ad
299 valorem property tax exemption if such portions meet all of the
300 following conditions:



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301 1. Provide affordable housing to natural persons or
302 families meeting the income limitations provided in paragraph
303 (d).~~†~~
304 2.a. Are within a newly constructed multifamily project
305 that contains more than 70 units dedicated to housing natural
306 persons or families meeting the income limitations provided in
307 paragraph (d); or
308 b. Are within a newly constructed multifamily project in an
309 area of critical state concern, as designated by s. 380.0552 or
310 chapter 28-36, Florida Administrative Code, which contains more
311 than 10 units dedicated to housing natural persons or families
312 meeting the income limitations provided in paragraph (d). ~~and~~
313 3. Are rented for an amount that does not exceed the amount
314 as specified by the most recent multifamily rental programs
315 income and rent limit chart posted by the corporation and
316 derived from the Multifamily Tax Subsidy Projects Income Limits
317 published by the United States Department of Housing and Urban
318 Development or 90 percent of the fair market value rent as
319 determined by a rental market study meeting the requirements of
320 paragraph (1) ~~(m)~~, whichever is less.
321 (c) If a unit that in the previous year received ~~qualified~~
322 ~~for~~ the exemption under this subsection and was occupied by a
323 tenant is vacant on January 1, the vacant unit is eligible for
324 the exemption if the use of the unit is restricted to providing
325 affordable housing that would otherwise meet the requirements of
326 this subsection and a reasonable effort is made to lease the
327 unit to eligible persons or families.
328 (d)1. The property appraiser shall exempt:
329 a. Seventy-five percent of the assessed value of the units



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330 in multifamily projects that meet the requirements of this
331 subsection and are ~~Qualified property~~ used to house natural
332 persons or families whose annual household income is greater
333 than 80 percent but not more than 120 percent of the median
334 annual adjusted gross income for households within the
335 metropolitan statistical area or, if not within a metropolitan
336 statistical area, within the county in which the person or
337 family resides; and, ~~must receive an ad valorem property tax~~
338 ~~exemption of 75 percent of the assessed value.~~

339 b.2. From ad valorem property taxes the units in
340 multifamily projects that meet the requirements of this
341 subsection and are ~~Qualified property~~ used to house natural
342 persons or families whose annual household income does not
343 exceed 80 percent of the median annual adjusted gross income for
344 households within the metropolitan statistical area or, if not
345 within a metropolitan statistical area, within the county in
346 which the person or family resides, ~~is exempt from ad valorem~~
347 ~~property taxes.~~

348 2. When determining the value of a unit for purposes of
349 applying an exemption pursuant to this paragraph, the property
350 appraiser must include in such valuation the proportionate share
351 of the residential common areas, including the land, fairly
352 attributable to such unit.

353 (e) To be eligible to receive an exemption under this
354 subsection, a property owner must submit an application on a
355 form prescribed by the department by March 1 for the exemption,
356 accompanied by a certification notice from the corporation to
357 the property appraiser. The property appraiser shall review the
358 application and determine whether the applicant meets all of the



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359 requirements of this subsection and is entitled to an exemption.
360 A property appraiser may request and review additional
361 information necessary to make such determination. A property
362 appraiser may grant an exemption only for a property for which
363 the corporation has issued a certification notice and which the
364 property appraiser determines is entitled to an exemption.

365 (f) To receive a certification notice, a property owner
366 must submit a request to the corporation ~~for certification~~ on a
367 form provided by the corporation which includes all of the
368 following:

369 1. The most recently completed rental market study meeting
370 the requirements of paragraph (1) ~~(m)~~.

371 2. A list of the units for which the property owner seeks
372 an exemption.

373 3. The rent amount received by the property owner for each
374 unit for which the property owner seeks an exemption. If a unit
375 is vacant and qualifies for an exemption under paragraph (c),
376 the property owner must provide evidence of the published rent
377 amount for each vacant unit.

378 4. A sworn statement, under penalty of perjury, from the
379 applicant restricting the property for a period of not less than
380 3 years to housing persons or families who meet the income
381 limitations under this subsection.

382 (g) The corporation shall review the request for a
383 certification notice and certify whether a property ~~that~~ meets
384 the ~~eligibility~~ criteria of paragraphs (b) and (c) ~~this~~
385 ~~subsection~~. A determination by the corporation regarding a
386 request for a certification notice does not constitute a grant
387 of an exemption pursuant to this subsection or final agency



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388 action pursuant to chapter 120.

389 1. If the corporation determines that the property meets
390 the ~~eligibility~~ criteria ~~for an exemption under this subsection,~~
391 the corporation must send a certification notice to the property
392 owner and the property appraiser.

393 2. If the corporation determines that the property does not
394 meet the ~~eligibility~~ criteria, the corporation must notify the
395 property owner and include the reasons for such determination.

396 (h) The corporation shall post on its website the deadline
397 to submit a request for a certification notice. The deadline
398 must allow adequate time for a property owner to submit a timely
399 application for exemption to the property appraiser.

400 ~~(i) The property appraiser shall review the application and~~
401 ~~determine if the applicant is entitled to an exemption. A~~
402 ~~property appraiser may grant an exemption only for a property~~
403 ~~for which the corporation has issued a certification notice.~~

404 ~~(j)~~ If the property appraiser determines that for any year
405 during the immediately previous 10 years a person who was not
406 entitled to an exemption under this subsection was granted such
407 an exemption, the property appraiser must serve upon the owner a
408 notice of intent to record in the public records of the county a
409 notice of tax lien against any property owned by that person in
410 the county, and that property must be identified in the notice
411 of tax lien. Any property owned by the taxpayer and situated in
412 this state is subject to the taxes exempted by the improper
413 exemption, plus a penalty of 50 percent of the unpaid taxes for
414 each year and interest at a rate of 15 percent per annum. If an
415 exemption is improperly granted as a result of a clerical
416 mistake or an omission by the property appraiser, the property



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417 owner improperly receiving the exemption may not be assessed a
418 penalty or interest.

419 (j)~~(k)~~ Units subject to an agreement with the corporation
420 pursuant to chapter 420 recorded in the official records of the
421 county in which the property is located to provide housing to
422 natural persons or families meeting the extremely-low-income,
423 very-low-income, or low-income limits specified in s. 420.0004
424 are not eligible for this exemption.

425 (k)~~(l)~~ Property receiving an exemption pursuant to s.
426 196.1979 is not eligible for this exemption.

427 (l)~~(m)~~ A rental market study submitted as required by
428 subparagraph (f)1. ~~paragraph (f)~~ must identify the fair market
429 value rent of each unit for which a property owner seeks an
430 exemption. Only a certified general appraiser as defined in s.
431 475.611 may issue a rental market study. The certified general
432 appraiser must be independent of the property owner who requests
433 the rental market study. In preparing the rental market study, a
434 certified general appraiser shall comply with the standards of
435 professional practice pursuant to part II of chapter 475 and use
436 comparable property within the same geographic area and of the
437 same type as the property for which the exemption is sought. A
438 rental market study must have been completed within 3 years
439 before submission of the application.

440 (m)~~(n)~~ The corporation may adopt rules to implement this
441 section.

442 (n)~~(o)~~ This subsection first applies to the 2024 tax roll
443 and is repealed December 31, 2059.

444 Section 5. Paragraph (b) of subsection (1), subsection (2),
445 paragraphs (d), (f), and (l) of subsection (3), and subsection



446 (5) of section 196.1979, Florida Statutes, are amended, present
447 subsections (6) and (7) are redesignated as subsections (8) and
448 (9), respectively, and new subsections (6) and (7) are added to
449 that section, to read:

450 196.1979 County and municipal affordable housing property
451 exemption.—

452 (1)

453 (b) Qualified property may receive an ad valorem property
454 tax exemption of:

455 1. Up to 75 percent of the assessed value of each
456 residential unit used to provide affordable housing if fewer
457 than 100 percent of the multifamily project's residential units
458 are used to provide affordable housing meeting the requirements
459 of this section.

460 2. Up to 100 percent of the assessed value of each
461 residential unit used to provide affordable housing if 100
462 percent of the multifamily project's residential units are used
463 to provide affordable housing meeting the requirements of this
464 section.

465 (2) If a residential unit that in the previous year
466 received ~~qualified for~~ the exemption under this section and was
467 occupied by a tenant is vacant on January 1, the vacant unit may
468 qualify for the exemption under this section if the use of the
469 unit is restricted to providing affordable housing that would
470 otherwise meet the requirements of this section and a reasonable
471 effort is made to lease the unit to eligible persons or
472 families.

473 (3) An ordinance granting the exemption authorized by this
474 section must:



475 (d) Require the local entity to verify and certify property
476 that meets the requirements of the ordinance as qualified
477 property and forward the certification to the property owner and
478 the property appraiser. If the local entity denies the
479 application for certification exemption, it must notify the
480 applicant and include reasons for the denial.

481 (f) Require the property owner to submit an application for
482 exemption, on a form prescribed by the department, accompanied
483 by the certification of qualified property, to the property
484 appraiser no later than the deadline specified in s. 196.011
485 March 1.

486 (1) Require the county or municipality to post on its
487 website a list of ~~certified~~ properties receiving the exemption
488 for the purpose of facilitating access to affordable housing.

489 (5) An ordinance adopted under this section must expire
490 before the fourth January 1 after adoption; however, the board
491 of county commissioners or the governing body of the
492 municipality may adopt a new ordinance to renew the exemption.
493 The board of county commissioners or the governing body of the
494 municipality shall deliver a copy of an ordinance adopted under
495 this section to the department and the property appraiser within
496 10 days after its adoption, but no later than January 1 of the
497 year such exemption will take effect. If the ordinance expires
498 or is repealed, the board of county commissioners or the
499 governing body of the municipality must notify the department
500 and the property appraiser within 10 days after its expiration
501 or repeal, but no later than January 1 of the year the repeal or
502 expiration of such exemption will take effect.

503 (6) The property appraiser shall review each application



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504 for exemption and determine whether the applicant meets all of
505 the requirements of this section and is entitled to an
506 exemption. A property appraiser may request and review
507 additional information necessary to make such determination. A
508 property appraiser may grant an exemption only for a property
509 for which the local entity has certified as qualified property
510 and which the property appraiser determines is entitled to an
511 exemption.

512 (7) When determining the value of a unit for purposes of
513 applying an exemption pursuant to this section, the property
514 appraiser must include in such valuation the proportionate share
515 of the residential common areas, including the land, fairly
516 attributable to such unit.

517 Section 6. The amendments made by this act to ss. 196.1978,
518 and 196.1979, Florida Statutes, are intended to be remedial and
519 clarifying in nature and apply retroactively to January 1, 2024.

520 Section 7. Present subsection (5) of section 333.03,
521 Florida Statutes, is redesignated as subsection (6), and a new
522 subsection (5) is added to that section, to read:

523 333.03 Requirement to adopt airport zoning regulations.—

524 (5) Sections 125.01055(7) and 166.04151(7) do not apply to
525 any of the following:

526 (a) A proposed development near a runway within one-quarter
527 of a mile laterally from the runway edge and within an area that
528 is the width of one-quarter of a mile extending at right angles
529 from the end of the runway for a distance of 10,000 feet of any
530 existing airport runway or planned airport runway identified in
531 the local government's airport master plan.

532 (b) A proposed development within any airport noise zone



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533 identified in the federal land use compatibility table or in a
534 land-use zoning or airport noise regulation adopted by the local
535 government.

536

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

538 And the title is amended as follows:

539 Delete lines 3 - 61

540 and insert:

541 125.01055 and 166.04151, F.S.; clarifying application;
542 prohibiting counties and municipalities, respectively,
543 from restricting the floor area ratio of certain
544 proposed developments under certain circumstances;
545 providing that the density, floor area ratio, or
546 height of certain developments, bonuses, variances, or
547 other special exceptions are not included in the
548 calculation of the currently allowed density, floor
549 area ratio, or height by counties and municipalities,
550 respectively; authorizing counties and municipalities,
551 respectively, to restrict the height of proposed
552 developments under certain circumstances; prohibiting
553 the administrative approval by counties and
554 municipalities, respectively, of a proposed
555 development within a specified proximity to a military
556 installation; requiring counties and municipalities,
557 respectively, to maintain a certain policy on their
558 websites; requiring counties and municipalities,
559 respectively, to consider reducing parking
560 requirements under certain circumstances; requiring
561 counties and municipalities, respectively, to reduce



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562 or eliminate parking requirements for certain proposed
563 mixed-use developments that meet certain requirements;
564 defining the term "major transportation hub";
565 providing certain requirements for developments
566 located within a transit-oriented development or area;
567 making technical changes; providing requirements for
568 developments authorized as a transit-oriented
569 development or area; clarifying that a county or
570 municipality, respectively, is not precluded from
571 granting additional exceptions; revising
572 applicability; authorizing specified developments to
573 be treated as a conforming use; amending s. 196.1978,
574 F.S.; revising the definition of the term "newly
575 constructed"; revising conditions for when multifamily
576 projects are considered property used for a charitable
577 purpose and are eligible to receive an ad valorem
578 property tax exemption; making technical changes;
579 requiring property appraisers to make certain
580 exemptions from ad valorem property taxes; providing
581 the method for determining the value of a unit for
582 certain purposes; requiring property appraisers to
583 review certain applications and make certain
584 determinations; authorizing property appraisers to
585 request and review additional information; authorizing
586 property appraisers to grant exemptions only under
587 certain conditions; revising requirements for property
588 owners seeking a certification notice from the Florida
589 Housing Finance Corporation; providing that a certain
590 determination by the corporation does not constitute



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591 an exemption; conforming provisions to changes made by
592 the act; amending s. 196.1979, F.S.; revising the
593 value to which a certain ad valorem property tax
594 exemption applies; revising a condition of eligibility
595 for vacant residential units to qualify for a certain
596 ad valorem property tax exemption; making technical
597 changes; revising the deadline for an application for
598 exemption; revising deadlines by which boards and
599 governing bodies must deliver or notify the Department
600 of Revenue of the adoption, repeal, or expiration, of
601 certain ordinances; requiring property appraisers to
602 review certain applications and make certain
603 determinations; authorizing property appraisers to
604 request and review additional information; authorizing
605 property appraisers to grant exemptions only under
606 certain conditions; providing the method for
607 determining the value of a unit for certain purposes;
608 providing for retroactive application;



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/31/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Calatayud) recommended the following:

1 **Senate Substitute for Amendment (720816) (with title**
2 **amendment)**

3
4 Delete lines 80 - 505

5 and insert:

6 residential as allowable uses in any area zoned for commercial,
7 industrial, or mixed use if at least 40 percent of the
8 residential units in a proposed multifamily ~~rental~~ development
9 are rental units that, for a period of at least 30 years, are
10 affordable as defined in s. 420.0004. Notwithstanding any other



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11 law, local ordinance, or regulation to the contrary, a county
12 may not require a proposed multifamily development to obtain a
13 zoning or land use change, special exception, conditional use
14 approval, variance, or comprehensive plan amendment for the
15 building height, zoning, and densities authorized under this
16 subsection. For mixed-use residential projects, at least 65
17 percent of the total square footage must be used for residential
18 purposes.

19 (b) A county may not restrict the density of a proposed
20 development authorized under this subsection below the highest
21 currently allowed density on any unincorporated land in the
22 county where residential development is allowed under the
23 county's land development regulations. For purposes of this
24 paragraph, the term "highest currently allowed density" does not
25 include the density of any development that met the requirements
26 of this subsection or the density of any development which has
27 received any bonus, variance, or other special exception for
28 density provided in the county's land development regulations as
29 an incentive for development.

30 (c) A county may not restrict the floor area ratio of a
31 proposed development authorized under this subsection below the
32 highest currently allowed floor area ratio on any unincorporated
33 land in the county where development is allowed under the
34 county's land development regulations. For purposes of this
35 paragraph, the term "highest currently allowed floor area ratio"
36 does not include the floor area ratio of any development that
37 met the requirements of this subsection or the floor area ratio
38 of any development which has received any bonus, variance, or
39 other special exception for floor area ratio provided in the



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40 county's land development regulations as an incentive for
41 development. For purposes of this subsection, the term floor
42 area ratio includes floor lot ratio.

43 (d)1.(e) A county may not restrict the height of a proposed
44 development authorized under this subsection below the highest
45 currently allowed height for a commercial or residential
46 building development located in its jurisdiction within 1 mile
47 of the proposed development or 3 stories, whichever is higher.
48 For purposes of this paragraph, the term "highest currently
49 allowed height" does not include the height of any development
50 that met the requirements of this subsection or the height of
51 any development which has received any bonus, variance, or other
52 special exception for height provided in the county's land
53 development regulations as an incentive for development.

54 2. If the proposed development is adjacent to, on two or
55 more sides, a parcel zoned for single-family residential use
56 that is within a single-family residential development with at
57 least 25 contiguous single-family homes, the county may restrict
58 the height of the proposed development to 150 percent of the
59 tallest building on property within one-quarter mile of the
60 proposed development or 3 stories, whichever is higher.

61 (e)(d) A proposed development authorized under this
62 subsection must be administratively approved and no further
63 action by the board of county commissioners is required if the
64 development satisfies the county's land development regulations
65 for multifamily developments in areas zoned for such use and is
66 otherwise consistent with the comprehensive plan, with the
67 exception of provisions establishing allowable densities,
68 height, and land use. Such land development regulations include,



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69 but are not limited to, regulations relating to setbacks and
70 parking requirements. A proposed development located within one-
71 quarter mile of a military installation identified in s.
72 163.3175(2) may not be administratively approved. Each county
73 shall maintain on its website a policy containing procedures and
74 expectations for administrative approval pursuant to this
75 subsection.

76 (f)1.(e) A county must consider reducing parking
77 requirements for a proposed development authorized under this
78 subsection if the development is located within one-quarter ~~one-~~
79 ~~half~~ mile of a ~~major~~ transit stop, as defined in the county's
80 land development code, and the ~~major~~ transit stop is accessible
81 from the development.

82 2. A county must reduce parking requirements by 20 percent
83 for a proposed development authorized under this subsection if
84 the development:

85 a. Is located within one-half mile of a major
86 transportation hub that is accessible from the proposed
87 development by safe, pedestrian-friendly means, such as
88 sidewalks, crosswalks, elevated pedestrian or bike paths, or
89 other multimodal design features; and

90 b. Has available parking within 600 feet of the proposed
91 development which may consist of options such as on-street
92 parking, parking lots, or parking garages available for use by
93 residents of the proposed development.

94 3. A county must eliminate parking requirements for a
95 proposed mixed-use residential development authorized under this
96 subsection within an area recognized by the county as a transit-
97 oriented development or area, as provided in paragraph (h).



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98 4. For purposes of this paragraph, the term "major
99 transportation hub" means any transit station, whether bus,
100 train, or light rail, which is served by public transit with a
101 mix of other transportation options.

102 (g)~~(f)~~ For proposed multifamily developments in an
103 unincorporated area zoned for commercial or industrial use which
104 is within the boundaries of a multicounty independent special
105 district that was created to provide municipal services and is
106 not authorized to levy ad valorem taxes, and less than 20
107 percent of the land area within such district is designated for
108 commercial or industrial use, a county must authorize, as
109 provided in this subsection, such development only if the
110 development is mixed-use residential.

111 (h) A proposed development authorized under this subsection
112 which is located within a transit-oriented development or area,
113 as recognized by the county, must be mixed-use residential and
114 otherwise comply with requirements of the county's regulations
115 applicable to the transit-oriented development or area except
116 for use, height, density, and floor area ratio as provided in
117 this subsection or as otherwise agreed to by the county and the
118 applicant for the development.

119 (i)~~(g)~~ Except as otherwise provided in this subsection, a
120 development authorized under this subsection must comply with
121 all applicable state and local laws and regulations.

122 (j)1. Nothing in this subsection precludes a county from
123 granting a bonus, variance, conditional use, or other special
124 exception for height, density, or floor area ratio in addition
125 to the height, density, and floor area ratio requirements in
126 this subsection.



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127 2. Nothing in this subsection precludes a proposed
128 development authorized under this subsection from receiving a
129 bonus for density, height, or floor area ratio pursuant to an
130 ordinance or regulation of the jurisdiction where the proposed
131 development is located if the proposed development satisfies the
132 conditions to receive the bonus except for any condition which
133 conflicts with this subsection.

134 (k) ~~(h)~~ This subsection does not apply to:

135 1. Airport-impacted areas as provided in s. 333.03.

136 2. Property defined as recreational and commercial working
137 waterfront in s. 342.201(2)(b) in any area zoned as industrial.

138 (l) ~~(i)~~ This subsection expires October 1, 2033.

139 (8) Any development authorized under paragraph (7)(a) must
140 be treated as a conforming use even after the expiration of
141 subsection (7) and the development's affordability period as
142 provided in paragraph (7)(a), notwithstanding the county's
143 comprehensive plan, future land use designation, or zoning. If
144 at any point during the development's affordability period the
145 development violates the affordability period requirement
146 provided in paragraph (7)(a), the development must be allowed a
147 reasonable time to cure such violation. If the violation is not
148 cured within a reasonable time, the development must be treated
149 as a nonconforming use.

150 Section 2. Subsection (7) of section 166.04151, Florida
151 Statutes, is amended, and subsection (8) is added to that
152 section, to read:

153 166.04151 Affordable housing.—

154 (7)(a) A municipality must authorize multifamily and mixed-
155 use residential as allowable uses in any area zoned for



156 commercial, industrial, or mixed use if at least 40 percent of
157 the residential units in a proposed multifamily ~~rental~~
158 development are rental units that, for a period of at least 30
159 years, are affordable as defined in s. 420.0004. Notwithstanding
160 any other law, local ordinance, or regulation to the contrary, a
161 municipality may not require a proposed multifamily development
162 to obtain a zoning or land use change, special exception,
163 conditional use approval, variance, or comprehensive plan
164 amendment for the building height, zoning, and densities
165 authorized under this subsection. For mixed-use residential
166 projects, at least 65 percent of the total square footage must
167 be used for residential purposes.

168 (b) A municipality may not restrict the density of a
169 proposed development authorized under this subsection below the
170 highest currently allowed density on any land in the
171 municipality where residential development is allowed under the
172 municipality's land development regulations. For purposes of
173 this paragraph, the term "highest currently allowed density"
174 does not include the density of any development that met the
175 requirements of this subsection or the density of any
176 development which has received any bonus, variance, or other
177 special exception for density provided in the municipality's
178 land development regulations as an incentive for development.

179 (c) A municipality may not restrict the floor area ratio of
180 a proposed development authorized under this subsection below
181 the highest currently allowed floor area ratio on any land in
182 the municipality where development is allowed under the
183 municipality's land development regulations. For purposes of
184 this paragraph, the term "highest currently allowed floor area



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185 ratio" does not include the floor area ratio of any development
186 that met the requirements of this subsection or the floor area
187 ratio of any development which has received any bonus, variance,
188 or other special exception for floor area ratio provided in the
189 municipality's land development regulations as an incentive for
190 development. For purposes of this subsection, the term floor
191 area ratio includes floor lot ratio.

192 (d)1.~~(e)~~ A municipality may not restrict the height of a
193 proposed development authorized under this subsection below the
194 highest currently allowed height for a commercial or residential
195 building development located in its jurisdiction within 1 mile
196 of the proposed development or 3 stories, whichever is higher.
197 For purposes of this paragraph, the "highest currently allowed
198 height" does not include the height of any development that met
199 the requirements of this subsection or the height of any
200 development which has received any bonus, variance, or other
201 special exception for height provided in the municipality's land
202 development regulations as an incentive for development.

203 2. If the proposed development is adjacent to, on two or
204 more sides, a parcel zoned for single-family residential use
205 that is within a single-family residential development with at
206 least 25 contiguous single-family homes, the municipality may
207 restrict the height of the proposed development to 150 percent
208 of the tallest building on property within one-quarter mile of
209 the proposed development or 3 stories, whichever is higher.

210 (e)~~(d)~~ A proposed development authorized under this
211 subsection must be administratively approved and no further
212 action by the governing body of the municipality is required if
213 the development satisfies the municipality's land development



214 regulations for multifamily developments in areas zoned for such
215 use and is otherwise consistent with the comprehensive plan,
216 with the exception of provisions establishing allowable
217 densities, height, and land use. Such land development
218 regulations include, but are not limited to, regulations
219 relating to setbacks and parking requirements. A proposed
220 development located within one-quarter mile of a military
221 installation identified in s. 163.3175(2) may not be
222 administratively approved. Each municipality shall maintain on
223 its website a policy containing procedures and expectations for
224 administrative approval pursuant to this subsection.

225 (f) 1. ~~(e)~~ A municipality must consider reducing parking
226 requirements for a proposed development authorized under this
227 subsection if the development is located within one-quarter ~~one-~~
228 half mile of a ~~major~~ transit stop, as defined in the
229 municipality's land development code, and the ~~major~~ transit stop
230 is accessible from the development.

231 2. A municipality must reduce parking requirements by 20
232 percent for a proposed development authorized under this
233 subsection if the development:

234 a. Is located within one-half mile of a major
235 transportation hub that is accessible from the proposed
236 development by safe, pedestrian-friendly means, such as
237 sidewalks, crosswalks, elevated pedestrian or bike paths, or
238 other multimodal design features.

239 b. Has available parking within 600 feet of the proposed
240 development which may consist of options such as on-street
241 parking, parking lots, or parking garages available for use by
242 residents of the proposed development.



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243 3. A municipality must eliminate parking requirements for a
244 proposed mixed-use residential development authorized under this
245 subsection within an area recognized by the municipality as a
246 transit-oriented development or area, as provided in paragraph
247 (h).

248 4. For purposes of this paragraph, the term "major
249 transportation hub" means any transit station, whether bus,
250 train, or light rail, which is served by public transit with a
251 mix of other transportation options.

252 (g)~~(f)~~ A municipality that designates less than 20 percent
253 of the land area within its jurisdiction for commercial or
254 industrial use must authorize a proposed multifamily development
255 as provided in this subsection in areas zoned for commercial or
256 industrial use only if the proposed multifamily development is
257 mixed-use residential.

258 (h) A proposed development authorized under this subsection
259 which is located within a transit-oriented development or area,
260 as recognized by the municipality, must be mixed-use residential
261 and otherwise comply with requirements of the municipality's
262 regulations applicable to the transit-oriented development or
263 area except for use, height, density, and floor area ratio as
264 provided in this subsection or as otherwise agreed to by the
265 municipality and the applicant for the development.

266 (i)~~(g)~~ Except as otherwise provided in this subsection, a
267 development authorized under this subsection must comply with
268 all applicable state and local laws and regulations.

269 (j)1. Nothing in this subsection precludes a municipality
270 from granting a bonus, variance, conditional use, or other
271 special exception to height, density, or floor area ratio in



272 addition to the height, density, and floor area ratio
273 requirements in this subsection.

274 2. Nothing in this subsection precludes a proposed
275 development authorized under this subsection from receiving a
276 bonus for density, height, or floor area ratio pursuant to an
277 ordinance or regulation of the jurisdiction where the proposed
278 development is located if the proposed development satisfies the
279 conditions to receive the bonus except for any condition which
280 conflicts with this subsection.

281 (k)~~(h)~~ This subsection does not apply to:

282 1. Airport-impacted areas as provided in s. 333.03.

283 2. Property defined as recreational and commercial working
284 waterfront in s. 342.201(2) (b) in any area zoned as industrial.

285 (l)~~(i)~~ This subsection expires October 1, 2033.

286 (8) Any development authorized under paragraph (7) (a) must
287 be treated as a conforming use even after the expiration of
288 subsection (7) and the development's affordability period as
289 provided in paragraph (7) (a), notwithstanding the municipality's
290 comprehensive plan, future land use designation, or zoning. If
291 at any point during the development's affordability period the
292 development violates the affordability period requirement
293 provided in paragraph (7) (a), the development must be allowed a
294 reasonable time to cure such violation. If the violation is not
295 cured within a reasonable time, the development must be treated
296 as a nonconforming use.

297 Section 3. Subsection (3) of section 196.1978, Florida
298 Statutes, is amended to read:

299 196.1978 Affordable housing property exemption.-

300 (3) (a) As used in this subsection, the term:



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301 1. "Corporation" means the Florida Housing Finance
302 Corporation.

303 2. "Newly constructed" means an improvement to real
304 property which was substantially completed within 5 years before
305 the date of an applicant's first submission of a request for a
306 certification notice ~~or an application for an exemption~~ pursuant
307 to this subsection ~~section, whichever is earlier~~.

308 3. "Substantially completed" has the same meaning as in s.
309 192.042(1).

310 (b) Notwithstanding ss. 196.195 and 196.196, portions of
311 property in a multifamily project are considered property used
312 for a charitable purpose and are eligible to receive an ad
313 valorem property tax exemption if such portions meet all of the
314 following conditions:

315 1. Provide affordable housing to natural persons or
316 families meeting the income limitations provided in paragraph
317 (d). ~~†~~

318 2.a. Are within a newly constructed multifamily project
319 that contains more than 70 units dedicated to housing natural
320 persons or families meeting the income limitations provided in
321 paragraph (d); or

322 b. Are within a newly constructed multifamily project in an
323 area of critical state concern, as designated by s. 380.0552 or
324 chapter 28-36, Florida Administrative Code, which contains more
325 than 10 units dedicated to housing natural persons or families
326 meeting the income limitations provided in paragraph (d). ~~and~~

327 3. Are rented for an amount that does not exceed the amount
328 as specified by the most recent multifamily rental programs
329 income and rent limit chart posted by the corporation and



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330 derived from the Multifamily Tax Subsidy Projects Income Limits
331 published by the United States Department of Housing and Urban
332 Development or 90 percent of the fair market value rent as
333 determined by a rental market study meeting the requirements of
334 paragraph (1) ~~(m)~~, whichever is less.

335 (c) If a unit that in the previous year received ~~qualified~~
336 ~~for~~ the exemption under this subsection and was occupied by a
337 tenant is vacant on January 1, the vacant unit is eligible for
338 the exemption if the use of the unit is restricted to providing
339 affordable housing that would otherwise meet the requirements of
340 this subsection and a reasonable effort is made to lease the
341 unit to eligible persons or families.

342 (d)1. The property appraiser shall exempt:

343 a. Seventy-five percent of the assessed value of the units
344 in multifamily projects that meet the requirements of this
345 subsection and are ~~Qualified property~~ used to house natural
346 persons or families whose annual household income is greater
347 than 80 percent but not more than 120 percent of the median
348 annual adjusted gross income for households within the
349 metropolitan statistical area or, if not within a metropolitan
350 statistical area, within the county in which the person or
351 family resides; and, ~~must receive an ad valorem property tax~~
352 ~~exemption of 75 percent of the assessed value.~~

353 b.2. From ad valorem property taxes the units in
354 multifamily projects that meet the requirements of this
355 subsection and are ~~Qualified property~~ used to house natural
356 persons or families whose annual household income does not
357 exceed 80 percent of the median annual adjusted gross income for
358 households within the metropolitan statistical area or, if not



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359 within a metropolitan statistical area, within the county in
360 which the person or family resides, ~~is exempt from ad valorem~~
361 ~~property taxes.~~

362 2. When determining the value of a unit for purposes of
363 applying an exemption pursuant to this paragraph, the property
364 appraiser must include in such valuation the proportionate share
365 of the residential common areas, including the land, fairly
366 attributable to such unit.

367 (e) To be eligible to receive an exemption under this
368 subsection, a property owner must submit an application on a
369 form prescribed by the department by March 1 for the exemption,
370 accompanied by a certification notice from the corporation to
371 the property appraiser. The property appraiser shall review the
372 application and determine whether the applicant meets all of the
373 requirements of this subsection and is entitled to an exemption.
374 A property appraiser may request and review additional
375 information necessary to make such determination. A property
376 appraiser may grant an exemption only for a property for which
377 the corporation has issued a certification notice and which the
378 property appraiser determines is entitled to an exemption.

379 (f) To receive a certification notice, a property owner
380 must submit a request to the corporation ~~for certification~~ on a
381 form provided by the corporation which includes all of the
382 following:

383 1. The most recently completed rental market study meeting
384 the requirements of paragraph (1) ~~(m)~~.

385 2. A list of the units for which the property owner seeks
386 an exemption.

387 3. The rent amount received by the property owner for each



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388 unit for which the property owner seeks an exemption. If a unit
389 is vacant and qualifies for an exemption under paragraph (c),
390 the property owner must provide evidence of the published rent
391 amount for each vacant unit.

392 4. A sworn statement, under penalty of perjury, from the
393 applicant restricting the property for a period of not less than
394 3 years to housing persons or families who meet the income
395 limitations under this subsection.

396 (g) The corporation shall review the request for a
397 certification notice and certify whether a property ~~that~~ meets
398 the ~~eligibility~~ criteria of paragraphs (b) and (c) ~~this~~
399 ~~subsection~~. A determination by the corporation regarding a
400 request for a certification notice does not constitute a grant
401 of an exemption pursuant to this subsection or final agency
402 action pursuant to chapter 120.

403 1. If the corporation determines that the property meets
404 the ~~eligibility~~ criteria ~~for an exemption under this subsection~~,
405 the corporation must send a certification notice to the property
406 owner and the property appraiser.

407 2. If the corporation determines that the property does not
408 meet the ~~eligibility~~ criteria, the corporation must notify the
409 property owner and include the reasons for such determination.

410 (h) The corporation shall post on its website the deadline
411 to submit a request for a certification notice. The deadline
412 must allow adequate time for a property owner to submit a timely
413 application for exemption to the property appraiser.

414 (i) ~~The property appraiser shall review the application and~~
415 ~~determine if the applicant is entitled to an exemption. A~~
416 ~~property appraiser may grant an exemption only for a property~~



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417 ~~for which the corporation has issued a certification notice.~~

418 ~~(j)~~ If the property appraiser determines that for any year
419 during the immediately previous 10 years a person who was not
420 entitled to an exemption under this subsection was granted such
421 an exemption, the property appraiser must serve upon the owner a
422 notice of intent to record in the public records of the county a
423 notice of tax lien against any property owned by that person in
424 the county, and that property must be identified in the notice
425 of tax lien. Any property owned by the taxpayer and situated in
426 this state is subject to the taxes exempted by the improper
427 exemption, plus a penalty of 50 percent of the unpaid taxes for
428 each year and interest at a rate of 15 percent per annum. If an
429 exemption is improperly granted as a result of a clerical
430 mistake or an omission by the property appraiser, the property
431 owner improperly receiving the exemption may not be assessed a
432 penalty or interest.

433 (j)~~(k)~~ Units subject to an agreement with the corporation
434 pursuant to chapter 420 recorded in the official records of the
435 county in which the property is located to provide housing to
436 natural persons or families meeting the extremely-low-income,
437 very-low-income, or low-income limits specified in s. 420.0004
438 are not eligible for this exemption.

439 (k)~~(l)~~ Property receiving an exemption pursuant to s.
440 196.1979 is not eligible for this exemption.

441 (l)~~(m)~~ A rental market study submitted as required by
442 subparagraph (f)1. ~~paragraph (f)~~ must identify the fair market
443 value rent of each unit for which a property owner seeks an
444 exemption. Only a certified general appraiser as defined in s.
445 475.611 may issue a rental market study. The certified general



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446 appraiser must be independent of the property owner who requests
447 the rental market study. In preparing the rental market study, a
448 certified general appraiser shall comply with the standards of
449 professional practice pursuant to part II of chapter 475 and use
450 comparable property within the same geographic area and of the
451 same type as the property for which the exemption is sought. A
452 rental market study must have been completed within 3 years
453 before submission of the application.

454 (m)~~(n)~~ The corporation may adopt rules to implement this
455 section.

456 (n)~~(o)~~ This subsection first applies to the 2024 tax roll
457 and is repealed December 31, 2059.

458 Section 4. Paragraph (b) of subsection (1), subsection (2),
459 paragraphs (d), (f), and (l) of subsection (3), and subsection
460 (5) of section 196.1979, Florida Statutes, are amended, present
461 subsections (6) and (7) are redesignated as subsections (8) and
462 (9), respectively, and new subsections (6) and (7) are added to
463 that section, to read:

464 196.1979 County and municipal affordable housing property
465 exemption.—

466 (1)

467 (b) Qualified property may receive an ad valorem property
468 tax exemption of:

469 1. Up to 75 percent of the assessed value of each
470 residential unit used to provide affordable housing if fewer
471 than 100 percent of the multifamily project's residential units
472 are used to provide affordable housing meeting the requirements
473 of this section.

474 2. Up to 100 percent of the assessed value of each



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475 residential unit used to provide affordable housing if 100
476 percent of the multifamily project's residential units are used
477 to provide affordable housing meeting the requirements of this
478 section.

479 (2) If a residential unit that in the previous year
480 received ~~qualified for~~ the exemption under this section and was
481 occupied by a tenant is vacant on January 1, the vacant unit may
482 qualify for the exemption under this section if the use of the
483 unit is restricted to providing affordable housing that would
484 otherwise meet the requirements of this section and a reasonable
485 effort is made to lease the unit to eligible persons or
486 families.

487 (3) An ordinance granting the exemption authorized by this
488 section must:

489 (d) Require the local entity to verify and certify property
490 that meets the requirements of the ordinance as qualified
491 property and forward the certification to the property owner and
492 the property appraiser. If the local entity denies the
493 application for certification ~~exemption~~, it must notify the
494 applicant and include reasons for the denial.

495 (f) Require the property owner to submit an application for
496 exemption, on a form prescribed by the department, accompanied
497 by the certification of qualified property, to the property
498 appraiser no later than the deadline specified in s. 196.011
499 ~~March 1~~.

500 (1) Require the county or municipality to post on its
501 website a list of ~~certified~~ properties receiving the exemption
502 for the purpose of facilitating access to affordable housing.

503 (5) An ordinance adopted under this section must expire



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504 before the fourth January 1 after adoption; however, the board
505 of county commissioners or the governing body of the
506 municipality may adopt a new ordinance to renew the exemption.
507 The board of county commissioners or the governing body of the
508 municipality shall deliver a copy of an ordinance adopted under
509 this section to the department and the property appraiser within
510 10 days after its adoption, but no later than January 1 of the
511 year such exemption will take effect. If the ordinance expires
512 or is repealed, the board of county commissioners or the
513 governing body of the municipality must notify the department
514 and the property appraiser within 10 days after its expiration
515 or repeal, but no later than January 1 of the year the repeal or
516 expiration of such exemption will take effect.

517 (6) The property appraiser shall review each application
518 for exemption and determine whether the applicant meets all of
519 the requirements of this section and is entitled to an
520 exemption. A property appraiser may request and review
521 additional information necessary to make such determination. A
522 property appraiser may grant an exemption only for a property
523 for which the local entity has certified as qualified property
524 and which the property appraiser determines is entitled to an
525 exemption.

526 (7) When determining the value of a unit for purposes of
527 applying an exemption pursuant to this section, the property
528 appraiser must include in such valuation the proportionate share
529 of the residential common areas, including the land, fairly
530 attributable to such unit.

531 Section 5. The amendments made by this act to ss. 196.1978,
532 and 196.1979, Florida Statutes, are intended to be remedial and



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533 clarifying in nature and apply retroactively to January 1, 2024.

534 Section 6. Present subsection (5) of section 333.03,
535 Florida Statutes, is redesignated as subsection (6), and a new
536 subsection (5) is added to that section, to read:

537 333.03 Requirement to adopt airport zoning regulations.—

538 (5) Sections 125.01055(7) and 166.04151(7) do not apply to
539 any of the following:

540 (a) A proposed development near a runway within one-quarter
541 of a mile laterally from the runway edge and within an area that
542 is the width of one-quarter of a mile extending at right angles
543 from the end of the runway for a distance of 10,000 feet of any
544 existing airport runway or planned airport runway identified in
545 the local government's airport master plan.

546 (b) A proposed development within any airport noise zone
547 identified in the federal land use compatibility table or in a
548 land-use zoning or airport noise regulation adopted by the local
549 government.

550
551 ===== T I T L E A M E N D M E N T =====

552 And the title is amended as follows:

553 Delete lines 3 - 61

554 and insert:

555 125.01055 and 166.04151, F.S.; clarifying application;
556 prohibiting counties and municipalities, respectively,
557 from restricting the floor area ratio of certain
558 proposed developments under certain circumstances;
559 providing that the density, floor area ratio, or
560 height of certain developments, bonuses, variances, or
561 other special exceptions are not included in the



562 calculation of the currently allowed density, floor
563 area ratio, or height by counties and municipalities,
564 respectively; authorizing counties and municipalities,
565 respectively, to restrict the height of proposed
566 developments under certain circumstances; prohibiting
567 the administrative approval by counties and
568 municipalities, respectively, of a proposed
569 development within a specified proximity to a military
570 installation; requiring counties and municipalities,
571 respectively, to maintain a certain policy on their
572 websites; requiring counties and municipalities,
573 respectively, to consider reducing parking
574 requirements under certain circumstances; requiring
575 counties and municipalities, respectively, to reduce
576 or eliminate parking requirements for certain proposed
577 mixed-use developments that meet certain requirements;
578 defining the term "major transportation hub";
579 providing certain requirements for developments
580 located within a transit-oriented development or area;
581 making technical changes; providing requirements for
582 developments authorized as a transit-oriented
583 development or area; clarifying that a county or
584 municipality, respectively, is not precluded from
585 granting additional exceptions; clarifying that a
586 proposed development is not precluded from receiving a
587 bonus for density, height, or floor area ratio if
588 specified conditions are satisfied; authorizing
589 specified developments to be treated as a conforming
590 use; amending s. 196.1978, F.S.; revising the



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591 definition of the term "newly constructed"; revising
592 conditions for when multifamily projects are
593 considered property used for a charitable purpose and
594 are eligible to receive an ad valorem property tax
595 exemption; making technical changes; requiring
596 property appraisers to make certain exemptions from ad
597 valorem property taxes; providing the method for
598 determining the value of a unit for certain purposes;
599 requiring property appraisers to review certain
600 applications and make certain determinations;
601 authorizing property appraisers to request and review
602 additional information; authorizing property
603 appraisers to grant exemptions only under certain
604 conditions; revising requirements for property owners
605 seeking a certification notice from the Florida
606 Housing Finance Corporation; providing that a certain
607 determination by the corporation does not constitute
608 an exemption; conforming provisions to changes made by
609 the act; amending s. 196.1979, F.S.; revising the
610 value to which a certain ad valorem property tax
611 exemption applies; revising a condition of eligibility
612 for vacant residential units to qualify for a certain
613 ad valorem property tax exemption; making technical
614 changes; revising the deadline for an application for
615 exemption; revising deadlines by which boards and
616 governing bodies must deliver or notify the Department
617 of Revenue of the adoption, repeal, or expiration, of
618 certain ordinances; requiring property appraisers to
619 review certain applications and make certain



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620 determinations; authorizing property appraisers to
621 request and review additional information; authorizing
622 property appraisers to grant exemptions only under
623 certain conditions; providing the method for
624 determining the value of a unit for certain purposes;
625 providing for retroactive application;

By the Committee on Community Affairs; and Senator Calatayud

578-01993-24

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1 A bill to be entitled
 2 An act relating to affordable housing; amending ss.
 3 125.01055 and 166.04151, F.S.; deleting a provision
 4 related to the authorization of multifamily and mixed-
 5 use residential development uses in any area zoned for
 6 industrial use; prohibiting counties and
 7 municipalities, respectively, from restricting the
 8 floor area ratio of certain proposed developments
 9 under certain circumstances; providing that the
 10 density or floor area ratio of certain developments,
 11 bonuses, variances, or other special exceptions are
 12 not included in the calculation of the currently
 13 allowed density or floor area ratio by counties and
 14 municipalities, respectively; revising prohibitions
 15 relating to counties' and municipalities' restrictions
 16 of the height of certain proposed developments,
 17 respectively; authorizing counties and municipalities,
 18 respectively, to restrict the height of proposed
 19 developments under certain circumstances; providing
 20 that certain factors may not be taken into account in
 21 the calculation of the currently allowed height;
 22 prohibiting the administrative approval by counties
 23 and municipalities, respectively, of a proposed
 24 development within a specified proximity to a military
 25 installation; requiring counties and municipalities,
 26 respectively, to maintain a certain policy on their
 27 websites; requiring counties and municipalities,
 28 respectively, to consider reducing parking
 29 requirements under certain circumstances; requiring

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30 counties and municipalities, respectively, to reduce
 31 or eliminate parking requirements for certain proposed
 32 mixed-use developments that meet certain requirements;
 33 defining the term "major transportation hub";
 34 providing certain requirements for developments
 35 located within a transit-oriented development or area;
 36 making technical changes; providing requirements for
 37 developments authorized as a transit-oriented
 38 development or area; revising applicability;
 39 authorizing specified developments to be treated as a
 40 conforming use; amending s. 196.1978, F.S.; revising
 41 the definition of the term "newly constructed";
 42 defining the term "substantial rehabilitation";
 43 revising conditions for when multifamily projects are
 44 considered property used for a charitable purpose and
 45 are eligible to receive an ad valorem property tax
 46 exemption; making technical changes; requiring
 47 property appraisers to make certain exemptions from ad
 48 valorem property taxes; providing the method for
 49 determining the value of a unit for certain purposes;
 50 requiring property appraisers to review certain
 51 applications and make certain determinations;
 52 authorizing property appraisers to request and review
 53 additional information; authorizing property
 54 appraisers to grant exemptions only under certain
 55 conditions; revising requirements for property owners
 56 seeking a certification notice from the Florida
 57 Housing Finance Corporation; providing that a certain
 58 determination by the corporation does not constitute

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59 an exemption; specifying requirements for a market
60 value analysis; conforming provisions to changes made
61 by the act; providing for retroactive application;
62 amending s. 333.03, F.S.; excluding certain proposed
63 developments from specified airport zoning provisions;
64 amending s. 420.507, F.S.; revising the enumerated
65 powers of the Florida Housing Finance Corporation;
66 amending s. 420.5096, F.S.; making technical changes;
67 amending s. 420.518, F.S.; specifying conditions under
68 which the Florida Housing Finance Corporation may
69 preclude applicants from corporation programs;
70 providing an appropriation; providing an effective
71 date.

72
73 Be It Enacted by the Legislature of the State of Florida:

74
75 Section 1. Subsection (7) of section 125.01055, Florida
76 Statutes, is amended, and subsection (8) is added to that
77 section, to read:

78 125.01055 Affordable housing.—

79 (7) (a) A county must authorize multifamily and mixed-use
80 residential as allowable uses in any area zoned for commercial,
81 ~~industrial~~, or mixed use if at least 40 percent of the
82 residential units in a proposed multifamily ~~rental~~ development
83 are rental units that, for a period of at least 30 years, are
84 affordable as defined in s. 420.0004. Notwithstanding any other
85 law, local ordinance, or regulation to the contrary, a county
86 may not require a proposed multifamily development to obtain a
87 zoning or land use change, special exception, conditional use

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88 approval, variance, or comprehensive plan amendment for the
89 building height, zoning, and densities authorized under this
90 subsection. For mixed-use residential projects, at least 65
91 percent of the total square footage must be used for residential
92 purposes.

93 (b) A county may not restrict the density or floor area
94 ratio of a proposed development authorized under this subsection
95 below the highest currently allowed density or floor area ratio
96 on any unincorporated land in the county where residential
97 development is allowed under the county's land development
98 regulations. The currently allowed density or floor area ratio
99 does not include the density or floor area ratio of any
100 development that meets the requirements of this subsection or
101 any bonus, variance, or other special exception for density or
102 floor area ratio provided in the county's land development
103 regulations as an incentive for development.

104 (c) A county may not restrict the height of a proposed
105 development authorized under this subsection below the highest
106 currently allowed height for a commercial or residential
107 building development located in its jurisdiction within one-
108 quarter \pm mile of the proposed development or 3 stories,
109 whichever is higher. If the height of each building on property
110 adjacent to the proposed development is 3 stories or less, the
111 county may restrict the height of the proposed development to
112 135 percent of the tallest building on property adjacent to the
113 proposed development or 3 stories, whichever is higher. The
114 currently allowed height does not include the height of any
115 development that meets the requirements of this subsection or
116 any bonus, variance, or other special exception for height

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117 provided in the county's land development regulations as an
 118 incentive for development.

119 (d) A proposed development authorized under this subsection
 120 must be administratively approved and no further action by the
 121 board of county commissioners is required if the development
 122 satisfies the county's land development regulations for
 123 multifamily developments in areas zoned for such use and is
 124 otherwise consistent with the comprehensive plan, with the
 125 exception of provisions establishing allowable densities,
 126 height, and land use. Such land development regulations include,
 127 but are not limited to, regulations relating to setbacks and
 128 parking requirements. A proposed development located within one-
 129 quarter mile of a military installation identified in s.
 130 163.3175(2) may not be administratively approved. Each county
 131 shall maintain on its website a policy containing procedures and
 132 expectations for administrative approval pursuant to this
 133 subsection.

134 (e)1. A county must consider reducing parking requirements
 135 for a proposed development authorized under this subsection if
 136 the development is located within one-quarter ~~one-half~~ mile of a
 137 ~~major~~ transit stop, as defined in the county's land development
 138 code, and the ~~major~~ transit stop is accessible from the
 139 development.

140 2. A county must reduce parking requirements for a proposed
 141 development authorized under this subsection if the development
 142 is located within one-half mile of a major transportation hub
 143 that is accessible from the development by safe, pedestrian-
 144 friendly means, such as sidewalks, crosswalks, elevated
 145 pedestrian or bike paths, or other multimodal design features.

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146 3. A county must eliminate parking requirements for a
 147 proposed mixed-use residential development authorized under this
 148 subsection within an area recognized by the county as a transit-
 149 oriented development or area, as provided in paragraph (g).

150 4. For purposes of this paragraph, the term "major
 151 transportation hub" means any transit station, whether bus,
 152 train, or light rail, which is served by public transit with a
 153 mix of other transportation options.

154 (f) For proposed multifamily developments in an
 155 unincorporated area zoned for commercial ~~or industrial~~ use which
 156 is within the boundaries of a multicounty independent special
 157 district that was created to provide municipal services and is
 158 not authorized to levy ad valorem taxes, and less than 20
 159 percent of the land area within such district is designated for
 160 commercial ~~or industrial~~ use, a county must authorize, as
 161 provided in this subsection, such development only if the
 162 development is mixed-use residential.

163 (g) A development authorized under this section which is
 164 located within a transit-oriented development or area, as
 165 recognized by the county, must be mixed-use residential and
 166 otherwise comply with requirements of the county's regulations
 167 applicable to the transit-oriented development or area except
 168 for use, height, density, and floor area ratio as provided in
 169 this section or as otherwise agreed to by the county and the
 170 applicant for the development.

171 (h) Except as otherwise provided in this subsection, a
 172 development authorized under this subsection must comply with
 173 all applicable state and local laws and regulations.

174 (i) ~~(h)~~ This subsection does not apply to airport-impacted

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175 ~~areas as provided in s. 333.03 property defined as recreational~~
 176 ~~and commercial working waterfront in s. 342.201(2)(b) in any~~
 177 ~~area zoned as industrial.~~

178 ~~(j)(i)~~ This subsection expires October 1, 2033.

179 (8) Any development authorized under paragraph (7) (a) must
 180 be treated as a conforming use even after the expiration of
 181 subsection (7) and the development's affordability period as
 182 provided in paragraph (7) (a), notwithstanding the county's
 183 comprehensive plan, future land use designation, or zoning. If
 184 at any point during the development's affordability period the
 185 development violates the affordability period requirement
 186 provided in paragraph (7) (a), the development must be allowed a
 187 reasonable time to cure such violation. If the violation is not
 188 cured within a reasonable time, the development must be treated
 189 as a nonconforming use.

190 Section 2. Subsection (7) of section 166.04151, Florida
 191 Statutes, is amended, and subsection (8) is added to that
 192 section, to read:

193 166.04151 Affordable housing.—

194 (7) (a) A municipality must authorize multifamily and mixed-
 195 use residential as allowable uses in any area zoned for
 196 commercial, ~~industrial~~, or mixed use if at least 40 percent of
 197 the residential units in a proposed multifamily ~~rental~~
 198 development are rental units that, for a period of at least 30
 199 years, are affordable as defined in s. 420.0004. Notwithstanding
 200 any other law, local ordinance, or regulation to the contrary, a
 201 municipality may not require a proposed multifamily development
 202 to obtain a zoning or land use change, special exception,
 203 conditional use approval, variance, or comprehensive plan

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204 amendment for the building height, zoning, and densities
 205 authorized under this subsection. For mixed-use residential
 206 projects, at least 65 percent of the total square footage must
 207 be used for residential purposes.

208 (b) A municipality may not restrict the density or floor
 209 area ratio of a proposed development authorized under this
 210 subsection below the highest currently allowed density or floor
 211 area ratio on any land in the municipality where residential
 212 development is allowed under the municipality's land development
 213 regulations. The currently allowed density or floor area ratio
 214 does not include the density or floor area ratio of any
 215 development that meets the requirements of this subsection or
 216 any bonus, variance, or other special exception for density or
 217 floor area ratio provided in the municipality's land development
 218 regulations as an incentive for development.

219 (c) A municipality may not restrict the height of a
 220 proposed development authorized under this subsection below the
 221 highest currently allowed height for a commercial or residential
 222 building development located in its jurisdiction within one-
 223 quarter ~~±~~ mile of the proposed development or 3 stories,
 224 whichever is higher. If the height of each building on property
 225 adjacent to the proposed development is 3 stories or less, the
 226 municipality may restrict the height to 135 percent of the
 227 tallest building on property adjacent to the proposed
 228 development or 3 stories, whichever is higher. The currently
 229 allowed height does not include the height of any development
 230 that meets the requirements of this subsection or any bonus,
 231 variance, or other special exception for height provided in the
 232 municipality's land development regulations as an incentive for

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233 development.

234 (d) A proposed development authorized under this subsection
 235 must be administratively approved and no further action by the
 236 governing body of the municipality is required if the
 237 development satisfies the municipality's land development
 238 regulations for multifamily developments in areas zoned for such
 239 use and is otherwise consistent with the comprehensive plan,
 240 with the exception of provisions establishing allowable
 241 densities, height, and land use. Such land development
 242 regulations include, but are not limited to, regulations
 243 relating to setbacks and parking requirements. A proposed
 244 development located within one-quarter mile of a military
 245 installation identified in s. 163.3175(2) may not be
 246 administratively approved. Each municipality shall maintain on
 247 its website a policy containing procedures and expectations for
 248 administrative approval pursuant to this subsection.

249 (e)1. A municipality must consider reducing parking
 250 requirements for a proposed development authorized under this
 251 subsection if the development is located within one-quarter ~~one-~~
 252 ~~half~~ mile of a ~~major~~ transit stop, as defined in the
 253 municipality's land development code, and the ~~major~~ transit stop
 254 is accessible from the development.

255 2. A municipality must reduce parking requirements for a
 256 proposed development authorized under this subsection if the
 257 development is located within one-half mile of a major
 258 transportation hub that is accessible from the development by
 259 safe, pedestrian-friendly means, such as sidewalks, crosswalks,
 260 elevated pedestrian or bike paths, or other multimodal design
 261 features.

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262 3. A municipality must eliminate parking requirements for a
 263 proposed mixed-use residential development authorized under this
 264 subsection within an area recognized by the municipality as a
 265 transit-oriented development or area, as provided in paragraph
 266 (g).

267 4. For purposes of this paragraph, the term "major
 268 transportation hub" means any transit station, whether bus,
 269 train, or light rail, which is served by public transit with a
 270 mix of other transportation options.

271 (f) A municipality that designates less than 20 percent of
 272 the land area within its jurisdiction for commercial ~~or~~
 273 ~~industrial~~ use must authorize a proposed multifamily development
 274 as provided in this subsection in areas zoned for commercial ~~or~~
 275 ~~industrial~~ use only if the proposed multifamily development is
 276 mixed-use residential.

277 (g) A development authorized under this section which is
 278 located within a transit-oriented development or area, as
 279 recognized by the municipality, must be mixed-use residential
 280 and otherwise comply with requirements of the municipality's
 281 regulations applicable to the transit-oriented development or
 282 area except for use, height, density, and floor area ratio as
 283 provided in this section or as otherwise agreed to by the
 284 municipality and the applicant for the development.

285 (h) Except as otherwise provided in this subsection, a
 286 development authorized under this subsection must comply with
 287 all applicable state and local laws and regulations.

288 (i) ~~(h)~~ This subsection does not apply to airport-impacted
 289 areas as provided in s. 333.03 ~~property defined as recreational~~
 290 ~~and commercial working waterfront in s. 342.201(2)(b) in any~~

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291 ~~area zoned as industrial.~~

292 ~~(j)(4)~~ This subsection expires October 1, 2033.

293 (8) Any development authorized under paragraph (7) (a) must
 294 be treated as a conforming use even after the expiration of
 295 subsection (7) and the development's affordability period as
 296 provided in paragraph (7) (a), notwithstanding the municipality's
 297 comprehensive plan, future land use designation, or zoning. If
 298 at any point during the development's affordability period the
 299 development violates the affordability period requirement
 300 provided in paragraph (7) (a), the development must be allowed a
 301 reasonable time to cure such violation. If the violation is not
 302 cured within a reasonable time, the development must be treated
 303 as a nonconforming use.

304 Section 3. Subsection (3) of section 196.1978, Florida
 305 Statutes, is amended to read:

306 196.1978 Affordable housing property exemption.—

307 (3) (a) As used in this subsection, the term:

308 1. "Corporation" means the Florida Housing Finance
 309 Corporation.

310 2. "Newly constructed" means an improvement or the
 311 substantial rehabilitation of an existing improvement to real
 312 property which was substantially completed within 5 years before
 313 the date of an applicant's first submission of a request for a
 314 certification notice or an application for an exemption pursuant
 315 to this subsection ~~section, whichever is earlier.~~

316 3. "Substantially completed" has the same meaning as in s.
 317 192.042(1).

318 4. "Substantial rehabilitation" means the repair or
 319 restoration of a unit which increases the market value of such

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320 unit by at least 40 percent.

321 (b) Notwithstanding ss. 196.195 and 196.196, portions of
 322 property in a multifamily project are considered property used
 323 for a charitable purpose and are eligible to receive an ad
 324 valorem property tax exemption if such portions meet all of the
 325 following conditions:

326 1. Provide affordable housing to natural persons or
 327 families meeting the income limitations provided in paragraph
 328 (d). ~~+~~

329 2.a. Are within a newly constructed multifamily project
 330 that contains more than 70 units dedicated to housing natural
 331 persons or families meeting the income limitations provided in
 332 paragraph (d); or

333 b. Are within a newly constructed multifamily project in an
 334 area of critical state concern, as designated by s. 380.0552 or
 335 chapter 28-36, Florida Administrative Code, which contains more
 336 than 10 units dedicated to housing natural persons or families
 337 meeting the income limitations provided in paragraph (d). ~~and~~

338 3. Are rented for an amount that does not exceed the amount
 339 as specified by the most recent multifamily rental programs
 340 income and rent limit chart posted by the corporation and
 341 derived from the Multifamily Tax Subsidy Projects Income Limits
 342 published by the United States Department of Housing and Urban
 343 Development or 90 percent of the fair market value rent as
 344 determined by a rental market study meeting the requirements of
 345 paragraph (1) ~~(#)~~, whichever is less.

346 (c) If a unit that in the previous year received qualified
 347 ~~for~~ the exemption under this subsection and was occupied by a
 348 tenant is vacant on January 1, the vacant unit is eligible for

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349 the exemption if the use of the unit is restricted to providing
 350 affordable housing that would otherwise meet the requirements of
 351 this subsection and a reasonable effort is made to lease the
 352 unit to eligible persons or families.

353 (d)1. The property appraiser shall exempt:

354 a. Seventy-five percent of the assessed value of the units
 355 in multifamily projects that meet the requirements of this
 356 subsection and are ~~Qualified property~~ used to house natural
 357 persons or families whose annual household income is greater
 358 than 80 percent but not more than 120 percent of the median
 359 annual adjusted gross income for households within the
 360 metropolitan statistical area or, if not within a metropolitan
 361 statistical area, within the county in which the person or
 362 family resides; and, ~~must receive an ad valorem property tax~~
 363 ~~exemption of 75 percent of the assessed value.~~

364 b. ~~2.~~ From ad valorem property taxes the units in
 365 multifamily projects that meet the requirements of this
 366 subsection and are ~~Qualified property~~ used to house natural
 367 persons or families whose annual household income does not
 368 exceed 80 percent of the median annual adjusted gross income for
 369 households within the metropolitan statistical area or, if not
 370 within a metropolitan statistical area, within the county in
 371 which the person or family resides, ~~is exempt from ad valorem~~
 372 ~~property taxes.~~

373 2. When determining the value of a unit for purposes of
 374 applying an exemption pursuant to this paragraph, the property
 375 appraiser must include in such valuation the proportionate share
 376 of the residential common areas, including the land, fairly
 377 attributable to such unit.

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378 (e) To be eligible to receive an exemption under this
 379 subsection, a property owner must submit an application on a
 380 form prescribed by the department by March 1 for the exemption,
 381 accompanied by a certification notice from the corporation to
 382 the property appraiser. The property appraiser shall review the
 383 application and determine whether the applicant meets all of the
 384 requirements of this subsection and is entitled to an exemption.
 385 A property appraiser may request and review additional
 386 information necessary to make such determination. A property
 387 appraiser may grant an exemption only for a property for which
 388 the corporation has issued a certification notice and which the
 389 property appraiser determines is entitled to an exemption.

390 (f) To receive a certification notice, a property owner
 391 must submit a request to the corporation ~~for certification~~ on a
 392 form provided by the corporation which includes all of the
 393 following:

394 1. The most recently completed rental market study meeting
 395 the requirements of paragraph (1) ~~(m)~~.

396 2. A list of the units for which the property owner seeks
 397 an exemption.

398 3. The rent amount received by the property owner for each
 399 unit for which the property owner seeks an exemption. If a unit
 400 is vacant and qualifies for an exemption under paragraph (c),
 401 the property owner must provide evidence of the published rent
 402 amount for each vacant unit.

403 4. If the units for which the property owner seeks an
 404 exemption have been substantially rehabilitated but have not
 405 been certified previously by the corporation pursuant to
 406 paragraph (g), a market value analysis meeting the requirements

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407 of paragraph (m) demonstrating that the units meet the
 408 definition of substantial rehabilitation in subparagraph (a)4.
 409 After receiving an initial certification notice for
 410 substantially rehabilitated units, a property owner is not
 411 required to submit a new market value analysis when requesting
 412 certification notices for subsequent years.

413 5. A sworn statement, under penalty of perjury, from the
 414 applicant restricting the property for a period of not less than
 415 3 years to housing persons or families who meet the income
 416 limitations under this subsection.

417 (g) The corporation shall review the request for a
 418 certification notice and certify whether a property that meets
 419 the eligibility criteria of paragraphs (b) and (c) ~~this~~
 420 ~~subsection~~. A determination by the corporation regarding a
 421 request for a certification notice does not constitute a grant
 422 of an exemption pursuant to this subsection or final agency
 423 action pursuant to chapter 120.

424 1. If the corporation determines that the property meets
 425 the eligibility criteria ~~for an exemption under this subsection,~~
 426 the corporation must send a certification notice to the property
 427 owner and the property appraiser.

428 2. If the corporation determines that the property does not
 429 meet the eligibility criteria, the corporation must notify the
 430 property owner and include the reasons for such determination.

431 (h) The corporation shall post on its website the deadline
 432 to submit a request for a certification notice. The deadline
 433 must allow adequate time for a property owner to submit a timely
 434 application for exemption to the property appraiser.

435 (i) ~~The property appraiser shall review the application and~~

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436 ~~determine if the applicant is entitled to an exemption. A~~
 437 ~~property appraiser may grant an exemption only for a property~~
 438 ~~for which the corporation has issued a certification notice.~~

439 ~~(j)~~ If the property appraiser determines that for any year
 440 during the immediately previous 10 years a person who was not
 441 entitled to an exemption under this subsection was granted such
 442 an exemption, the property appraiser must serve upon the owner a
 443 notice of intent to record in the public records of the county a
 444 notice of tax lien against any property owned by that person in
 445 the county, and that property must be identified in the notice
 446 of tax lien. Any property owned by the taxpayer and situated in
 447 this state is subject to the taxes exempted by the improper
 448 exemption, plus a penalty of 50 percent of the unpaid taxes for
 449 each year and interest at a rate of 15 percent per annum. If an
 450 exemption is improperly granted as a result of a clerical
 451 mistake or an omission by the property appraiser, the property
 452 owner improperly receiving the exemption may not be assessed a
 453 penalty or interest.

454 ~~(j)(k)~~ Units subject to an agreement with the corporation
 455 pursuant to chapter 420 recorded in the official records of the
 456 county in which the property is located to provide housing to
 457 natural persons or families meeting the extremely-low-income,
 458 very-low-income, or low-income limits specified in s. 420.0004
 459 are not eligible for this exemption.

460 ~~(k)(l)~~ Property receiving an exemption pursuant to s.
 461 196.1979 is not eligible for this exemption.

462 ~~(l)(m)~~ A rental market study submitted as required by
 463 subparagraph (f)1. paragraph (f) must identify the fair market
 464 value rent of each unit for which a property owner seeks an

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465 exemption. Only a certified general appraiser as defined in s.
 466 475.611 may issue a rental market study. The certified general
 467 appraiser must be independent of the property owner who requests
 468 the rental market study. In preparing the rental market study, a
 469 certified general appraiser shall comply with the standards of
 470 professional practice pursuant to part II of chapter 475 and use
 471 comparable property within the same geographic area and of the
 472 same type as the property for which the exemption is sought. A
 473 rental market study must have been completed within 3 years
 474 before submission of the application.

475 (m) A market value analysis submitted as required by
 476 subparagraph (f)4. must identify the change in the market value
 477 of the unit attributable to the rehabilitation of the unit,
 478 expressed as a percentage of the market value before the
 479 rehabilitation, for each unit that has undergone rehabilitation.
 480 Only a certified general appraiser as defined in s. 475.611 may
 481 issue a market value analysis. The certified general appraiser
 482 must be independent of the property owner who requests the
 483 market value analysis. In preparing the market value analysis, a
 484 certified general appraiser shall comply with the standards of
 485 professional practice pursuant to part II of chapter 475 and use
 486 comparable property within the same geographic area and of the
 487 same type as the property for which the exemption is sought.

488 (n) The corporation may adopt rules to implement this
 489 section.

490 (o) This subsection first applies to the 2024 tax roll and
 491 is repealed December 31, 2059.

492 Section 4. The amendments made by this act to s. 196.1978,
 493 Florida Statutes, are intended to be remedial and clarifying in

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494 nature and apply retroactively to January 1, 2024.

495 Section 5. Present subsection (5) of section 333.03,
 496 Florida Statutes, is redesignated as subsection (6), and a new
 497 subsection (5) is added to that section, to read:

498 333.03 Requirement to adopt airport zoning regulations.—
 499 (5) Sections 125.01055(7) and 166.04151(7) do not apply to
 500 any of the following:

501 (a) A proposed development within 10,000 feet of the
 502 nearest point of any existing airport runway or planned airport
 503 runway identified in the local government's airport master plan.

504 (b) A proposed development within any airport noise zone
 505 identified in the federal land use compatibility table.

506 (c) A proposed development that exceeds maximum height
 507 restrictions identified in the political subdivision's airport
 508 zoning regulation adopted pursuant to this section.

509 Section 6. Subsection (35) of section 420.507, Florida
 510 Statutes, is amended to read:

511 420.507 Powers of the corporation.—The corporation shall
 512 have all the powers necessary or convenient to carry out and
 513 effectuate the purposes and provisions of this part, including
 514 the following powers which are in addition to all other powers
 515 granted by other provisions of this part:

516 (35) To preclude any applicant, sponsor, or affiliate of an
 517 applicant or sponsor from further participation in any of the
 518 corporation's programs as provided in s. 420.518, ~~any applicant~~
 519 ~~or affiliate of an applicant which has made a material~~
 520 ~~misrepresentation or engaged in fraudulent actions in connection~~
 521 ~~with any application for a corporation program.~~

522 Section 7. Subsection (3) of section 420.5096, Florida

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523 Statutes, is amended to read:

524 420.5096 Florida Hometown Hero Program.—

525 (3) For loans made available pursuant to s.

526 420.507(23)(a)1. or 2., the corporation may underwrite and make
527 those mortgage loans through the program to persons or families
528 who have household incomes that do not exceed 150 percent of the
529 state median income or local median income, whichever is
530 greater. A borrower must be seeking to purchase a home as a
531 primary residence; must be a first-time homebuyer and a Florida
532 resident; and must be employed full-time by a Florida-based
533 employer. The borrower must provide documentation of full-time
534 employment, or full-time status for self-employed individuals,
535 ~~of 35 hours or more per week.~~ The requirement to be a first-time
536 homebuyer does not apply to a borrower who is an active duty
537 servicemember of a branch of the armed forces or the Florida
538 National Guard, as defined in s. 250.01, or a veteran.

539 Section 8. Section 420.518, Florida Statutes, is amended to
540 read:

541 420.518 Preclusion from participation in corporation
542 programs ~~Fraudulent or material misrepresentation.—~~

543 (1) An applicant, a sponsor, or an affiliate of an
544 applicant or a sponsor may be precluded from participation in
545 any corporation program if the applicant or affiliate of the
546 applicant has:

547 (a) Made a material misrepresentation or engaged in
548 fraudulent actions in connection with any corporation program.

549 (b) Been convicted or found guilty of, or entered a plea of
550 guilty or nolo contendere to, regardless of adjudication, a
551 crime in any jurisdiction which directly relates to the

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

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552 financing, construction, or management of affordable housing or
553 the fraudulent procurement of state or federal funds. The record
554 of a conviction certified or authenticated in such form as to be
555 admissible in evidence under the laws of the state shall be
556 admissible as prima facie evidence of such guilt.

557 (c) Been excluded from any federal funding program related
558 to the provision of housing, including debarment from
559 participation in federal housing programs by the United States
560 Department of Housing and Urban Development.

561 (d) Been excluded from any federal or Florida procurement
562 programs.

563 (e) Offered or given consideration, other than the
564 consideration to provide affordable housing, with respect to a
565 local contribution.

566 (f) Demonstrated a pattern of noncompliance and a failure
567 to correct any such noncompliance after notice from the
568 corporation in the construction, operation, or management of one
569 or more developments funded through a corporation program.

570 (g) Materially or repeatedly violated any condition imposed
571 by the corporation in connection with the administration of a
572 corporation program, including a land use restriction agreement,
573 an extended use agreement, or any other financing or regulatory
574 agreement with the corporation.

575 (2) Upon a determination by the board of directors of the
576 corporation that an applicant or affiliate of the applicant be
577 precluded from participation in any corporation program, the
578 board may issue an order taking any or all of the following
579 actions:

580 (a) Preclude such applicant or affiliate from applying for

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581 funding from any corporation program for a specified period. The
582 period may be a specified period of time or permanent in nature.
583 With regard to establishing the duration, the board shall
584 consider the facts and circumstances, inclusive of the
585 compliance history of the applicant or affiliate of the
586 applicant, the type of action under subsection (1), and the
587 degree of harm to the corporation's programs that has been or
588 may be done.

589 (b) Revoke any funding previously awarded by the
590 corporation for any development for which construction or
591 rehabilitation has not commenced.

592 (3) Before any order issued under this section can be
593 final, an administrative complaint must be served on the
594 applicant, affiliate of the applicant, or its registered agent
595 that provides notification of findings of the board, the
596 intended action, and the opportunity to request a proceeding
597 pursuant to ss. 120.569 and 120.57.

598 (4) Any funding, allocation of federal housing credits,
599 credit underwriting procedures, or application review for any
600 development for which construction or rehabilitation has not
601 commenced may be suspended by the corporation upon the service
602 of an administrative complaint on the applicant, affiliate of
603 the applicant, or its registered agent. The suspension shall be
604 effective from the date the administrative complaint is served
605 until an order issued by the corporation in regard to that
606 complaint becomes final.

607 Section 9. For the 2024-2025 fiscal year, from the funds
608 received and deposited into the General Revenue Fund from the
609 state's allocation from the federal Coronavirus State Fiscal

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610 Recovery Fund created under the American Rescue Plan Act of
611 2021, Pub. L. No. 117-2, the sum of \$100 million in nonrecurring
612 funds is appropriated to the State Housing Trust Fund for use by
613 the Florida Housing Finance Corporation to implement the Florida
614 Hometown Hero Program established in s. 420.5096, Florida
615 Statutes.

616 Section 10. This act shall take effect upon becoming a law.

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The Florida Senate

APPEARANCE RECORD

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1/31/24

Meeting Date

328

Bill Number or Topic

Fiscal Policy

Committee

143920

Amendment Barcode (if applicable)

Name Courtney Mooney

Phone 772-201-0531

Address 100 S Monroe

Street

Email Cmooney@flcounties.com

Tallahassee FL

City

State

32301

Zip

The Amendment

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: FL Association of Counties

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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The Florida Senate

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Meeting Date

328
Bill Number or Topic

Fiscal Policy
Committee

143920
Amendment Barcode (if applicable)

Name JEFF STAZICKY

Phone 850 224 1000

Address 100 E Colony Ave
Street

Email jstazicky@gsen.com

DH
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:

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

WANDOVER HOUSING PARTNERS

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 \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-Joint-Rules.pdf)

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Meeting Date

SR 328

Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Murphy Kennedy Giering

Phone (407) 232-3820

Address 200 S Monroe St

Street

Email murphykg@floridareactors.org

Tallahassee

City

FL

State

32399

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 Reactors

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.

01-31-2024

Meeting Date

Fiscal Policy

Committee

The Florida Senate

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SB 328

Bill Number or Topic

Amendment Barcode (if applicable)

Name E. Ivonne Fernandez

Phone 954-850-7262

Address 215 S Monroe Street - 601

Email ifernandez@aarp.org

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:

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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/31/24

Meeting Date

S B 328

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Bryan Eastman

Phone 850 933-1524

Address 621 NW 12th Ave

Email EastmanB@CityofGainesville.org

Street

Gainesville FL 32601

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 \(flsenate.gov\)](#)

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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 Fiscal Policy

BILL: CS/SB 514

INTRODUCER: Senate Committee on Banking and Insurance and Senator Boyd

SUBJECT: Mortgage Brokering

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Moody</u>	<u>Yeatman</u>	<u>FP</u>	<u>Favorable</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 514 expands the list of loan originators, mortgage brokers, and mortgage lenders who are exempted from regulation under ch. 494, F.S., to include a bona fide nonprofit organization and its employees in certain circumstances.

The bill provides that for an organization to be a “bona fide nonprofit organization,” the Office of Financial Regulation (“OFR”) must apply criteria and processes established by rule to determine whether the organization satisfies a list of factors that must be met, including that the organization that is exempt from federal income tax under s. 501(c)(3), I.R.C., promotes affordable housing or provides homeownership education or similar services, conducts its activities in a manner that serves public or charitable purposes, and that meets other specified criteria.

The OFR must determine whether the loan terms are consistent with loan origination in a public or charitable context, rather than a commercial context. The OFR must periodically examine the books and activities of the organization and revoke its status as a bona fide nonprofit organization if the specified criteria do not continue to be met.

The bill provides the Financial Services Commission (“Commission”) with rulemaking authority to prescribe criteria and processes for the OFR to determine whether an organization satisfies the requirements of a bona fide nonprofit organization.

The bill is effective July 1, 2024.

II. Present Situation:

The 2008 financial crisis began when losses on mortgage-related financial assets caused large financial firms to experience financial distress, ultimately resulting in significant decreases in the value of the United States housing market and the United State economy entering into a severe recession that would ultimately be labeled the “Great Recession.”¹ In response, the United States Congress enacted the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Act) (12 U.S.C. s. 5101-5116), to reduce fraud and regulatory burden, enhance consumer protection, and increase uniformity.²

The S.A.F.E. Act

Enacted on July 30, 2008, the S.A.F.E. Act establishes minimum standards for the licensing and registration of state-licensed mortgage loan originators, and mandates a nationwide licensing and registration system for residential mortgage loan originators. In 2009, Florida adopted this requirement for loan originators in s. 494.00312, F.S.³ Florida also adopted parallel requirements for persons (employers, businesses, and individuals) who are applicants for licenses as mortgage brokers and mortgage lenders, exceeding the federal requirement. States are allowed to provide for exemptions from the S.A.F.E. Act to bona fide nonprofit organization or its employees if, under criteria and pursuant to processes established by the state, the state supervisory authority determines that the organization:⁴

- Has the status of a tax-exempt organization under s. 501(c)(3) of the Internal Revenue Code of 1986;
- Promotes affordable housing or provides homeownership education, or similar services;
- Conducts its activities in a manner that serves public or charitable purposes, rather than commercial purposes;
- Receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interests of its clients;
- Compensates its employees in a manner that does not incentivize employees to act other than in the best interests of its clients;
- Provides or identifies for the borrower residential mortgage loans with terms favorable to the borrower⁵ and comparable to mortgage loans and housing assistance provided under government housing assistance programs; and
- Meets other standards that the state determines are appropriate.

¹John Weinberg, *The Great Recession and Its Aftermath*, Federal Reserve History (Nov. 22, 2013).

<https://www.federalreservehistory.org/essays/great-recession-and-its-aftermath> (last visited January 10, 2024).

² 12 U.S.C. s. 5101.

³ See Ch. 2009-241, L.O.F.

⁴ 18 C.F.R. s. 1008.103(e)(7)(ii).

⁵ A state must determine that the terms are consistent with loan origination in a public or charitable context, rather than a commercial context, for residential mortgage loans to have terms that are favorable to the borrower. 12 C.F.R. 1008.103(e)(7)(iv).

Under the S.A.F.E. Act, the state must periodically review the books and activities of the bona fide nonprofit organization it determines is a bona fide nonprofit organization and revoke its status if the organization does not continue to meet the above criteria.⁶

State Regulation of Non-Depository Mortgage Business

The OFR regulates state-chartered banks, credit unions, other financial institutions, as well as finance companies, and the securities industry.⁷ The OFR's Division of Consumer Finance licenses and regulates various aspects of the non-depository financial services industries, including individuals and businesses engaged in the mortgage business.

Under ch. 494, F.S., the OFR licenses and regulates the following individuals and businesses:

- A **loan originator**, who, directly or indirectly, solicits or offers to solicit a mortgage loan, accepts or offers to accept an application for a mortgage loan, negotiates or offers to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender, or negotiates or offers to negotiate the sale of an existing mortgage loan to a noninstitutional investor for compensation or gain. The term includes an individual who is required to be licensed as a loan originator under the S.A.F.E. Act. The term does not include an employee of a mortgage broker or mortgage lender whose duties are limited to physically handling a completed application form or transmitting a completed application form to a lender on behalf of a prospective borrower.⁸
- A **mortgage broker**, who conducts loan originator activities through one or more licensed loan originators employed by the mortgage broker or as independent contractors to the mortgage broker.⁹
- A **mortgage lender**, who makes a mortgage loan or services a mortgage loan for others, or, for compensation or gain, directly or indirectly, sells or offers to sell a mortgage loan to a noninstitutional investor.¹⁰ A mortgage lender may act as a mortgage broker.¹¹

Exemptions

The following persons are exempt from loan originator, mortgage broker and mortgage lender regulations under ch. 494, F.S.:¹²

- Any person operating exclusively as a registered loan originator¹³ in accordance with the S.A.F.E. Act.

⁶ 12 C.F.R. s. 1008.103(e)(7)(iii).

⁷ Section 20.121(3)(a)2. and (d), F.S. The OFR is housed within the Financial Services Commission (commission). The commission, comprised of the Governor and Cabinet, appoints the OFR Commissioner. The commission is a separate budget entity under the Department of Financial Services (DFS), and is not subject to the control or supervision by the DFS.

⁸ Section 494.001(18), F.S.

⁹ Section 494.001(23), F.S.

¹⁰ Section 494.001(24), F.S.

¹¹ Section 494.0073, F.S.

¹² Section 494.00115(1), F.S.

¹³ Section 494.001(31), F.S., defines a "registered loan originator" as "a loan originator who is employed by a depository institution, by a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or by an institution regulated by the Farm Credit Administration, and who is registered with and maintains a unique identifier through the [Nationwide Mortgage Licensing System and Registry]." A registered loan originator must comply with federal registration requirements rather than the loan originator licensing requirements under ch. 494, F.S.

- A depository institution; certain regulated subsidiaries owned and controlled by a depository institution; or institutions regulated by the Farm Credit Administration.
- The Federal National Mortgage Association; the Federal Home Loan Mortgage Corporation; any agency of the Federal Government; any state, county, or municipal government; or any quasi-governmental agency that acts in such capacity under the specific authority of the laws of any state or the United States.
- An attorney licensed in this state who negotiates the terms of a mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client.
- A person involved solely in the extension of credit relating to the purchase of a timeshare plan.
- A person who performs only real estate brokerage activities and is licensed or registered in this state under part I of ch. 475, F.S., unless the person is compensated by a lender, a mortgage broker, or other loan originator or by an agent of such lender, mortgage broker, or other loan originator.

The following persons are exempt from the mortgage lender licensing requirements of ch. 494, F.S.:¹⁴

- A person acting in a fiduciary capacity conferred by the authority of a court.
- A person who, as a seller of his or her own real property, receives one or more mortgages in a purchase money transaction.
- A person who acts solely under contract and as an agent for federal, state, or municipal agencies for the purpose of servicing mortgage loans.
- A person who makes only nonresidential mortgage loans and sells loans only to institutional investors.
- An individual making or acquiring a mortgage loan using his or her own funds for his or her own investment, and who does not hold himself or herself out to the public as being in the mortgage lending business.
- An individual selling a mortgage that was made or purchased with that individual's funds for his or her own investment, and who does not hold himself or herself out to the public as being in the mortgage lending business.

A securities dealer, investment advisor, or associated person registered under ch. 517, F.S., is exempt from regulation as a loan originator or mortgage broker under ch. 494, F.S., if specified criteria are met.¹⁵

There is no exemption under current Florida law for bona fide nonprofit organizations and its employees. However, there are a few jurisdictions that have adopted exemptions for nonprofit organizations.¹⁶

¹⁴ Section 494.00115(3), F.S.

¹⁵ Section 494.00115(2), F.S.

¹⁶ Examples of other jurisdictions that have an exemption relating to nonprofit organizations include Ohio, Georgia, and Indiana. *See* Ohio Rev. Code s. 1322.01(AA)(2)(g); O.C.G.A. s. 7-1-1001(a)(18); and IN Code s. 24-4.4-1-202. Colorado exempts mortgage loan originators of self-help housing organizations, or employees or volunteers of self-help housing organizations, from licensing and other regulatory requirements. C.R.S. s. 12-10-709.

Powers and Duties of the Commission and OFR

The OFR is responsible for the administration and enforcement of ch. 494., F.S., relating to loan originators and mortgage brokers.¹⁷ The Commission has discretion to adopt rules to administer the chapter, including, but not limited to, rules relating to compliance with specified requirements of the S.A.F.E. Mortgage Licensing Act of 2008.¹⁸ Current law does not specifically authorize the Commission to adopt rules to prescribe the criteria and processes that must be used by the OFR to determine whether an organization is and remains a bona fide nonprofit organization.

Licensing

Under ch. 494, F.S., these licensees are subject to:

- Requirements for the maintenance of books and records relating to the licensee’s compliance with the chapter, with regard to expenses paid by the licensee on behalf of the borrower, and relating to its advertisements.¹⁹
- Investigations and examinations by the OFR.²⁰
- The OFR’s enforcement authority, such as injunctions, cease and desist orders, suspension or revocation of licensure, and administrative fines.²¹

In order to obtain a license as a mortgage loan originator, an individual must:²²

- Be at least 18 years of age and have a high school diploma or its equivalent;
- Complete a 20-hour prelicensing class;²³
- Pass a written test;²⁴
- Submit an application form;
- Submit nonrefundable application fees totaling \$215;
- Submit fingerprints, the cost of which is borne by the applicant; and
- Authorize access to his or her credit report, the cost of which is borne by the applicant.

In order to obtain a license as a mortgage broker, a person must:²⁵

- Submit an application form, which must designate a qualified principal loan originator;
- Submit nonrefundable application fees totaling \$525;
- Submit fingerprints for each of the applicant’s control persons,²⁶ the cost of which is borne by the person subject to the background check; and

¹⁷ Section 494.0011(1), F.S.

¹⁸ Section 494.0011(2), F.S.

¹⁹ Sections 494.0016 and 494.00165(2), F.S.

²⁰ Section 494.0012, F.S.

²¹ Sections 494.0013, 494.0014, and 494.00255, F.S.

²² Section 494.00312, F.S.

²³ The cost of prelicensing courses may vary by course provider, but one such course provider charges \$349 for the required 20-hour course. See MortgageEducation.com, Mortgage Loan Originator Courses, <https://www.mortgage-education.com/StatePage.aspx?StateCode=FL> (last visited December 20, 2023).

²⁴ The cost of written test is \$110. See Nationwide Multistate Licensing System & Registry, Uniform State Test (UST) Implementation Information, [Public - SAFE MLO Testing FAQ \(csbs.org\)](https://www.nmls.org/public-safemlo-testing-faq) (last visited December 20, 2023).

²⁵ Section 494.00321, F.S.

²⁶ “Control persons” is defined in s. 494.001(7), F.S., to mean, in part, “an individual, partnership, corporation, trust, or other organization that possesses the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise.”

- Authorize access to the credit reports on each of the applicant's control persons, the cost of which is borne by the applicant.

In order to obtain licensure as a mortgage lender, a person must:²⁷

- Submit an application form, which must designate a qualified principal loan originator;
- Submit nonrefundable application fees totaling \$600;
- Submit fingerprints for each of the applicant's control persons, the cost of which is borne by the person subject to the background check;
- Submit a copy of the applicant's financial audit report for the most recent fiscal year, which must document that the applicant has a net worth of at least \$63,000 if the applicant is not seeking a servicing endorsement, or at least \$250,000 if the applicant is seeking a servicing endorsement; and
- Authorize access to the credit reports of each of the applicant's control persons, the cost of which is borne by the applicant.

A mortgage loan originator, broker, and lender license is subject to annual renewal by December 31, and must meet specified criteria to be eligible for renewal.²⁸

Examinations and Investigations

The OFR has the authority to conduct an investigation of any person who the OFR has reason to believe has violated or is about to violate ch. 494, F.S.²⁹ The OFR also has authority to conduct intermittent examinations of any licensee or other person under the provisions of ch. 494, F.S.

Violations

The OFR has statutory authority to impose disciplinary actions against any person who engages in specified conduct,³⁰ such as:

- Failure to disburse funds in compliance with agreements;³¹
- Fraud, misrepresentation, deceit, negligence, or incompetence in any mortgage financing transaction;³² and
- Consistently and materially underestimating maximum closing costs.³³

The disciplinary actions the OFR may take include, for instance, suspension, revocation, or denial of a license, or the imposition of a fine of up to \$25,000 for each count or separate offense.³⁴

²⁷ Section 494.00611, F.S.

²⁸ Sections 494.00312(7), 494.00321(7), and 494.00611(10), F.S.

²⁹ Section 494.0012, F.S.

³⁰ Section 494.00255(2), F.S.

³¹ Section 494.00255(1)(c), F.S.

³² Section 494.00255(1)(d), F.S.

³³ Section 494.00255(1)(e), F.S.

³⁴ Section 494.00255(2), F.S.

Any person who knowingly acts as a loan originator, mortgage broker, or mortgage lender without a current and active license issued pursuant to ch. 494, F.S., commits a felony of the third degree, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.³⁵

Any person who violates any provisions of ch. 494, F.S., in which the total value of money and property unlawfully obtained exceeds \$50,000 and there are five or more victims, commits a felony of the first degree, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.³⁶

Habitat for Humanity, a Florida Nonprofit Organization

Habitat for Humanity of Florida (“Habitat”) was incorporated in 2009 as a nonprofit organization and provides affordable housing for communities in Florida.³⁷ Individuals who purchase homes built through Habitat must comply with a rigorous qualification process, complete financial and homeowner education courses, contribute physically to the construction of the home, undergo background screening, and meet minimum financial requirements (e.g. monthly mortgage payments may not be greater than thirty percent of the borrower’s monthly income).³⁸ Habitat staff are not compensated to incentivize them to refer any borrowers to lenders or loan products that are not affordable or in the borrower’s best interests.³⁹ A summary comparing current Florida law requirements and the Habitat qualified loan originator requirements are below:⁴⁰

<u>State of Florida</u> <u>Mortgage Loan Originator</u>	<u>Habitat Qualified Loan Originator</u>
Complete 20 hours of approved education courses, of which a minimum of 2 hours must cover the provisions of Florida law and rules. ⁴¹	Complete 17 courses provided in partnership by Habitat, the American Bankers Association, and an additional Florida-specific course which covers Florida law and rules.
Pass national and state testing requirements. ⁴²	Testing not required.
Pass state and federal background checks. ⁴³	Pass state and federal background checks.
Authorize and pass a credit check. ⁴⁴	Authorize and pass a credit check.

On August 12, 2010, the OFR issued a nonbinding informal legal opinion to Habitat which concludes that the organization’s affiliates and their staff are outside the scope of the S.A.F.E.

³⁵ Section 494.0018(1), F.S.

³⁶ Section 494.0018(2), F.S.

³⁷ Habitat, *Habitat for Humanity of Florida Milestones*, available at: [Florida History — Habitat for Humanity Florida \(habitatflorida.org\)](https://floridahistory.org/habitat-for-humanity-florida) (last visited Jan. 2, 2024); Habitat, *How Habitat Works*, available at: [How Habitat Works — Habitat for Humanity Florida \(habitatflorida.org\)](https://habitatflorida.org/how-habitat-works) (last visited Jan. 2, 2024).

³⁸ Habitat for Humanity of Florida White Paper, *Habitat for Humanity & the SAFE Act Exemption* (on file with the Senate Committee on Banking and Insurance).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Section 494.00312(2)(b), F.S.

⁴² Section 494.00312(2)(c), F.S.

⁴³ Section 494.00312(2)(f), F.S.

⁴⁴ Section 494.00312(2)(g).

Act definition of loan originator that has been codified in Florida law.⁴⁵ The OFR determined that Habitat's employees are not acting for "compensation or gain" based largely on Habitat's requirement of "no profit mortgages" and on several factors relating to its pricing and fees policies.⁴⁶

III. Effect of Proposed Changes:

Section 2 of the bill adds s. 494.00115(g) to exempt a bona fide nonprofit organization and its employees from the regulations under ch. 494, F.S. This exemption is substantially similar to the exemption permitted under the S.A.F.E. Act except that the exemption in the bill also covers the bona fide organization (not only the employee of such organization).

The bill establishes an exemption from regulation under ch. 494, F.S., for:

- A bona fide nonprofit organization; and
- An employee of the bona fide nonprofit organization who acts as a loan originator only with respect to his or her work duties to the bona fide nonprofit organization and who acts as a loan originator only with respect to residential mortgage loans with terms that are favorable to the borrower.

For an organization to be a "bona fide nonprofit organization," the OFR must determine, pursuant to criteria and processes established by rule, whether the organization satisfies all of the following factors:

- Has the status of a tax-exempt organization under s. 501(c)(3), I.R.C.
- Promotes affordable housing or provides homeownership education or similar services.
- Conducts its activities in a manner that serves public or charitable purposes rather than commercial purposes.
- Receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interests of its clients.
- Compensates its employees in a manner that does not incentivize employees to act other than in the best interests of its clients.
- Provides or identifies for the borrower residential mortgage loans with terms favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs. For residential mortgage loans to be deemed to have terms that are favorable to the borrower, the OFR must determine that the terms are consistent with loan origination in a public or charitable context, rather than a commercial context.

This exemption provides the OFR with authority to periodically examine the books and activities of an organization it determines is a bona fide nonprofit organization and allows the OFR to revoke its status as a bona fide organization if it does not continue to meet the specified criteria set out in the paragraph above.

⁴⁵ Letter from the OFR to Lori Harris, Executive Director, Habitat for Humanity of Florida, *Habitat for Humanity of Florida – Request for Legal Opinion OFR Case No. 0868-FR-3/10* (on file with the Senate Committee on Banking and Insurance).

⁴⁶ *Id.*

Section 1 of the bill expands the Commission’s rulemaking authority under s. 494.0011(2)(b), F.S., relating to compliance with the S.A.F.E. Act, to prescribe criteria and processes for determining whether an organization is and remains a bona fide nonprofit organization for the purpose of determining whether the organization and its employees acting as loan originators may be exempt from regulation under ch. 494, F.S.

Section 3 of the bill provides for an effective date of July 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:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Employees of entities that meet the criteria for the exemption under SB 542 should benefit financially by not having to pay costs associated with licensure requirements under ch. 494.0115, F.S. The total number of nonprofit organizations that are eligible for the exemption is unclear.

C. Government Sector Impact:

The OFR reports that it has not identified any fiscal impact that would result from the proposed legislation.⁴⁷

⁴⁷ The OFR, *2024 Agency Legislative Bill Analysis Florida Office of Financial Regulation*, Dec. 22, 2023, (on file with the Senate Committee on Banking and Insurance).

VI. Technical Deficiencies:**VII. Related Issues:**

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 494.0011 and 49400115.

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 Banking and Insurance Committee on January 16, 2024:**

- Confirms the provisions of the bill to the S.A.F.E. Act exemption for bona fide nonprofit organizations' employees from loan originator and mortgage broker regulation;
- Clarifies the conditions under which an employee may be exempt from the S.A.F.E. Act regulations adopted in Florida law;
- Provides that the OFR must determine whether an organization is a bona fide nonprofit organization based on specified factors;
- Requires the OFR to determine that the terms of the loan are consistent with loan origination in public or charitable context, rather than a commercial context;
- Requires the OFR to periodically examine the books and activities of the organization and revoke its status if the organization does not continue to meet the requirements; and
- Provides the Commission with rulemaking authority to prescribe criteria and processes required for the OFR to make the determinations regarding bona fide nonprofit organizations.

B. Amendments:

None.

By the Committee on Banking and Insurance; and Senator Boyd

597-02162-24

2024514c1

1 A bill to be entitled
 2 An act relating to mortgage brokering; amending s.
 3 494.0011, F.S.; authorizing the Financial Services
 4 Commission to adopt rules prescribing criteria and
 5 processes for determining whether an organization is a
 6 bona fide nonprofit organization for a specified
 7 purpose; amending s. 494.00115, F.S.; providing
 8 exemptions from regulation under ch. 494, F.S., for
 9 bona fide nonprofit organizations and certain
 10 employees of a bona fide nonprofit organization that
 11 meet specified criteria; requiring the Office of
 12 Financial Regulation to make a specified
 13 determination; requiring the office to make certain a
 14 determination related to the terms of residential
 15 mortgage loans originated by such employees; requiring
 16 the office to periodically examine the books and
 17 activities of a bona fide nonprofit organization and
 18 to revoke its status in certain circumstances;
 19 providing an effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Paragraph (b) of subsection (2) of section
 24 494.0011, Florida Statutes, is amended to read:
 25 494.0011 Powers and duties of the commission and office.—
 26 (2) The commission may adopt rules to administer parts I,
 27 II, and III of this chapter, including rules:
 28 (b) Relating to compliance with the S.A.F.E. Mortgage
 29 Licensing Act of 2008, including rules to:

Page 1 of 4

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

597-02162-24

2024514c1

30 1. Require loan originators, mortgage brokers, mortgage
 31 lenders, and branch offices to register through the registry.
 32 2. Require the use of uniform forms that have been approved
 33 by the registry, and any subsequent amendments to such forms if
 34 the forms are substantially in compliance with the provisions of
 35 this chapter. Uniform forms that the commission may adopt
 36 include, but are not limited to:
 37 a. Uniform Mortgage Lender/Mortgage Broker Form, MU1.
 38 b. Uniform Mortgage Biographical Statement & Consent Form,
 39 MU2.
 40 c. Uniform Mortgage Branch Office Form, MU3.
 41 d. Uniform Individual Mortgage License/Registration &
 42 Consent Form, MU4.
 43 3. Require the filing of forms, documents, and fees in
 44 accordance with the requirements of the registry.
 45 4. Prescribe requirements for amending or surrendering a
 46 license or other activities as the commission deems necessary
 47 for the office's participation in the registry.
 48 5. Prescribe procedures that allow a licensee to challenge
 49 information contained in the registry.
 50 6. Prescribe procedures for reporting violations of this
 51 chapter and disciplinary actions on licensees to the registry.
 52 7. Prescribe criteria and processes for determining whether
 53 an organization is and remains a bona fide nonprofit
 54 organization for the purpose of determining whether the
 55 organization and its employees acting as loan originators may be
 56 exempt from regulation under this chapter pursuant to s.
 57 494.00115.
 58 Section 2. Present subsections (3), (4), and (5) of section

Page 2 of 4

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

597-02162-24 2024514c1

59 494.00115, Florida Statutes, are redesignated as subsections
60 (4), (5), and (6), respectively, and a new subsection (3) is
61 added to that section, to read:

62 494.00115 Exemptions.—

63 (3) (a) As provided in this subsection, a bona fide
64 nonprofit organization and an employee of a bona fide nonprofit
65 organization who acts as a loan originator only with respect to
66 his or her work duties to the bona fide nonprofit organization,
67 and who acts as a loan originator only with respect to
68 residential mortgage loans with terms that are favorable to the
69 borrower, are exempt from regulation under this chapter.

70 1. For an organization to be considered a bona fide
71 nonprofit organization under this subsection, the office must
72 determine, pursuant to criteria and processes established by
73 rule, that the organization satisfies all of the following
74 criteria:

75 a. Has the status of a tax-exempt organization under s.
76 501(c) (3) of the Internal Revenue Code of 1986.

77 b. Promotes affordable housing or provides homeownership
78 education or similar services.

79 c. Conducts its activities in a manner that serves public
80 or charitable purposes rather than commercial purposes.

81 d. Receives funding and revenue and charges fees in a
82 manner that does not incentivize it or its employees to act
83 other than in the best interests of its clients.

84 e. Compensates its employees in a manner that does not
85 incentivize employees to act other than in the best interests of
86 its clients.

87 f. Provides or identifies for the borrower residential

597-02162-24 2024514c1

88 mortgage loans with terms favorable to the borrower and
89 comparable to mortgage loans and housing assistance provided
90 under government housing assistance programs.

91 2. For residential mortgage loans to be deemed under this
92 section to have terms that are favorable to the borrower, the
93 office must determine that the terms are consistent with loan
94 origination in a public or charitable context, rather than a
95 commercial context.

96 (b) The office must periodically examine the books and
97 activities of an organization that it determines is a bona fide
98 nonprofit organization and revoke its status as a bona fide
99 nonprofit organization if it does not continue to meet the
100 criteria specified in paragraph (a).

101 Section 3. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

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

514

Bill Number or Topic

1/31/24

Meeting Date

Fiscal Policy
Committee

Amendment Barcode (if applicable)

Name Chris Dawson

Phone 407 8438880

Address 301 E. Pine St., Ste. 1400
Street

Email chris.dawson@gray-robinson.com

Orlando FL 32801
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:

Habitat for Humanity of Hillsborough County

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.

APPEARANCE RECORD

514

1/31/24

Meeting Date

Bill Number or Topic

Fiscal Policy

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

Committee

Amendment Barcode (if applicable)

Name **Robert Stuart**

Phone **850-577-9090**

Address **301 S Bronough St, Suite 600**

Email **robert.stuart@gray-robinson.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:

Habitat for Humanity of Florida

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 Fiscal Policy

BILL: CS/SB 544

INTRODUCER: Health Policy Committee and Senator Hutson and others

SUBJECT: Swimming Lesson Voucher Program

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Brown</u>	<u>HP</u>	Fav/CS
2.	<u>Gerbrandt</u>	<u>McKnight</u>	<u>AHS</u>	Favorable
3.	<u>Looke</u>	<u>Yeatman</u>	<u>FP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 544 creates s. 514.073, F.S., to establish the Swimming Lesson Voucher Program within the Department of Health (DOH) to increase water safety by offering vouchers for swimming lessons to families with an income of up to 200 percent of the federal poverty level that have one or more children four years of age or younger. The bill requires the DOH to establish eligibility criteria for the vouchers, contract with a network of swimming lesson vendors to ensure availability, and to establish methods for members of the public to apply for vouchers.

The bill appropriates \$500,000 in nonrecurring general revenue to the DOH to fund the program. The DOH may incur costs related to workload. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

The Danger of Drowning

Drowning is one of the leading causes of accidental death among children. For all ages, the current annual global estimate is 295,000 drowning deaths, although this figure is thought to underreport fatal drowning, in particular boating and disaster related drowning mortality.

Drowning disproportionately impacts children and young people, with over half of all drowning deaths occurring among people younger than 25 years old. In many countries, children under five years of age record the highest rate of fatal and non-fatal drowning, with incidents commonly occurring in swimming pools and bathtubs in high income countries and in bodies of water in and around a home in low income contexts.¹

Drowning Deaths in Florida

Drowning deaths in Florida have consistently ranged between 350 and 500 deaths per year in the state from 2003 to present. Data from 2022 shows that most counties suffered less than 10 deaths from drowning in that year, but many highly populated and coastal counties suffered from a much higher rate of drowning.² For example, Broward County had 46 drowning deaths in 2022, Miami-Dade had 30, Hillsborough had 33, and Palm Beach had 42.³

Formal Swimming Lessons and Drowning Prevention

Learning to swim has been found to be an effective drowning prevention strategy and has been proposed by the World Health Organization as one of ten key strategies for global drowning prevention. Participation in formal swimming lessons has been shown to reduce drowning risk among children aged 1-19 years, and a recent review of evidence suggests that teaching aquatic competencies to young children causes no increased risk, particularly when combined with the additional drowning prevention strategies of supervision, restricting access to water and caregiver training in cardiopulmonary resuscitation (CPR).⁴ Swimming lessons have been found to be particularly effective in protecting children age 0-4 from drowning with one study showing that formal swimming lessons were associated with an 88 percent reduction in the risk for drowning for that population.⁵

III. Effect of Proposed Changes:

The bill creates the Swimming Lesson Voucher Program (program) within the Department of Health (DOH). The purpose of the program is to increase water safety in Florida by offering vouchers for swimming lessons at no cost to families at or below 200 percent of the FPL and who have at least one child aged four or younger. The bill requires the DOH to:

- Contract with and establish a network of swimming lesson vendors that will accept the vouchers offered by the program. The bill specifies that the DOH must attempt to contract with at least one swimming lesson vendor in each county. Additionally, the bill requires that

¹ Peden AE, Franklin RC. Learning to Swim: An Exploration of Negative Prior Aquatic Experiences among Children. *Int J Environ Res Public Health*. 2020 May 19;17(10):3557. doi: 10.3390/ijerph17103557. PMID: 32438661; PMCID: PMC7277817. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7277817/>. (Last visited Jan. 11, 2024).

² Florida Health Charts, Deaths from Unintentional Drowning, available at <https://www.flhealthcharts.gov/ChartsDashboards/rdPage.aspx?rdReport=Death.DataViewer&cid=0105>, (last visited Jan 10, 2024).

³ *Id.*

⁴ *Supra*, note. 2

⁵ Brenner RA, Taneja GS, Haynie DL, Trumble AC, Qian C, Klinger RM, Klebanoff MA. Association between swimming lessons and drowning in childhood: a case-control study. *Arch Pediatr Adolesc Med*. 2009 Mar;163(3):203-10. doi: 10.1001/archpediatrics.2008.563. PMID: 19255386; PMCID: PMC4151293.

any vendor that offers swimming lessons at a public pool that is owned or maintained by a county or municipality must participate in the program.

- Establish a method for members of the public to apply for vouchers and for determining the applicant's eligibility. The bill requires the DOH to establish eligibility criteria including, but not limited to:
 - The age of each child for whom a voucher is being sought, which can be no more than four years of age;
 - The family's income level up to 200 percent of the FPL; and
 - The family's address of residency in Florida.
- Subject to a specific appropriation, issue vouchers to eligible applicants

The bill appropriates \$500,000 in nonrecurring general revenue to the DOH to fund the program. The bill also authorizes the DOH to seek grants or other public or private funding for the program and requires the DOH to adopt rules to implement the program.

The bill takes effect July 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:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have a positive fiscal impact on families seeking swimming lessons for children who qualify for vouchers under the program.

C. **Government Sector Impact:**

The bill appropriates \$500,000 in nonrecurring general revenue to the Department of Health (DOH) to fund the program.

The DOH may incur a significant negative impact due to the bill's provisions requiring the DOH to develop an application review process and maintain a network of swimming lesson vendors in each county. It is unclear if these costs can be absorbed within current resources. The DOH has not submitted a fiscal impact analysis at the time of this publication.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill creates section 514.073 of the Florida Statutes.

IX. **Additional Information:**

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

CS by Health Policy on January 16, 2024:

The CS adds a \$500,000 nonrecurring appropriation from general revenue to the DOH to fund the program.

B. **Amendments:**

None.

By the Committee on Health Policy; and Senators Hutson, Berman,
and Book

588-02171-24

2024544c1

1 A bill to be entitled
2 An act relating to the Swimming Lesson Voucher
3 Program; creating s. 514.073, F.S.; creating the
4 program within the Department of Health for a
5 specified purpose; requiring the department to
6 contract with and establish a network of swimming
7 lesson vendors to participate in the program;
8 requiring the department to attempt to secure a vendor
9 in each county; requiring certain vendors to
10 participate in the program if requested by the
11 department; requiring the department to establish an
12 application process; specifying eligibility criteria
13 for the program; providing that the program is subject
14 to specific appropriation; authorizing the department
15 to seek grants or other public and private funding for
16 the program; requiring the department to adopt rules;
17 providing an appropriation; providing an effective
18 date.

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

21
22 Section 1. Section 514.073, Florida Statutes, is created to
23 read:

24 514.073 Swimming Lesson Voucher Program.-

25 (1) There is created within the department the Swimming
26 Lesson Voucher Program. The purpose of the program is to
27 increase water safety in this state by offering vouchers for
28 swimming lessons at no cost to families with an income of no
29 more than 200 percent of the federal poverty level who have one

Page 1 of 3

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

588-02171-24

2024544c1

30 or more children 4 years of age or younger.
31 (2) The department shall do all of the following to
32 implement the program:
33 (a) Contract with and establish a network of swimming
34 lesson vendors that will accept the vouchers offered by the
35 program in exchange for providing swimming lessons. To ensure
36 that the swimming lessons are available throughout this state,
37 the department must attempt to secure at least one such vendor
38 in each county. Any swimming lesson vendor that offers swimming
39 lessons at a public pool that is owned or maintained by a county
40 or municipality must, if requested by the department,
41 participate in the program.
42 (b) Establish a method for members of the public to apply
43 for swimming lesson vouchers and for determining an applicant's
44 eligibility. The department shall establish eligibility criteria
45 necessary for a family to receive one or more vouchers from the
46 program, including, but not limited to, the following:
47 1. The age of each child for whom a voucher is being
48 sought, who may be no more than 4 years of age.
49 2. The family income level, which may be up to 200 percent
50 of the federal poverty level.
51 3. The family's address of residency in this state.
52 (c) Subject to specific appropriation, issue vouchers to
53 eligible applicants.
54 (3) The department may seek grants or other public or
55 private funding for the program.
56 (4) The department shall adopt rules to implement the
57 program.
58 Section 2. For the 2024-2025 fiscal year, the sum of

Page 2 of 3

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

588-02171-24

2024544c1

59 \$500,000 in nonrecurring funds is appropriated from the General
60 Revenue Fund to the Department of Health to fund the Swimming
61 Lesson Voucher Program established by this act.

62 Section 3. This act shall take effect July 1, 2024.

1/31/2024

Meeting Date

Fiscal Policy

Committee

The Florida Senate

APPEARANCE RECORD

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

SB 544

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Jessica Cimijotti**

Phone **850-222-5052**

Address **106 N Bronough St**

Email **jcimijotti@floridataxwatch.org**

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:

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 \(flsenate.gov\)](https://www.flsenate.gov/legislation/joint-rules/2020-2022-joint-rules)

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 Fiscal Policy

BILL: SB 674

INTRODUCER: Senator Boyd

SUBJECT: United States-produced Iron and Steel in Public Works Projects

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McVaney</u>	<u>GO</u>	Favorable
2.	<u>Harmsen</u>	<u>Yeatman</u>	<u>FP</u>	Favorable

I. Summary:

SB 674 requires a governmental entity that contracts for a public works project or for the purchase of materials for a public works project to require that any iron or steel product that will be permanently incorporated into the project be produced in the United States.

The bill waives this contract requirement if the governmental entity determines that any of the following apply:

- The iron or steel products required are not produced in the United States in sufficient quantities, are not reasonably available, or are of an unsatisfactory quality;
- The use will increase the total cost of the project by more than 20 percent; or
- Compliance is inconsistent with the public interest.

A governmental entity may allow a minimal use of foreign iron or steel materials in the project, if they are ancillary to the primary product and the cost of the materials does not exceed 0.10 percent of the total contract cost, or \$2,500, whichever is greater.

These provisions do not apply to contracts procured by the Florida Department of Transportation that are subject to the federal Buy America requirements.

The bill requires the Department of Management Services to develop guidelines and procedures by rule to implement the bill.

The bill has an indeterminate negative fiscal impact on state and local expenditures.

The bill takes effect July 1, 2024.

II. Present Situation:

United States Steel

China is the largest global producer of steel, and makes approximately 55 percent of the world's crude steel output.¹ The U.S. ranks fourth, behind China, India, and Japan, and produces 4.5 percent of the world's crude steel output.²

Steel produced in the U.S. is relatively more expensive compared to its global competitors³ for several reasons; the primary cause is that restrictions on steel imports into the U.S. create a more narrow market. However, the U.S. has trade agreements that allow a specified amount of duty-free steel to enter the U.S. from the EU, Japan, and the United Kingdom.⁴ Additionally, the U.S.-Mexico-Canada Agreement allows steel mill products to move throughout the three countries duty-free.⁵ In 2022, the U.S. imported approximately 30 million net tons of finished steel products.⁶ In 2021, Canada accounted for 47 percent, and Mexico for 46 percent, of total imports. China accounts for approximately 2 percent of imports.⁷

Additionally, the U.S. market has transitioned to harder-to-make steel products, which ultimately incentivizes exporting those higher quality (and higher priced) items, and importing less sophisticated products, such as ingots and rebar.⁸ In 2022, the U.S. exported 8 million net tons of steel product.⁹

The price of steel has been relatively volatile in recent years, due largely to supply chain issues. The chart below represents the price for specific steel commodities over the last 6 years.¹⁰

¹ These figures represent monthly steel outputs for September 2023. U.S. Department of Commerce, International Trade Administration, U.S. *Steel Executive Summary: July- September 2023*, 5, <https://www.trade.gov/data-visualization/us-steel-executive-summary#:~:text=From%20August%202023%20to%20September,to%202.0%20million%20metric%20tons.&text=In%20September%202023%2C%20capacity%20utilization,from%2076.6%25%20in%20August%202023>. (last visited Jan. 8, 2024).

² *Id.*

³ In September 2023, U.S. price per metric ton of hot rolled band (a global benchmark for the price of steel) was \$753, compared to Europe's \$665, and China's \$453. *Id.* at 4.

⁴ CONGRESSIONAL RESEARCH SERVICE, Christopher Watson, *Domestic Steel Manufacturing: Overview and Prospects*, 6 (May 17, 2022) <https://crsreports.congress.gov/product/pdf/R/R47107> (last visited Jan. 8, 2024).

⁵ THE HILL, Sylvan Lane, *Canada, Mexico lift tariffs on US goods after Trump Scraps Steel, Aluminum Levies* (May 20, 2019), <https://thehill.com/policy/finance/444581-canada-mexico-lift-tariffs-on-us-goods-after-trump-scraps-steel-aluminum/> (last visited Mar. 14, 2023). *See also*, CONGRESSIONAL RESEARCH SERVICE, Christopher Watson, *Import Monitoring Systems: Steel and Aluminum* (Mar. 29, 2023), <https://crsreports.congress.gov/product/pdf/IF/IF12363> (last visited Jan. 8, 2024).

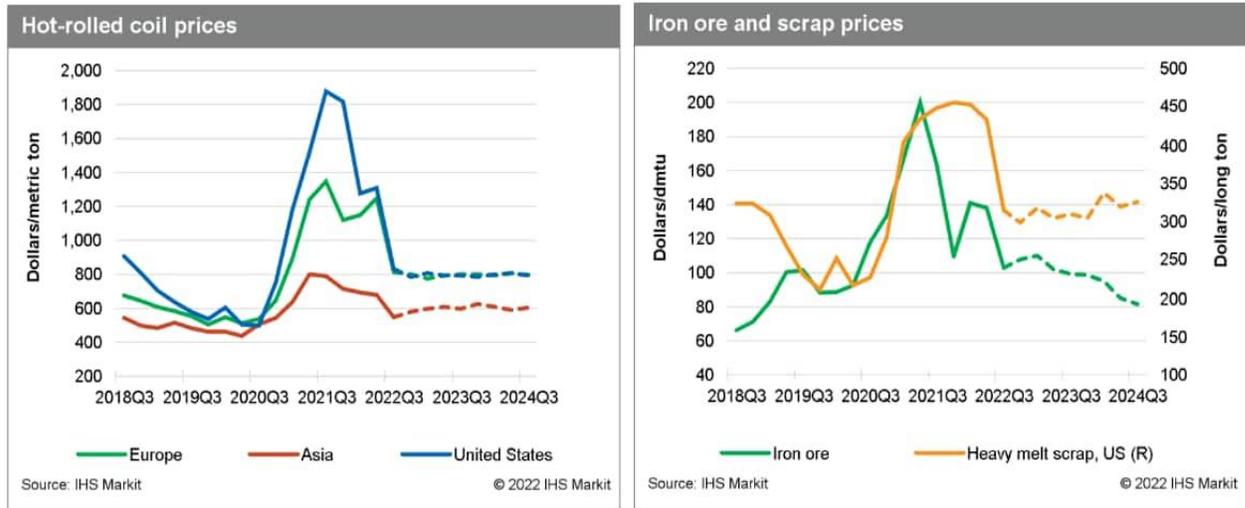
⁶ AMERICAN IRON AND STEEL INSTITUTE, *Finished Steel Imports up 11% in 2022* (Jan. 26, 2023), <https://www.steel.org/wp-content/uploads/2023/01/IMP2212.pdf> (last visited Jan. 8, 2024).

⁷ Watson, *supra* note 4 at 4.

⁸ Watson, *supra* note 4 at 7.

⁹ OECD, *Steel Market Developments: Q4 2022*, 21 <https://www.oecd.org/industry/ind/steel-market-developments-Q4-2022.pdf> (last visited Mar. 14, 2023)

¹⁰ John Anton, S&P GLOBAL MARKET INTELLIGENCE, *Steel Price Forecast and Steel Market Outlook: Prices Soften on Weaker Steel Demand Outlook* (<https://www.spglobal.com/marketintelligence/en/mi/solutions/steel-forecast.html>) (last visited Jan. 8, 2024).



Federal Provisions

A suite of federal laws and rules require federal agencies that procure specific goods, products, and materials, and other entities that use federal financial assistance, to give preference to those goods, products, and materials manufactured primarily in the United States.¹¹

Buy American Act of 1933

The Buy American Act (BAA)¹² of 1933 requires federal agencies to purchase domestic end products and use domestic construction materials in any contract valued at more than \$10,000. For purposes of the BAA, iron or steel products are considered domestic if the cost of the domestic components within the iron or steel product constitute at least 95 percent of the total cost of the product.¹³

Under the BAA, a federal agency may purchase a foreign-made product if it determines that the domestic product will cost unreasonably more.¹⁴ A price for an end product that is not a critical item and that does not contain critical components is unreasonable under the BAA if the domestic offer is not the lowest offer after applying the following domestic preference price offsets:¹⁵

- 20 percent added to the low offer for end products, if the lowest domestic offer is from a large business;
- 30 percent added to the low offer for end products, if the lowest domestic offer is from a small business; or
- 20 percent added to the low offer for construction materials.

¹¹ General Services Administration, Made in America.gov, *Frequently Asked Questions: Are Buy America and Buy American the Same?*, <https://www.madeinamerica.gov/> (last visited Jan. 8, 2024).

¹² BAA, 41 U.S.C. §§8301-8305.

¹³ 41 U.S.C. §8302(c)(1) and 48 C.F.R. §25.003. This definition differs from that which applies to the subsequent Build America, Buy America Act.

¹⁴ D. Carpenter and B. Murrill, Congressional Research Service, *The Buy American Act and Other Federal Procurement Domestic Content Restrictions* (Nov. 8, 2022), available at <https://crsreports.congress.gov/product/pdf/R/R46748> (last visited Jan. 8, 2024).

¹⁵ 48 C.F.R. §25.106

Other exceptions to the BAA apply when:¹⁶

- The procurement of domestic goods, or the use of domestic construction materials is “impracticable” or “inconsistent with the public interest”;
- Domestic end products or construction materials are unavailable “insufficient and reasonably available commercial quantities and of a satisfactory quality”;
- The contracting officer determines that the cost of domestic end products or construction materials would be “unreasonable”; or
- The items are procured for use outside the United States.

Build America, Buy America Act

The Build America, Buy America Act¹⁷ (BABA), enacted as part of the Infrastructure Investment and Jobs Act of 2021, amends the Build American Act and related Buy America provisions. BABA requires that all infrastructure projects that use federal financial assistance programs use iron and steel that is produced in the United States; this includes public works projects taken on by state or local governments and even private entities that receive federal funds for the project.¹⁸

BABA defines iron or steel products produced in the United States as those made, through all of their manufacturing processes (from melting through application of coatings), in the United States.¹⁹ If American made iron or steel will increase the total cost of the project by more than 25 percent, then an award may be given to a bid that uses foreign iron or steel.²⁰ This price preference does not apply in pre- and post-disaster or emergency response expenditures, or in cases in which a treaty or WTO agreement allows the use of a foreign product.

Florida Construction Contracts

The Department of Management Services (DMS) manages projects throughout the state, including new construction, renovations, and consulting services for various public works projects. The Bureau of Building Construction (Bureau), within the DMS, oversees public building construction statewide. The Bureau is also responsible for managing fixed capital outlay funds appropriated by the Legislature and for overseeing the repair and renovation of DMS-managed facilities.²¹

¹⁶ 48 C.F.R. §25.202

¹⁷ Pub. L. 117-58, Title IX (Nov. 15, 2021), available at <https://www.hud.gov/sites/dfiles/GC/documents/Build%20America,%20Buy%20America%20Act%20Provisions.pdf> (last visited Jan. 8, 2024).

¹⁸ See, Christopher Watson, Congressional Research Service, *OMB Issues Final Guidance on “Buy America” Domestic Preference Requirements* (Aug. 24, 2023), available at <https://crsreports.congress.gov/product/pdf/IN/IN12230> (last visited Jan. 8, 2024). See also, Office of Management and Budget, *Memorandum regarding Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure*, M-24-02, 4 (Oct. 25, 2023), available at <https://www.whitehouse.gov/wp-content/uploads/2023/10/M-24-02-Buy-America-Implementation-Guidance-Update.pdf> (last visited Jan. 8, 2024).

¹⁹ Pub. L. 117-58, Title IX, s. 70912.

²⁰ 2 C.F.R. §184.7

²¹ DMS, *Building Construction*, https://www.dms.myflorida.com/business_operations/real_estate_development_and_management/building_construction (last visited Jan. 8, 2024).

Chapter 255, F.S., specifies the procedures required in the procurement of construction services for public property and publicly owned buildings. Section 255.29, F.S., authorizes the DMS to adopt rules for bidding on building construction contracts. These rules must establish the procedures to:

- Determine the qualifications and responsibility of potential bidders prior to advertising for and receiving bids for building construction contracts;
- Award each state agency construction project to the lowest qualified bidder;
- Negotiate for construction contracts and contract modifications when such negotiations are determined to be in the best interest of the state; and
- Enter into performance-based contracts for the development of public facilities when those contracts are determined to be in the best interest of the state.²²

State contracts for construction projects that are projected to cost in excess of \$200,000 must be competitively bid.²³ The solicitation of competitive bids or proposals for such state construction projects must be publicly advertised in the Florida Administrative Register (FAR) for at least 21 days prior to the bid opening. If the project is expected to cost more than \$500,000, the advertisement must be published for 30 days in the FAR, and at least one time, at least 30 days prior to bid opening, in a newspaper of general circulation in the county where the project is located.²⁴

A county, municipality, special district, or other political subdivision that seeks to construct or improve a public building must competitively award each project estimated to cost more than \$300,000.²⁵ Like state construction project procurements, these county and municipality procurements are subject to publishing requirements.²⁶

Chapter 337, F.S., governs contracts entered into by the Florida Department of Transportation (FDOT). FDOT has authority to enter into contracts for the construction and maintenance of all State Highway or State Park systems' roads, rest areas, weigh stations, parking areas, supporting facilities, and any associated building.²⁷ The FDOT must certify as qualified any bidders for a construction contract, road, bridge, or public construction project that exceeds \$250,000 in cost.²⁸ The certification process ensures that the bidders have professional and financial competence by evaluating them "with respect to the equipment, past record, experience, financial resources, and organizational personnel of the applicant necessary to perform the specific class of work for which the person seeks certification."²⁹

²² See Rule 60D-5.001-60D-5.010, F.A.C.

²³ Section 255.0525, F.S.

²⁴ Section 255.0525(1), F.S.

²⁵ Section 255.20, F.S.

²⁶ See, s. 255.0525(2), F.S., which requires a project of \$200,000 or more to be advertised in a newspaper of general circulation in the county where the project is located at least **21** days prior to bid opening, and at least 5 days prior to any prebid conference. If the project will cost more than \$500,000, it must be advertised in a newspaper of general circulation in the county where the project is located for at least **30** days prior to bid opening, and 5 days prior to any prebid conference.

²⁷ Section 337.11, F.S.

²⁸ Section 337.14(1), F.S.

²⁹ *Id.*

III. Effect of Proposed Changes:

Section 1 creates s. 255.0993, F.S., to require a governmental entity that contracts for a public works project or for the purchase of materials for a public works project to require, by terms incorporated into the contract, that any iron or steel product that will be used permanently in the project be produced in the United States.

Governmental entities are exempt from this requirement if the administering governmental entity determines that:

- Iron or steel products that are produced in the United States are not produced in sufficient quantities, reasonably available, or of satisfactory quality;
- The use of U.S. produced iron or steel will increase the total cost of the project by more than 20 percent; or
- It is inconsistent with public interest to comply with the requirement.

Therefore, a project manager that agrees to use domestically produced iron or steel in its public works project may be awarded the contract even though its bid is up to 20 percent higher than the next lowest bid which does not use domestic iron or steel.

It is not clear at what point the administering governmental entity must decide to waive the requirement to use U.S. iron or steel product based on the above factors, although it would likely vary depending on the type of procurement used.

Additionally, a project may use a minimal amount of foreign steel and iron materials if the materials are incidental or ancillary to the primary product and are not separately identified in the project's specifications, or if the cost of those materials does not exceed .10 percent of the total contract cost, or \$2,500—whichever is greater.

Electrical components, equipment, systems, and appurtenances (including supports, covers, shielding, and other appurtenances that are related to the electrical system and that are necessary for operation or concealment) are not considered iron or steel products for purposes of this bill. However, electrical transmission and distribution poles *are* considered iron and steel products.

Public works projects subject to this pricing preference include any activity that is paid for with state-appropriated funds or state funds administered by a governmental entity, which consists of construction, maintenance, repair, renovation, remodeling, or improvement of the following: a building, road, street, sewer, storm drain, water system, site development, irrigation system, reclamation project, gas or electrical distribution system, gas or electrical substation, or other facility, project, or portion thereof that is owned, in whole or in part, by a governmental entity.

For purposes of this bill, a “governmental entity” is the state, or any of its offices, boards, bureaus, commissions, departments, branches, divisions, or institutions, and any separate agency or unit of local government that is created or established by law or ordinance, and those entities’ officers. Therefore, any county, city, town, municipality, school district, taxing district, water management district, higher education institution, and other public agency or body is a “governmental entity.”

The bill also defines iron or steel “produced in the United States” as that which undergoes all of its manufacturing processes,³⁰ from initial melting through application of coatings, in the United States. Mere assembly and any metallurgical process to refine steel additives are not considered manners of production under this bill.

The bill requires the DMS to develop guidelines and procedures by rule to implement the bill.

The bill does not apply to contracts procured by the FDOT that are subject to the federal Buy America requirements of 23 C.F.R. s. 635.410.³¹ Additionally, the bill states that it must be applied consistent with, and not construed to impair, the state’s obligations under any international agreement.

Section 2 makes a legislative finding that the bill fulfills an important state interest.

Section 3 provides that the bill will take effect on July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the State Constitution provides, in pertinent part, that “no county or municipality shall be bound by any general law requiring such county or municipality to spend funds or take an action requiring the expenditure of funds unless the legislature has determined that such law fulfills an important state interest and unless:”

- The law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; or
- The expenditure is required to comply with a law that applies to all persons similarly situated, including state and local governments.

The bill requires a county or municipality that enters into a contract for a public works project to select bidders that agree to use iron or steel products that are produced in the United States, and pay up to 20 percent more of the total cost of the project for that preference. To the extent that a local government uses any amount of state funds, and pays for the remaining portion of the project with its own funds, this requirement could increase the local government’s costs.

³⁰ The term “manufacturing process” is also defined by the bill as the application of a process to alter the form or function of materials or elements of a product in a manner that adds value and transforms the materials or elements into a new finished product that is functionally different from a finished product produced only by assembling materials or elements into a product without applying such a process.

³¹ 23 C.F.R. s. 635.410 requires highway construction projects that use federal aid to either (1) include no permanently incorporated steel or iron materials, or use all U.S.-manufactured iron or steel; (2) use a state contract provision that requires the use of domestic materials and products to the same, or greater extent as this section; (3) Require all bidders to submit a bid that uses domestic steel and iron materials and clearly state that the contract will be awarded to the bidder who submits the lowest bid using domestic steel and iron, unless the bid exceeds the lowest total bid based on using foreign steel and iron by more than 25 percent; or (4) Use only a minimal amount of foreign steel and iron, the total of which does not exceed 0.1 percent of the contract cost or \$2,500, whichever is greater. This provision also includes waivers.

The bill applies to all similarly situated governmental entities in the State of Florida, including state agencies, school districts, universities, and colleges. Section 2 of the bill contains a legislative finding that the bill fulfills an important state interest. Thus, the bill appears to be binding on counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The requirement to buy American steel could increase the cost of some projects, such as building highway bridges and procuring transit railcars and buses. This may result in fewer projects being undertaken.³²

A private contractor that use iron or steel products that are produced in the United States may be able to seek higher payments for its work on a public works project, whether or not the materials cost more than foreign iron or steel. This may open the field to smaller contractors that require a larger margin to cover their costs on potential public works projects.

C. Government Sector Impact:

The cost to state and local governments is indeterminate. These costs, however, may be significant because the bill requires government entities to enter into contracts for public works projects using American-produced iron or steel that may be up to 20 percent more expensive than a lower bid that uses foreign-produced iron or steel. This 20 percent cost

³² See, M. Platzer and W. Mallett, Congressional Research Service, *Effects of Buy America on Transportation Infrastructure and U.S. Manufacturing*, p. 1 (July 2, 2019), <https://crsreports.congress.gov/product/pdf/R/R44266> (last visited Jan. 8, 2024).

differential relates to the overall cost of contract inputs, not solely to the iron and steel inputs.

There may be additional workload relating to the documentation of and research related to application of a waiver from the requirement to use US iron or steel in construction projects. This workload will likely be absorbed within current resources.

VI. Technical Deficiencies:

The bill appears to contemplate application of its price preference to FDOT contracts that use state funds (a similar price preference is currently in place for highway projects that use federal funds). However, this preference contradicts s. 337.11(4), F.S., which requires the FDOT to award construction and maintenance work for contracts over \$250,000 to the lowest responsible bidder, or the lowest evaluated responsible bidder in the instance of a time-plus-money contract. For clarity, the Legislature may consider including the price preference in s. 337.11, F.S., as well.

VII. Related Issues:

It is unclear how the governmental entity will determine whether the use of domestic steel increases the cost of the total project by 20 percent or more. One possibility would be to draft the procurement for construction services to allow bidders to submit two bids—one that uses U.S. steel, and one that uses foreign steel. Alternatively, the solicitation could allow bidders to specify which type of steel they are using in their bid, and then the contract manager (if enough bids that use domestic and foreign steel are submitted) could compare the costs prior to moving on to the next phase of the bid or negotiation process.

The federal Office of Management and Budget requires an agency that approves a waiver from BABA price preference requirements to demonstrate its due diligence of its determination by documenting the following:

- List of iron or steel item(s), manufactured products, and construction material(s) proposed to be excepted from Buy America requirements, including name, cost, country(ies) of origin (if known), and relevant Product and Service Code (PSC) and North American Industry Classification System (NAICS) code for each.
- A description of efforts made (e.g., market research, industry outreach, etc.) by the Federal awarding agency and, in the case of a project or award specific waiver, by the recipient, in an attempt to avoid the need for a waiver. Such a description may cite, if applicable, the absence of any Buy America-compliant bids received in response to a solicitation.
- Market research, where applicable, should include relevant details, including who conducted the market research, when it was conducted, sources that were used, and the methods used to conduct the research.
- Anticipated impact if no waiver is issued.³³

³³ Memorandum regarding Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure, *supra* note 18.

VIII. Statutes Affected:

This bill substantially amends section 255.0993 of the Florida Statutes.

IX. Additional Information:

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

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 Boyd

20-00757-24

2024674__

A bill to be entitled

An act relating to United States-produced iron and steel in public works projects; creating s. 255.0993, F.S.; defining terms; requiring governmental entities to include a requirement in certain contracts that certain iron or steel products be produced in the United States; providing exceptions; authorizing the minimal use of foreign steel and iron materials in certain circumstances; exempting specified products from the requirement; providing construction; requiring the Department of Management Services to adopt rules for specified purposes; providing applicability; providing a declaration of important state interest; providing an effective date.

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

Section 1. Section 255.0993, Florida Statutes, is created to read:

255.0993 Public works projects; United States-produced iron and steel products.-

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

(a) "Governmental entity" means the state, or any office, board, bureau, commission, department, branch, division, or institution thereof, or a separate agency or unit of local government created or established by law or ordinance and the officers thereof. The term includes, but is not limited to, a county; a city, a town, or other municipality; or a department, a commission, an authority, a school district, a taxing

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district, a water management district, a board, a public corporation, an institution of higher education, or other public agency or body thereof authorized to expend public funds for the construction, maintenance, repair, renovation, remodeling, or improvement of public works.

(b) "Iron or steel product" means any product made primarily of iron or steel, including, but not limited to, lined or unlined pipes and fittings; bars and rods; wire, wire ropes, and link chains; forgings; grating and drainage products; access covers, hatches, manhole covers, and other castings; hydrants; electric transmission and distribution poles; tanks; flanges; pipe clamps and restraints; valves; structural steel and other steel mill products; materials made primarily of iron and steel within precast concrete; and other construction materials made primarily of iron or steel.

(c) "Manufacturing process" means the application of a process to alter the form or function of materials or elements of a product in a manner that adds value and transforms the materials or elements into a new finished product functionally different from a finished product produced merely from assembling materials or elements into a product without applying such a process.

(d) "Produced in the United States" means that, with respect to iron and steel, all manufacturing processes, from initial melting through application of coatings, occur in the United States, other than metallurgical processes to refine steel additives.

(e) "Public works project" means an activity paid for with any state-appropriated funds or state funds administered by a

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59 governmental entity which consists of the construction,
 60 maintenance, repair, renovation, remodeling, or improvement of a
 61 building, road, street, sewer, storm drain, water system, site
 62 development, irrigation system, reclamation project, gas or
 63 electrical distribution system, gas or electrical substation, or
 64 other facility, project, or portion thereof owned in whole or in
 65 part by any governmental entity.

66 (2) UNITED STATES-PRODUCED IRON AND STEEL REQUIREMENT.—

67 (a) Notwithstanding any other law, a governmental entity
 68 entering into a contract for a public works project or for the
 69 purchase of materials for a public works project must include in
 70 the contract a requirement that any iron or steel product
 71 permanently incorporated in the project be produced in the
 72 United States.

73 (b) Paragraph (a) does not apply if the governmental entity
 74 administering the funds for a public works project or the
 75 purchase of materials for a public works project solely
 76 determines that any of the following applies:

77 1. Iron or steel products produced in the United States are
 78 not produced in sufficient quantities, reasonably available, or
 79 of satisfactory quality.

80 2. The use of iron or steel products produced in the United
 81 States will increase the total cost of the project by more than
 82 20 percent.

83 3. Complying with paragraph (a) is inconsistent with the
 84 public interest.

85 (c) When steel and iron materials are used in a public
 86 works project, paragraph (a) does not prevent a minimal use of
 87 foreign steel and iron materials if:

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88 1. Such materials are incidental or ancillary to the
 89 primary product and are not separately identified in the project
 90 specifications; and

91 2. The cost of such materials does not exceed one-tenth of
 92 1 percent of the total contract cost or \$2,500, whichever is
 93 greater. For purposes of this subparagraph, the cost of such
 94 materials is that shown to be the value of the iron or steel
 95 products as they are delivered to the project.

96 (d) Electrical components, equipment, systems, and
 97 appurtenances, including supports, covers, shielding, and other
 98 appurtenances related to an electrical system, necessary for
 99 operation or concealment, except transmission and distribution
 100 poles, are not considered iron or steel products and are exempt
 101 from the requirements of paragraph (a).

102 (3) INTERNATIONAL AGREEMENTS.—This section shall be applied
 103 in a manner consistent with, and may not be construed to impair,
 104 the state's obligations under any international agreement.

105 (4) RULEMAKING.—The Department of Management Services shall
 106 develop guidelines and procedures by rule to implement this
 107 section.

108 (5) APPLICABILITY.—This section does not apply to contracts
 109 procured by the Department of Transportation subject to the Buy
 110 America requirements of 23 C.F.R. s. 635.410.

111 Section 2. The Legislature determines and declares that
 112 this act fulfills an important state interest.

113 Section 3. This act shall take effect July 1, 2024.

The Florida Senate

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1-31-24

Meeting Date

674

Bill Number or Topic

FISCAL Policy

Committee

Amendment Barcode (if applicable)

Name Todd Provost

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FL

State

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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 \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate
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SB 674

Bill Number or Topic

1-31-24

Meeting Date

Fiscal Policy

Committee

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For

Against

Information

OR

Waive Speaking:



In Support

Against

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I am appearing without compensation or sponsorship.

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S-001 (08/10/2021)

The Florida Senate

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1/31/2024

Meeting Date

Fiscal Policy

Committee

0674

Bill Number or Topic

Amendment Barcode (if applicable)

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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:

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1/31/24

Meeting Date

FISCAL POLICY

Committee

SB 674 AS STON

Bill Number or Topic

Amendment Barcode (if applicable)

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Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[x] 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:

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The Florida Senate

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SB 674 Sten
Bill Number or Topic

Jan 31, 2024

Meeting Date

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Arlease Williams

Phone 239-878-9270

Address 3341 Thomas St

Email

Street

Fort Myers FL 33916

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:

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1/31/2024

Meeting Date

SB 0674

Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Christine Derry

Phone 772 807 0866

Address 2913 SW Bridge St

Email ccivrocco685@yahoo.com

Port St Lucie FL

34953

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:

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S-001 (08/10/2021)

The Florida Senate

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Jan 31 '24

Meeting Date

SB 0674

Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Charla S Fox

Phone 239-940-5095

Address 6627 Kestrel Cir

Street

Email charlasfox@aol.com

Ft Myers

City

FL

State

33964

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:

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Meeting Date

0674

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Bryan Porter

Phone

386-682-8243

Address

29961 N.E. 135th St.

Email

Bp179@yahoo.com

Street

Salt Springs Fl

32134

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:

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1/31/24

Meeting Date

SB674

Bill Number or Topic

FISCAL POLICY

Committee

Amendment Barcode (if applicable)

Name GLENDA ABICHT (PRONOUNCED ABBOTT)

Phone 786-376-1181

Address 4305 SW 98 AVE. Street

Email GLENDA.ABICHT@GMAIL.COM

MIAMI FL 33165 City State Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [X] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

- [X] 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:

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1-31-24

Meeting Date

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SB 674

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Eric Gosnell

Phone 321-749-5845

Address 4682 TALBOT BLVD.
Street

Email ericg6@bellsouth.net

Cocoa
City

FL
State

32926
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:

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1/31/2024

Meeting Date

SB674

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Michael Grenon

Phone 321-452-8207

Address 117 Sea Breeze Cir. Street

Email reds87@bellsouth.net

Merritt Island FL City State

32953 Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [X] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[X] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

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1-31-2024

SB674

Meeting Date

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Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Shannon Carson

Phone 407-719-7003

Address 12219 Coral Reef Drive

Email

Street

Orlando

FL

32826

City

State

Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] 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:

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SB 0674
Bill Number or Topic

1/31/2024
Meeting Date

Fiscal Policy
Committee

Amendment Barcode (if applicable)

Name Gretchen Robinson Phone 520-576-6706

Address 520 Ramona Lane Street Email pallas77gr@gmail.com

Orlando FL 32805
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:

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1/31

Meeting Date

Fiscal Policy

Committee

674

Bill Number or Topic

Amendment Barcode (if applicable)

Name Clark Smith

Phone 250-251-3215

Address 23 Santa Adams Fl

Email csunter@TheSouthernGroup.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:

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

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The Florida Senate

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1/31/2024

Meeting Date

SB 674

Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Kevin Shupe

Phone (904) 400-1545

Address 3411 Cutting Ct

Street

Email Loshupe435@outlook.com

Middleburg

City

FL

State

32068

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:

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The Florida Senate

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1-31-2024

Meeting Date

674

Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Jennifer Kenny

Phone 321-277-9385

Address 1917 Quail Ridge Ct. #1901

Street

Email jken606@yahoo.com

Cocoa

City

FL

State

32926

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:

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S-001 (08/10/2021)

The Florida Senate

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31 Jan 2024

Meeting Date

Fiscal Policy

Committee

674

Bill Number or Topic

Amendment Barcode (if applicable)

Name Chris Stranburg

Phone 813-767-9667

Address 107 E College Ave

Email cstranburg@afphg.org

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:

Americans for Prosperity

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

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S-001 (08/10/2021)

The Florida Senate

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01/31/24

Meeting Date

SB 674 J.S. Steer

Bill Number or Topic

FISCAL POLICY

Committee

Amendment Barcode (if applicable)

Name CHASE MITCHELL

Phone (850) 413-4938

Address 400 S MONROE ST

Street

Email CHASE.MITCHELL@MYFLORIDA

CFO.COM

TALLAHASSEE

City

FL

State

32399

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:

CFO JIMMY PATRONIS

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

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SJB 674

Bill Number or Topic

Amendment Barcode (if applicable)

1/31/24

Meeting Date

Fiscal Policy

Committee

Name Lavon Lindsey

Phone 251 983 8359

Address 112 S Broad St

Email

Street

Mobile

City

AL

State

36602

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:

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S-001 (08/10/2021)

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Meeting Date

SB 674

Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Justin Peacock

Phone (850) 566-6181

Address 20569 County Rd 68 W

Email

Robertsdale AL 36567

City

State

Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [X] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

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SB 674

Bill Number or Topic

Amendment Barcode (if applicable)

1-31-2024

Meeting Date

Fiscal Policy

Committee

Name Kammeron Brown

Phone

Address 1008 Redbud Ave

Email

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:

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S-001 (08/10/2021)

The Florida Senate

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3/31/24

Meeting Date

SB 674

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Dr. Rich Templin

Phone

Address 133 S. Monroe

Email

Street

Tallahassee

FL

32304

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: Florida AFC-CLO

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

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1-31-24

Meeting Date

~~HB 5136~~ 74

Bill Number or Topic

Appropriations Fiscal
Committee

Amendment Barcode (if applicable)

Name Guillermo Lopez

Phone (772) 834-6705

Address 228 NE Main St.
Street

Email Gilopez5281@gmail.com

P.S.L
City

FL
State

34983
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1-31-24

Meeting Date

SB 274

Bill Number or Topic

FISCAL POLICY

Committee

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

Amendment Barcode (if applicable)

Name

JAVIER AGUILAR

Phone

5612314900

Address

2284 45TH D N

Street

Email

JAGUILAR341@gmail.com

WPB

City

FL 33417

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:

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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 Fiscal Policy

BILL: SB 694

INTRODUCER: Senators Perry and Rouson

SUBJECT: Florida Seal of Fine Arts Program

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sabitsch</u>	<u>Bouck</u>	<u>ED</u>	Favorable
2.	<u>Gray</u>	<u>Elwell</u>	<u>AED</u>	Favorable
3.	<u>Sabitsch</u>	<u>Yeatman</u>	<u>FP</u>	Favorable

I. Summary:

SB 694 establishes the Florida Seal of Fine Arts Program to recognize high school graduates who have met specified criteria in fine arts by having an appropriate Seal of Fine Arts (seal) affixed to the student's high school diploma. Specifically, the bill:

- Establishes the program beginning with the 2024-2025 school year.
- Sets criteria for earning the seal and permits the Department of Education (DOE) to adopt additional criteria.
- Sets requirements for the Commissioner of Education (commissioner) to prepare the seal and provide to school districts a rubric for implementation.
- Sets requirements for school districts including; maintaining records to identify students earning the seal, reporting to the commissioner, affixing the seal to the student's diploma, and indicating on the student's transcript that the seal was earned by the student.
- Prohibits fees associated with the seal.

This bill could have a fiscal impact to the DOE. See section V.

The bill takes effect on July 1, 2024.

II. Present Situation:

The Arts and Florida Students

Florida brings the arts to students in a variety of ways; from promoting an Arts Education Month¹ to enacting arts-related legislation such as:

¹ Florida Department of Education (FDOE), *Memorandum, Arts Education Month (2022)*, available at <https://info.fldoe.org/docushare/dsweb/Get/Document-9476/dps-2022-13.pdf> (last visited Jan. 9, 2024).

- Requiring each school board to provide courses and instruction in the arts for all students, and requiring students to take one credit in fine or performing arts, speech and debate, or practical arts to meet graduation requirements.²
- Establishing the annual art in the capitol competition as a statewide visual arts competition for all public, private, and home education students in grades six through eight.³
- Requiring the Commissioner of Education to annually publish a fine arts report that includes:
 - Student access to and participation in fine arts courses, including visual arts, music, dance, and theatre courses;
 - The number and certification status of educators providing instruction in fine arts courses;
 - Classroom space equipped for fine arts instruction; and
 - The manner in which schools are providing the core curricular content for fine arts established in the state academic standards.⁴

During the 2021-2022 school year, all Florida districts enrolled students in a fine arts course. Statewide 61 percent (1,736,659) of all students enrolled in a fine arts course as follows:

- Visual Arts comprising 47 percent of enrollments;
- Music comprising 47 percent of enrollments;
- Theatre comprising 4 percent of enrollments; and
- Dance comprising 2 percent of enrollments.⁵

Florida Seal of Biliteracy Program

The Florida Seal of Biliteracy Program (program) was established in 2016. The program recognizes high school graduates who attain a high level of competency in listening, speaking, reading, and writing in one or more foreign languages in addition to English, and offers two seals: gold and silver.⁶

To earn the gold or silver seal of biliteracy, a Florida high school student who has earned a standard high school diploma must:

- Earn four foreign language course credits in the same foreign language with a cumulative 3.0 GPA or higher;
- Achieve a qualifying scores on a foreign language assessment with the gold seal requiring higher qualifying scores as determined by the State Board of Education (SBE); or
- Satisfy alternative requirements as determined by the SBE.⁷

² Sections 1003.42(1) and 1003.4282(3), F.S.

³ Section 1003.49965, F.S.

⁴ Section 1003.4995, F.S.

⁵ Florida Department of Education, *2021-2022 Fine Arts Report*, <https://www.fldoe.org/academics/standards/subject-areas/fine-arts/> (last visited January 10, 2024).

⁶ Section 1003.432, F.S.

⁷ Rule 6A-1.09951, F.A.C.

Standard High School Diploma Designations

Florida also offers other designations on the standard high school diploma including a “Scholar” designation and an “Industry Scholar” designation. These two designations are not in the form of a seal attached to the diploma.

In order to earn the Scholar designation a students must:

- Earn one credit in Algebra II or an equally rigorous course.
- Pass the statewide Biology I End-Of-Course (EOC) assessment and earn one credit in chemistry or physics and one credit in a course equally rigorous.
- Pass the statewide Geometry EOC assessment.
- Pass the statewide U.S. History EOC assessment or alternate.
- Earn two credits in the same foreign language.
- Earn at least one elective credit in an Advanced Placement, International Baccalaureate, Advanced International Certificate of Education, or a dual enrollment course.

In order to earn the Industry Scholar designation a student must attain one or more industry certifications.⁸

III. Effect of Proposed Changes:

The bill creates s. 1003.4321, F.S., to establish the Florida Seal of Fine Arts Program within the DOE beginning with the 2024-2025 school year. The program is established to recognize high school graduates who have met exemplary benchmarks in fine arts coursework and have demonstrated an exemplary level of proficiency in the performing or visual arts.

The seal will be awarded to high school students who have earned a standard diploma and meet the following requirements:

- Completes three year-long courses or three sequential courses in dance, music, theatre or the visual arts with a grade of “A” in each of the three courses.
- Meets any two of the following requirements:
 - Completes a fine arts International Baccalaureate, Advanced Placement, dual enrollment, or honors course in dance, music, theatre or the visual arts with a grade of “B” or higher.
 - Participates in a district or statewide organization’s juried event as a selected student participant for two or more years.
 - Records as least 25 volunteer hours of arts-related community service in his or her community and make a comprehensive presentation of his or her experience.
 - Receives district, state, or national recognition for the creation of an original work of art, which is defined as “a musical or theatrical composition, visual artwork, or choreographed routine or performance.”

The bill allows the DOE to establish additional criteria for awarding of the seal.

The bill directs the Commissioner of Education to do the following:

- Prepare and provide to each district an appropriate seal for the diploma.

⁸ Section 1003.4285, F.S.

- Provide each district with a rubric to implement the program.

The bill directs each school district to do the following:

- Maintain records of students who have earned the Seal of Fine Arts.
- Report to the DOE the number of students who have met the requirement to earn the seal.
- Affix the appropriate seal to the diploma of students who have earned the seal.

The bill prohibits districts or the DOE from charging a fee associated with the seal.

The bill requires the DOE adopt rules to administer the program.

The bill takes effect on July 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:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DOE may incur a cost to provide the seal for diplomas. However, the department should be able to absorb such costs within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 1003.4321 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 Perry

9-00720-24

2024694__

1 A bill to be entitled
 2 An act relating to the Florida Seal of Fine Arts
 3 Program; creating s. 1003.4321, F.S.; establishing the
 4 program within the Department of Education; providing
 5 the purpose of the program; specifying eligibility
 6 requirements for the awarding of the Seal of Fine
 7 Arts; defining the term "work of art"; authorizing the
 8 State Board of Education to adopt additional criteria
 9 for the award of the seal; requiring the Commissioner
 10 of Education and school districts to perform specified
 11 duties to administer the program; prohibiting a school
 12 district or the department from charging a fee for the
 13 seal; requiring the state board to adopt rules;
 14 providing an effective date.

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

16 Section 1. Section 1003.4321, Florida Statutes, is created
 17 to read:

18 1003.4321 Florida Seal of Fine Arts Program for high school
 19 graduates.—

20 (1) The Florida Seal of Fine Arts Program is established
 21 within the Department of Education to recognize high school
 22 graduates who have met exemplary benchmarks in fine arts
 23 coursework.

24 (2) The purpose of the program is to encourage students to
 25 develop an exemplary level of proficiency in the performing or
 26 visual arts.

27 (3) (a) Beginning with the 2024-2025 school year, the Seal
 28

29 Page 1 of 3

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

9-00720-24

2024694__

30 of Fine Arts shall be awarded to a high school student who has
 31 earned a standard high school diploma; successfully completed at
 32 least three year-long courses in dance, music, theatre, or the
 33 visual arts with a grade of "A" or higher in each course or
 34 earned three sequential course credits in such courses with a
 35 grade of "A" or higher in each course; and meets a minimum of
 36 two of the following requirements:

37 1. Successfully completes a fine arts International
 38 Baccalaureate, Advanced Placement, dual enrollment, or honors
 39 course in the subjects listed in this paragraph with a grade of
 40 "B" or higher.

41 2. Participates in a district or statewide organization's
 42 juried event as a selected student participant for 2 or more
 43 years.

44 3. Records at least 25 volunteer hours of arts-related
 45 community service in his or her community and presents a
 46 comprehensive presentation on his or her experiences.

47 4. Meets the requirements of a portfolio-based program
 48 identifying the student as an exemplary practitioner of the fine
 49 arts.

50 5. Receives district, state, or national recognition for
 51 the creation and submission of an original work of art. For
 52 purposes of this subparagraph, the term "work of art" means a
 53 musical or theatrical composition, visual artwork, or
 54 choreographed routine or performance.

55 (b) The State Board of Education may establish additional
 56 criteria for the award of the Seal of Fine Arts.

57 (4) The Commissioner of Education shall do all of the
 58 following:

Page 2 of 3

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

9-00720-24

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59 (a) Prepare for and provide to each school district an
60 appropriate seal to be affixed to a student's diploma indicating
61 that the student has been awarded the Seal of Fine Arts.

62 (b) Provide appropriate benchmarks in rubric form which are
63 necessary for a school district to successfully implement the
64 program.

65 (5) Each school district shall do all of the following:

66 (a) Maintain appropriate records to identify a student who
67 has met the requirements to receive the Seal of Fine Arts.

68 (b) Provide the Commissioner of Education with the number
69 of students who have met the requirements to receive the Seal of
70 Fine Arts.

71 (c) Affix the appropriate insignia to the student's diploma
72 and indicate on the student's transcript that he or she has
73 earned the Seal of Fine Arts.

74 (6) A school district or the department may not charge a
75 fee for the Seal of Fine Arts.

76 (7) The State Board of Education shall adopt rules to
77 administer this section, including, but not limited to, all of
78 the following:

79 (a) A process created in rubric form to confirm a student's
80 successful completion of the requirements in subsection (3).

81 (b) Any additional requirements a student must meet to be
82 awarded the Seal of Fine Arts.

83 Section 2. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

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

1/31/24

Meeting Date

SB 694

Bill Number or Topic

MISCA Policy
Committee

Amendment Barcode (if applicable)

Name TONY CARVALHO

Phone 850 766-6932

Address 124 W. JEFFERSON ST
Street

Email TONY@CHGMAIL.COM

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:

CENTER FOR FINE ARTS EDUCATION
FLORIDA MUSIC EDUCATION 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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/CS/SB 770

INTRODUCER: Fiscal Policy Committee; Community Affairs Committee and Senator Martin

SUBJECT: Improvements to Real Property

DATE: January 31, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
2.	<u>Hackett</u>	<u>Yeatman</u>	<u>FP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 770 substantially amends a program authorized in current law, commonly known as the “Property Assessed Clean Energy” or “PACE” program, which allows property owners to make qualifying improvements to real property and finance the cost through annual non-ad valorem tax assessments. Qualifying improvements are those that enhance energy efficiency, renewable energy, wind resistance, and newly added by the bill wastewater treatment, flood and water damage mitigation, and sustainable building improvements.

The bill enhances certain protections for consumers entering into PACE contracts, and oversight for contractors that install improvements. The bill expands the universe of improvements this financing may be utilized to install. The bill updates the legislative intent of the PACE statute to reflect the expanded scope of the program, and introduces definitions used to clarify the language of the statute.

The bill does not affect state or local revenues.

The bill takes effect July 1, 2024.

II. Present Situation:

PACE in Florida

In 2010, the Legislature authorized local governments¹ to fund property owners making qualifying improvements and to establish a financing agreement for the repayment of such costs through annual non-ad valorem property tax assessments. Although Florida's law does not use the terms "PACE" or "Property Assessed Clean Energy," it is generally understood that s. 163.08, F.S., is Florida's PACE program.²

Through a PACE program, a property owner³ may apply to a local government for funding to enhance energy conservation and efficiency improvements, such as energy-efficient HVAC systems, replacement of windows, electric vehicle charging equipment, and efficient lighting equipment; renewable energy improvements utilizing hydrogen, solar, geothermal, and wind energy; and wind resistance improvements such as wind-resistant shingles, gable-end bracing, storm shutters, and opening protections.⁴

PACE programs in Florida are formed by local governments and operate typically in partnership with several localities pursuant to an interlocal agreement. Additionally, PACE programs in Florida can be operated by a third-party PACE administrator, which is either a for-profit or not-for-profit entity acting on behalf of the local government.⁵ However, it is the local government that enters into a financing agreement directly with the property owner.⁶ In 2012, the Legislature expanded the definition of "local government" to allow a partnership of local governments formed pursuant to the Florida Interlocal Cooperation Act⁷ to enter into a financing agreement wherein the partnership, as a separate legal entity, imposes the PACE assessment.⁸

At least 30 days before entering into the financing agreement, the property owner must provide notice to any mortgage holder or loan servicer of the intent to enter into the agreement, the maximum amount to be financed, and the maximum annual assessment.⁹ The law provides that an acceleration clause for "payment of the mortgage, note, or lien or other unilateral modification solely as a result of entering into a financing agreement ... is not enforceable." However, the mortgage holder or loan servicer may increase the required monthly escrow by an amount necessary to pay for the qualifying improvement.¹⁰

¹ "Local government" means a county, municipality, a dependent special district as defined in s. 189.012, F.S., or a separate legal entity created pursuant to s. 163.01(7), F.S.

² See generally Erin Deady, *Property Assessed Clean Energy: Is There Finally a Clear Path to Success?* Florida Bar Journal Vol. 90, No. 6, June 2016, pg. 114, available at <https://www.floridabar.org/the-florida-bar-journal/property-assessed-clean-energy-is-there-finally-a-clear-path-to-success/> (last visited Jan. 10, 2024).

³ While nationally it is common to separate PACE programs into residential and commercial programs, Florida Statutes do not differentiate based on the nature of the property. See United States Office of State and Community Energy Programs, *Property Assessed Clean Energy Programs*, available at <https://www.energy.gov/scep/slsc/property-assessed-clean-energy-programs> (last visited Jan. 10, 2024).

⁴ Section 163.08(2)(b), F.S.

⁵ Section 163.08(6), F.S.

⁶ Section 163.08(8), F.S.

⁷ Section 163.01(7), F.S.

⁸ Chapter 2012-117, L.O.F.

⁹ Section 163.08(13), F.S.

¹⁰ Section 163.08(15), F.S.

Qualifying Improvements

The types of projects PACE financing may fund are referred to as “qualifying improvements.” A local government may not offer PACE financing for any project not included in the statutory definition of qualifying improvements. As provided in current law, qualifying improvements include the following:

- Energy conservation and efficiency improvements,¹¹ to include:
 - Air sealing;
 - Installation of insulation;
 - Installation of energy efficient HVAC systems;
 - Building modifications which increase the use of daylight;
 - Replacement of windows;
 - Installation of energy controls or energy recovery systems;
 - Installation of electric vehicle charging equipment; and
 - Installation of efficient lighting equipment.
- Renewable energy improvements,¹² which means installation of any system in which the electrical, mechanical, or thermal energy is produced from a method utilizing hydrogen, solar energy, geothermal energy, bioenergy, or wind energy.
- Wind resistance improvements,¹³ to include
 - Improving the strength of the roof deck attachment;
 - Creating a secondary water barrier to prevent water intrusion;
 - Installing wind-resistant shingles;
 - Installing gable-end bracing;
 - Reinforcing roof-to-wall connections;
 - Installing storm shutters; and
 - Installing opening protections.

Wind resistance improvements applied to buildings under new construction do not qualify for PACE financing.¹⁴

Florida PACE Consumer Protections

Current law provides that, before entering into a financing agreement, the local government must reasonably determine that:

- All property taxes and other assessments are current and have been paid for the preceding 3 years;
- There are no involuntary liens including construction liens;
- There are no notices of default or other evidence of property-based debt delinquency recorded and not released in the preceding 3 years; and
- The property owner is current on all mortgage debt on the property.¹⁵

¹¹ Section 163.08(2)(b)1., F.S.

¹² Section 163.08(2)(b)2., F.S.

¹³ Section 163.08(2)(b)3., F.S.

¹⁴ Section 163.08(10), F.S.

¹⁵ Section 163.08(9), F.S.

Further, any work requiring a license to make a qualifying improvement must be performed by a properly certified or registered contractor.¹⁶ The total amount of PACE assessments for any property may not exceed 20 percent of the property's market value, unless an energy audit determines that the savings from the qualifying improvement equals or exceeds the repayment amount of the non-ad valorem assessment.¹⁷

Consumer Protections for Residential PACE Financing Generally

Concerns have arisen about issues consumers may face regarding residential PACE financing. Because the PACE financing is structured as a tax assessment instead of a loan, PACE programs historically have not been required to provide homeowners with the same disclosures about the financing costs that traditional lenders must provide.

Additionally, the tax liens for PACE financing take priority over other lien-holders, including the property's mortgage holder.¹⁸ Such priority has influenced Fannie Mae and Freddie Mac to refuse the purchase of loans with existing PACE-based tax assessments,¹⁹ and properties encumbered with PACE obligations are not eligible for Federal Housing Administration insured financing.²⁰ However, priority lien position protects local governments, who are authorized to take on debt for the financing they provide.²¹ Advocates also state that the priority lien position enables local governments to offer competitive interest rates, ranging from approximately 6 to 9 percent.²²

Consumer Financial Protection Bureau Steps

In 2018, the United States Congress directed the Consumer Financial Protection Bureau (CFPB) to promulgate regulations regarding PACE financing.²³ The CFPB has issued advance notices of proposed rulemaking in order to apply the Truth in Lending Act's ability-to-repay requirements, currently in place for residential mortgage loans, to PACE financing.²⁴

The existing federal ability-to-repay requirements prohibit creditors from making a residential mortgage loan unless the creditor makes a reasonable and good faith determination based on verified and documented information that, at the time the loan is consummated, the consumer has a reasonable ability to repay the loan according to its terms, and all applicable taxes, insurance,

¹⁶ Section 163.08(11), F.S.

¹⁷ Section 163.08(12), F.S.

¹⁸ Debra Gruszecki, INLAND: Realtors Offer Word of Warning About Solar Financing Program," Jan. 19, 2015, The Press-Enterprise, available at <https://www.pe.com/2015/01/19/inland-realtors-offer-word-of-warning-about-solar-financing-program/> (last visited Jan. 10, 2024).

¹⁹ FHFA, *Statement of the Federal Housing Finance Agency on Certain Super-Priority Liens* (Dec. 22, 2014), available at <https://safeguardproperties.com/statement-of-the-federal-housing-finance-agency-on-certain-super-priority-liens/> (last visited Jan. 10, 2024).

²⁰ "ML 2017-18: Property Assessed Clean Energy (PACE)," December 7, 2017, U.S. Department of Housing and Urban Development, available at <https://www.hud.gov/sites/dfiles/OCHCO/documents/17-18ml.pdf> (last accessed Jan. 10, 2024).

²¹ Section 163.08(7), F.S.

²² *AboutPACE*, Florida PACE Funding Agency, available at <https://floridapace.gov/about-pace/> (last visited Jan. 10, 2024).

²³ Section 307, Economic Growth, Regulatory Relief, and Consumer Protection Act, Public Law No 115-174 (May 24, 2018).

²⁴ Advance Notice of Proposed Rulemaking on Residential Property Assessed Clean Energy Financing, Docket No. CFPB-2019-0011, available at https://files.consumerfinance.gov/f/documents/cfpb_anpr_residential-property-assessed-clean-energy-financing.pdf (last visited Jan. 10, 2024).

and assessments.²⁵ In making such a determination, the creditor must verify and consider specific factors including the consumer’s income, assets, and existing debt obligations.²⁶ The Truth in Lending Act’s stated purpose is “to assure that consumers are offered and receive residential mortgage loans on terms that reasonably reflect their ability to repay the loans and that are understandable and not unfair, deceptive, or abusive.”²⁷

The CFPB’s regulations on residential PACE financing are still in development and have not been finalized at this time.

California’s Consumer Protection Measures

California, one of the three states currently offering residential PACE financing,²⁸ has taken measures to protect consumers independent of federal regulation. In 2016, California’s law changed to require PACE programs to provide mortgage-level disclosures and to conduct live recorded calls with homeowners to confirm financing terms and obligations.²⁹

In 2017, California legislation required that PACE program administrators be licensed by the California Department of Financial Protection and Innovation, provided oversight for contractors and third party solicitors, and authorized the same department to bring enforcement actions against PACE administrators and contractors. The law also required that a PACE administrator thoroughly determine the property owner’s ability to repay the loan before approving a financing contract.³⁰ In 2021 California took further action specifically to protect senior citizens being solicited at home, criminalizing transactions that are part of a pattern in violation of specific PACE consumer protections.³¹

III. Effect of Proposed Changes:

The bill substantially amends Florida’s PACE program in s. 163.08, F.S. The bill splits the current statute into multiple statutes in sequence to define key terms, amend the types of qualifying improvements, impose new consumer protections, extend participation in the program to lessees of government property, and enact new PACE contractor oversight and accountability provisions.

Definitions (Section 1)

The bill amends s. 163.08, F.S., to solely provide definitions for the following terms:

- “Commercial property” means real property other than residential, including multifamily residential, commercial, industrial, agricultural, nonprofit-owned, and government commercial property.

²⁵ *Id.*, citing TILA section 129C(a), 15 U.S.C. 1639c(a).

²⁶ *Id.*

²⁷ 7 TILA section 129B(a)(2), 15 U.S.C. 1639b(a)(2).

²⁸ California, Florida, and Missouri are the only three states offering PACE financing on residential property.

²⁹ James Reed, “Consumer Protections for PACE Now Written into State Law,” Orange County Register, October 7, 2016, available at <https://www.ocregister.com/2016/10/07/consumer-protections-for-pace-now-written-into-state-law/> (last visited Jan. 10, 2024).

³⁰ Assembly Bill 1284 (Dababneh, Chap 475, Stats. 2017) – California Financing Law: Property Assessed Clean Energy program: program administrators.

³¹ Assembly Bill 790 (Quirk-Silva, Chap 589, Stats. 2021) – Consumer Legal Remedies Act.

- “Government commercial property” means property owned by a local government and leased to a nongovernmental lessee for commercial usage.
- “Nongovernmental lessee” means a person or entity other than a local government which leases government commercial property.
- “Program administrator” means a county, municipality, a dependent special district, or a separate legal entity created by interlocal agreement.
- “Property owner” means the owner or owners of record of real property. The term includes real property held in trust for the benefit of one or more individuals, in which case the individual or individuals may be considered as the property owners provided that the trustee provides written consent. The term does not include persons renting, using, living, or otherwise occupying real property except for a nongovernmental lessee.
- “Qualifying improvement contractor” means an independent contractor enrolled in a program to install or otherwise work on qualifying improvements on residential property.
- “Qualifying improvement program” is a program established by a local government or local governments to finance PACE improvements.
- “Residential property” means a residential property of four or fewer dwelling units which is or will be improved by a qualifying improvement.
- “Third-party administrator” means an entity under contract with a program administrator to administer a program authorized by a county or municipality on behalf of and at the discretion of the program administrator.

Amendment of Qualified Improvements

The bill amends the definition of “qualifying improvements” to expand the universe of the types of projects a local government’s PACE program may finance. Significantly, the bill expands roof-related improvements to any repairing, replacing, or improving a roof.

The bill adds the following qualifying improvements for both residential and commercial property:

- Waste system improvements, which includes the replacement or improvement of an onsite sewage treatment and disposal system with an advanced system of the same type, or replacement with a central sewage system.
- Flood and water damage mitigation, including:
 - Raising a structure above the base flood elevation to reduce flood damage;
 - Building or repairing a flood diversion apparatus;
 - Utilizing flood damage resistant building materials;
 - Using electrical, mechanical, plumbing, or other system improvements to reduce flood damage; and
 - Qualifying for reductions in flood insurance premiums.
- Resiliency improvements, including:
 - Replacing windows or doors with energy-efficient windows or doors;
 - Installing energy-efficient heating, cooling, or ventilation systems;
 - Replacing or installing insulation;
 - Replacing or installing energy-efficient water heaters; and
 - Installing and affixing a permanent generator.

For commercial property, the bill additionally includes:

- Building modification to increase the use of daylight;
- Installation of electric vehicle charging equipment;
- Installation of efficient lighting equipment;
- Any improvements necessary to achieve a sustainable building rating or compliance with a national model green building code;
- Renewable energy improvements; and
- Water conservation efficiency improvements.

Ordinances Governing PACE Programs

Section 2 of the bill creates s. 163.081, F.S., to provide that a program administrator may only offer a program for financing qualifying improvements to residential property within the jurisdiction of a county or municipality which has authorized by ordinance or resolution the administration of the program. A county or municipality may enter into an interlocal agreement to partner with other local governments for the purpose of facilitating these programs, and a program administrator may contract with one or more third-party administrators to implement the program.

A program administrator may levy non-ad valorem assessments and incur debt for the purpose of providing financing for qualifying improvements. The tax collector administers payments on financing and remits payment to the program administrator, less costs not exceeding 2% of the amount collected.

Consumer Protection Measures

To account for recent consumer protection concerns regarding PACE financing nationwide, the bill provides regulations aimed at mitigating these concerns and ensuring consumers are well-informed of their obligations before entering into a PACE financing agreement.

Specifically, the bill provides that, a financing agreement for residential property may not be approved unless determinations have been made that:

- There are sufficient resources to complete the project;
- The total amount of non-ad valorem assessments for a residential property does not exceed 20 percent of the just value of the property without written consent of any outstanding mortgage holders;
- All property taxes and other assessments are current and have not been delinquent for the preceding 3 years or the owner's period of ownership, if less than 3 years;
- There are no involuntary liens, including construction liens on the residential property;
- There are no notices of default or other evidence of property-based debt delinquency recorded in the preceding 3 years;
- The property owner is current on all mortgage debt on the residential property;
- The term of the financing agreement does not exceed the useful life of the qualifying improvement, or for multiple improvements does not exceed the lesser of 20 years or the weighted average estimated useful life of improvements;
- The property is not subject to an existing home equity conversion mortgage or reverse mortgage product;

- The property owner has not been subject to a bankruptcy proceeding within the last 5 years unless it was discharged or dismissed more than 2 years before application for financing;
- The total estimated annual payment amount for all such financing agreements on residential property does not exceed 10 percent of the property owner's annual household income;
- For improvements to onsite sewage treatment and disposal systems, the property owner has taken advantage of local government funding programs;
- For improvements exceeding \$10,000, the property owner has been advised to obtain estimates from at least two unaffiliated, competitive entities; and
- The owner has been asked if they have obtained or sought to obtain additional qualifying improvements on the same property which have not been recorded.

Section 3, which separates requirements for commercial properties by creating s. 163.082, F.S., provides a similar list of requirements. The requirements do not include the assessment amount ratio to household income or the requirement to obtain two estimates, and simply require that the applicant not currently be subject to bankruptcy proceedings.

A property owner and program administrator may agree to include in a financing agreement provisions allowing for change orders necessary to complete the qualifying improvement. If a proposed change order will increase the original cost of the qualifying improvement by more than 20%, the program administrator must notify the property owner and obtain written approval before proceeding.

Financing agreements may not be entered into if the total cost, including fees and interest, is less than \$2,500. A financing agreement may also not be entered into for qualifying improvements in buildings or facilities under new construction or construction for which a certificate of occupancy has not been issued.

Before or concurrent with entering into a residential PACE financing agreement, the PACE administrator must provide a financing estimate and disclosure to the property owner that includes:

- The total amount estimated to be funded including program fees and capitalized interest;
- The estimated annual PACE assessment;
- The term of the PACE assessment;
- The interest charged and estimated annual percentage rate;
- A description of the qualifying improvement;
- A disclosure that if the property owner sells or refinances the property, the property owner may be required to pay off the full amount owed under each PACE financing agreement;
- A disclosure that the PACE assessment will be collected alongside other property taxes, and will result in a lien on the property a lien on the property during the term of the agreement; and
- A disclosure that failure to pay the PACE assessment may result in penalties and fees, along with the issuance of a tax certificate that could result in the property owner losing the real property;
- A disclosure that the owner has 3 days to cancel the financing agreement;
- A disclosure that any potential utility or insurance savings are not guaranteed and will not reduce the annual or total assessments due;

- A disclosure that a local government, program administrator, or contractor does not provide tax advice, and that professional tax advice should be sought for questions regarding tax impacts; and
- A disclosure that the property owner cannot be assessed a prepayment penalty.

The program administrator must also conduct a recorded telephone call with the property owner to confirm the above.

The bill provides that before entering into a PACE agreement for residential properties, the local government or program administrator must provide written notice to current mortgage holders or loan servicers encumbering the property. The bill provides that a provision in any agreement which allows for acceleration of payment of the mortgage solely as a result of entering into such a financing agreement is unenforceable.

The bill provides timelines for the recording of liens, notice due to subsequent purchasers of residential property subject to such liens, and requirements prior to the final disbursement of funds to contractors.

PACE Contractor Oversight

Section 4 creates 163.083, F.S., to provide that a county or municipality must establish a process, or approve a process established by a program administrator, to register contractors for participation in a PACE program. A contractor may not be so registered unless the administrator makes a reasonable effort to review the contractor's professional standing. This includes reviewing the appropriate licensure, permits, and registrations required for its business operations. Additionally, the administrator must obtain the contractor's written agreement that the contractor will act in accordance with all applicable laws to include advertising and marketing laws and regulations.

Further, the bill requires a program administrator to maintain a process to enroll new contractors and conduct reviews of contractors' good standing, procedures for notice and imposition of penalties for violations of law and policy, and a website providing information on enrolled contractors..

Section 5 creates s. 163.084, F.S., to provide regulations on program administrators. A program administrator may not provide a contractor with any payment, fee, or kickback in exchange for referring business relating to a specific assessment financing agreement.

A program administrator must develop and implement policies and procedures for responding, tracking, and resolving questions and complaints. It must also have a process for monitoring contractors with regard to performance and compliance with program policies, and implement policies for suspending, terminating, and reinstating contractors based on violations of program policies or unscrupulous behavior. The program administrator must conduct regular reviews of contractors to confirm ongoing compliance with oversight regulations.

Section 6 creates s. 163.085, F.S., to provide certain requirements related to advertisement and solicitation for financing qualifying improvements. A contractor should not present a different

price for a qualifying improvement on residential real property financed by a PACE financing agreement than the contractor would otherwise present were the improvement not financed by PACE.

Program administrators and contractors may not suggest that PACE financing is a government assistance program, that qualifying improvements are free or that PACE is a free program, or that utilizing PACE financing does not require the homeowner to repay the financial obligation. A program administrator or contractor may not make representations as to the tax deductibility of a PACE financing agreement on residential real property. They may only encourage a property owner to seek the advice of a tax professional.

Section 7 creates s. 163.086, F.S., to provide regulations related to unenforceable financing agreements. A property owner may cancel the PACE financing agreement within five business days after signing the contract, without financial penalty. The local government must provide at the time of contracting a cancellation form. The bill provides direction for instances where an agreement is canceled or found unenforceable after a contractor has either initiated work or delivered chattel or fixtures to a residential property under the contract.

Section 8 creates s. 163.087, F.S., to provide that a program administrator must post on its website a report annually showing the number of improvements funded, the aggregate, average, and median dollar amounts of annual non-ad valorem assessments, the number of defaulted non-ad valorem assessments, and a summary of property owner complaints including the third-party administrator, qualifying improvement contractors, and resolution of each.

The bill requires the Auditor General to conduct an operational audit of each PACE program at by September 1, 2027, and at least every 24 months thereafter.

Section 9 provides that the bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. This bill does not require counties or municipalities to spend funds, limit their authority to raise revenue, or reduce the percentage of a state tax shared with them as specified in Article VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise state taxes or fees. Therefore, the requirements of Article VII, s. 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

The bill provides that a provision in any agreement which allows for acceleration of payment of the mortgage solely as a result of entering into such a financing agreement is unenforceable. This provision may implicate the contracts clause,³² which prohibits states from passing any law that would impair the obligation of contracts.

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

The bill does not affect state or local revenue.

B. Private Sector Impact:

Property owners who live within a jurisdiction that offers PACE financing will see the benefit of increased consumer protections.

C. Government Sector Impact:

PACE programs are designed to be budget-neutral for local governments. As such, no government sector impact is expected for the provisions of the bill related directly to PACE programs. The provision requiring tax collectors to cap administrative fees at 2% of the total collected may affect certain local governments to the extent that they currently charge higher fees.

The bill requires the Auditor General to audit every PACE program by 2027 and every 24 months thereafter.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 163.08 of the Florida Statutes.

³² Art. 1, S. 10, U.S. CONST.

This bill creates sections 163.081, 163.082, 163.083, 163.084, 163.085, 163.086, and 163.087 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.)

CS by Fiscal Policy on January 31, 2024:

The committee substitute:

- Removes reference to long-term care or assisted living facilities.
- Adds renewable energy improvements for eligible residential property improvements.
- Defines third-party administrator.
- Provides that a program administrator must compensate the tax collector for the actual cost of collecting assessments, not to exceed 2 percent of the amount collected.
- Requires a residential property owner to have taken advantage of local funding for onsite sewage treatment and disposal system improvements.
- Requires notice to a residential property owner of best practices regarding seeking separate estimates for work over \$10,000, rather than requiring two estimates for work over \$5,000.
- Revises the cancellation period to 3 days, from 5.
- Defines significant increase in proposed change orders to mean greater than 20 percent.
- Makes various grammatical, structural, and conforming definitional changes.

CS by Community Affairs on January 22, 2024:

The committee substitute makes substantial changes throughout the bill. Specifically the CS:

- Separates provisions in current law and the previous language of the bill into separate sections of law.
- Contains separate procedures and duties for residential and commercial PACE programs.
- Removes authority for financing residential solar energy improvements.
- Revises references to local governments and program administrators.
- Requires the Auditor General to audit PACE programs.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/31/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Martin) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 163.08, Florida Statutes, is amended to
read:

(Substantial rewording of section. See
s. 163.08, F.S., for present text.)

163.08 Definitions.—As used in ss. 163.081-163.087, the
term:



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11 (1) "Commercial property" means real property other than
12 residential property. The term includes, but is not limited to,
13 a property zoned multifamily residential which is composed of
14 five or more dwelling units; government commercial property; and
15 real property used for commercial, industrial, or agricultural
16 purposes.

17 (2) "Government commercial property" means real property
18 owned by a local government and leased to a nongovernmental
19 lessee for commercial use. The term does not include residential
20 property.

21 (3) "Nongovernmental lessee" means a person or an entity
22 other than a local government which leases government commercial
23 property.

24 (4) "Program administrator" means a county, a municipality,
25 a dependent special district as defined in s. 189.012, or a
26 separate legal entity created pursuant to s. 163.01(7).

27 (5) "Property owner" means the owner or owners of record of
28 real property. The term includes real property held in trust for
29 the benefit of one or more individuals, in which case the
30 individual or individuals may be considered as the property
31 owner or owners, provided that the trustee provides written
32 consent. The term does not include persons renting, using,
33 living, or otherwise occupying real property, except for a
34 nongovernmental lessee.

35 (6) "Qualifying improvement" means the following permanent
36 improvements located on real property within the jurisdiction of
37 an authorized financing program:

38 (a) For improvements on residential property:

39 1. Repairing, replacing, or improving a central sewerage



40 system, converting an onsite sewage treatment and disposal
41 system to a central sewerage system, or, if no central sewerage
42 system is available, removing, repairing, replacing, or
43 improving an onsite sewage treatment and disposal system to an
44 advanced system or technology.

45 2. Repairing, replacing, or improving a roof, including
46 improvements that strengthen the roof deck attachment; create a
47 secondary water barrier to prevent water intrusion; install
48 wind-resistant shingles or gable-end bracing; or reinforce roof-
49 to-wall connections.

50 3. Providing flood and water damage mitigation and
51 resiliency improvements, prioritizing repairs, replacement, or
52 improvements that qualify for reductions in flood insurance
53 premiums, including raising a structure above the base flood
54 elevation to reduce flood damage; constructing a flood diversion
55 apparatus, drainage gate, or seawall improvement, including
56 seawall repairs and seawall replacements; purchasing flood-
57 damage-resistant building materials; or making electrical,
58 mechanical, plumbing, or other system improvements that reduce
59 flood damage.

60 4. Replacing windows or doors, including garage doors, with
61 energy-efficient, impact-resistant, wind-resistant, or hurricane
62 windows or doors or installing storm shutters.

63 5. Installing energy-efficient heating, cooling, or
64 ventilation systems.

65 6. Replacing or installing insulation.

66 7. Replacing or installing energy-efficient water heaters.

67 8. Installing and affixing a permanent generator.

68 9. Providing a renewable energy improvement, including the



69 installation of any system in which the electrical, mechanical,
70 or thermal energy is produced from a method that uses solar,
71 geothermal, bioenergy, wind, or hydrogen.

72 (b) For installing or constructing improvements on
73 commercial property:

74 1. Waste system improvements, which consists of repairing,
75 replacing, improving, or constructing a central sewerage system,
76 converting an onsite sewage treatment and disposal system to a
77 central sewerage system, or, if no central sewerage system is
78 available, removing, repairing, replacing, or improving an
79 onsite sewage treatment and disposal system to an advanced
80 system or technology.

81 2. Making resiliency improvements, which includes but is
82 not limited to:

83 a. Repairing, replacing, improving, or constructing a roof,
84 including improvements that strengthen the roof deck attachment;

85 b. Creating a secondary water barrier to prevent water
86 intrusion;

87 c. Installing wind-resistant shingles or gable-end bracing;
88 or

89 d. Reinforcing roof-to-wall connections.

90 e. Providing flood and water damage mitigation and
91 resiliency improvements, prioritizing repairs, replacement, or
92 improvements that qualify for reductions in flood insurance
93 premiums, including raising a structure above the base flood
94 elevation to reduce flood damage; creating or improving
95 stormwater and flood resiliency, including flood diversion
96 apparatus, drainage gates, or shoreline improvements; purchasing
97 flood-damage-resistant building materials; or making any other



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98 improvements necessary to achieve a sustainable building rating
99 or compliance with a national model resiliency standard and any
100 improvements to a structure to achieve wind or flood insurance
101 rate reductions, including building elevation.

102 3. Energy conservation and efficiency improvements, which
103 are measures to reduce consumption through efficient use or
104 conservation of electricity, natural gas, propane, or other
105 forms of energy, including but not limited to, air sealing;
106 installation of insulation; installation of energy-efficient
107 heating, cooling, or ventilation systems; building modification
108 to increase the use of daylight; window replacement; windows;
109 energy controls or energy recovery systems; installation of
110 electric vehicle charging equipment; installation of efficient
111 lighting equipment; or any other improvements necessary to
112 achieve a sustainable building rating or compliance with a
113 national model green building code.

114 4. Renewable energy improvements, including the
115 installation of any system in which the electrical, mechanical,
116 or thermal energy is produced from a method that uses solar,
117 geothermal, bioenergy, wind, or hydrogen.

118 5. Water conservation efficiency improvements, which are
119 measures to reduce consumption through efficient use or
120 conservation of water.

121 (7) "Qualifying improvement contractor" means a licensed or
122 registered contractor who has been registered to participate by
123 a program administrator pursuant to s. 163.083 to install or
124 otherwise perform work to make qualifying improvements on
125 residential property financed pursuant to a program authorized
126 under s. 163.081.



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127 (8) "Residential property" means real property zoned as
128 residential or multifamily residential and composed of four or
129 fewer dwelling units.

130 (9) "Third-party administrator" means an entity under
131 contract with a program administrator pursuant to s. 163.084 to
132 administer a program authorized by a county or municipality
133 pursuant to s. 163.081 or s. 163.082 on behalf of and at the
134 discretion of the program administrator.

135 Section 2. Section 163.081, Florida Statutes, is created to
136 read:

137 163.081 Financing qualifying improvements to residential
138 property.-

139 (1) RESIDENTIAL PROPERTY PROGRAM AUTHORIZATION.-

140 (a) A program administrator may only offer a program for
141 financing qualifying improvements to residential property within
142 the jurisdiction of a county or municipality if the county or
143 municipality has authorized by ordinance or resolution the
144 program administrator to administer the program for financing
145 qualifying improvements to residential property. The authorized
146 program must, at a minimum, meet the requirements of this
147 section.

148 (b) Pursuant to this section or as otherwise provided by
149 law or pursuant to a county's or municipality's home rule power,
150 a county or municipality may enter into an interlocal agreement
151 providing for a partnership between one or more local
152 governments for the purpose of facilitating a program to finance
153 qualifying improvements to residential property located within
154 the jurisdiction of the local governments that are party to the
155 agreement.



156 (c) An authorized program administrator may contract with
157 one or more third-party administrators to implement the program
158 as provided in s. 163.084.

159 (d) An authorized program administrator may levy non-ad
160 valorem assessments to facilitate repayment of financing
161 qualifying improvements. Costs incurred by the program
162 administrator for such purpose may be collected as a non-ad
163 valorem assessment. A non-ad valorem assessment shall be
164 collected pursuant to s. 197.3632 and, notwithstanding s.
165 197.3632(8) (a), shall not be subject to discount for early
166 payment. However, the notice and adoption requirements of s.
167 197.3632(4) do not apply if this section is used and complied
168 with, and the intent resolution, publication of notice, and
169 mailed notices to the property appraiser, tax collector, and
170 Department of Revenue required by s. 197.3632(3) (a) may be
171 provided on or before August 15 of each year in conjunction with
172 any non-ad valorem assessment authorized by this section, if the
173 property appraiser, tax collector, and program administrator
174 agree. The program administrator shall only compensate the tax
175 collector for the actual cost of collecting non-ad valorem
176 assessments, not to exceed 2 percent of the amount collected and
177 remitted.

178 (e) A program administrator may incur debt for the purpose
179 of providing financing for qualifying improvements, which debt
180 is payable from revenues received from the improved property or
181 any other available revenue source authorized by law.

182 (2) APPLICATION.—The owner of record of the residential
183 property within the jurisdiction of an authorized program may
184 apply to the authorized program administrator to finance a



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185 qualifying improvement. The program administrator may only enter
186 into a financing agreement with the property owner.

187 (3) FINANCING AGREEMENTS.—

188 (a) Before entering into a financing agreement, the program
189 administrator must make each of the following findings based on
190 a review of public records derived from a commercially accepted
191 source and the property owner's statements, records, and credit
192 reports:

193 1. There are sufficient resources to complete the project.

194 2. The total amount of any non-ad valorem assessment for a
195 residential property under this section does not exceed 20
196 percent of the just value of the property as determined by the
197 property appraiser. The total amount may exceed this limitation
198 upon written consent of the holders or loan servicers of any
199 mortgage encumbering or otherwise secured by the residential
200 property.

201 3. The combined mortgage-related debt and total amount of
202 any non-ad valorem assessments under the program for the
203 residential property does not exceed 97 percent of the just
204 value of the property as determined by the property appraiser.

205 4. The financing agreement does not utilize a negative
206 amortization schedule, a balloon payment, or prepayment fees or
207 finances other than nominal administrative costs. Capitalized
208 interest included in the original balance of the assessment
209 financing agreement does not constitute negative amortization.

210 5. All property taxes and any other assessments, including
211 non-ad valorem assessments, levied on the same bill as the
212 property taxes are current and have not been delinquent for the
213 preceding 3 years, or the property owner's period of ownership,



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214 whichever is less.

215 6. There are no outstanding fines or fees related to zoning
216 or code enforcement violations issued by a county or
217 municipality, unless the qualifying improvement will remedy the
218 zoning or code violation.

219 7. There are no involuntary liens, including, but not
220 limited to, construction liens on the residential property.

221 8. No notices of default or other evidence of property-
222 based debt delinquency have been recorded and not released
223 during the preceding 3 years or the property owner's period of
224 ownership, whichever is less.

225 9. The property owner is current on all mortgage debt on
226 the residential property.

227 10. The property owner has not been subject to a bankruptcy
228 proceeding within the last 5 years unless it was discharged or
229 dismissed more than 2 years before the date on which the
230 property owner applied for financing.

231 11. The residential property is not subject to an existing
232 home equity conversion mortgage or reverse mortgage product.

233 12. The term of the financing agreement does not exceed the
234 weighted average useful life of the qualified improvements to
235 which the greatest portion of funds disbursed under the
236 assessment contract is attributable, not to exceed 20 years. The
237 program administrator shall determine the useful life of a
238 qualifying improvement using established standards, including
239 certification criteria from government agencies or nationally
240 recognized standards and testing organizations.

241 13. The total estimated annual payment amount for all
242 financing agreements entered into under this section on the



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243 residential property does not exceed 10 percent of the property
244 owner's annual household income. Income must be confirmed using
245 reasonable evidence and not solely by a property owner's
246 statement.

247 14. If the qualifying improvement is for the conversion of
248 an onsite sewage treatment and disposal system to a central
249 sewerage system, the property owner has utilized all available
250 local government funding for such conversions and is unable to
251 obtain financing for the improvement on more favorable terms
252 through a local government program designed to support such
253 conversions.

254 (b) Before entering into a financing agreement, the
255 program administrator must determine if there are any current
256 financing agreements on the residential property and if the
257 property owner has obtained or sought to obtain additional
258 qualifying improvements on the same property which have not yet
259 been recorded. The existence of a prior qualifying improvement
260 non-ad valorem assessment or a prior financing agreement is not
261 evidence that the financing agreement under consideration is
262 affordable or meets other program requirements.

263 (c) Findings satisfying paragraphs (a) and (b) must be
264 documented, including supporting evidence relied upon, and
265 provided to the property owner prior to a financing agreement
266 being approved and recorded. The program administrator must
267 retain the documentation for the duration of the financing
268 agreement.

269 (d) If the qualifying improvement is estimated to cost
270 \$10,000 or more, before entering into a financing agreement the
271 program administrator must advise the property owner in writing



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272 that the best practice is to obtain estimates from more than one
273 unaffiliated, registered qualifying improvement contractors for
274 the qualifying improvement and notify the property owner in
275 writing of the advertising and solicitation requirements of s.
276 163.085.

277 (e) A property owner and the program administrator may
278 agree to include in the financing agreement provisions for
279 allowing change orders necessary to complete the qualifying
280 improvement. Any financing agreement or contract for qualifying
281 improvements which includes such provisions must meet the
282 requirements of this paragraph. If a proposed change order on a
283 qualifying improvement will increase the original cost of the
284 qualifying improvement by 20 percent or more or will expand the
285 scope of the qualifying improvement by more than 20 percent,
286 before the change order may be executed which would result in an
287 increase in the amount financed through the program
288 administrator for the qualifying improvement, the program
289 administrator must notify the property owner, provide an updated
290 written disclosure form as described in subsection (4) to the
291 property owner, and obtain written approval of the change from
292 the property owner.

293 (f) A financing agreement may not be entered into if the
294 total cost of the qualifying improvement, including program fees
295 and interest, is less than \$2,500.

296 (g) A financing agreement may not be entered into for
297 qualifying improvements in buildings or facilities under new
298 construction or construction for which a certificate of
299 occupancy or similar evidence of substantial completion of new
300 construction or improvement has not been issued.



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301 (4) DISCLOSURES.-
302 (a) In addition to the requirements in subsection (3), a
303 financing agreement may not be approved unless the program
304 administrator first provides, including via electronic means, a
305 written financing estimate and disclosure to the property owner
306 which includes all of the following, each of which must be
307 individually acknowledged in writing by the property owner:
308 1. The estimated total amount to be financed, including the
309 total and itemized cost of the qualifying improvement, program
310 fees, and capitalized interest, if any;
311 2. The estimated annual non-ad valorem assessment;
312 3. The term of the financing agreement and the schedule for
313 the non-ad valorem assessments;
314 4. The interest charged and estimated annual percentage
315 rate;
316 5. A description of the qualifying improvement;
317 6. The total estimated annual costs that will be required
318 to be paid under the assessment contract, including program
319 fees;
320 7. The total estimated average monthly equivalent amount of
321 funds that would need to be saved in order to pay the annual
322 costs of the non-ad valorem assessment, including program fees;
323 8. The estimated due date of the first payment that
324 includes the non-ad valorem assessment;
325 9. A disclosure that the financing agreement may be
326 canceled within 3 business days after signing the financing
327 agreement without any financial penalty for doing so;
328 10. A disclosure that the property owner may repay any
329 remaining amount owed, at any time, without penalty or



330 imposition of additional prepayment fees or fines other than
331 nominal administrative costs;

332 11. A disclosure that if the property owner sells or
333 refinances the residential property, the property owner may be
334 required by a mortgage lender to pay off the full amount owed
335 under each financing agreement under this section;

336 12. A disclosure that the assessment will be collected
337 along with the property owner's property taxes, and will result
338 in a lien on the property from the date the financing agreement
339 is recorded;

340 13. A disclosure that potential utility or insurance
341 savings are not guaranteed, and will not reduce the assessment
342 amount; and

343 14. A disclosure that failure to pay the assessment may
344 result in penalties, fees, including attorney fees, court costs,
345 and the issuance of a tax certificate that could result in the
346 property owner losing the property and a judgment against the
347 property owner, and may affect the property owner's credit
348 rating.

349 (b) Prior to the financing agreement being approved, the
350 program administrator must conduct an oral, recorded telephone
351 call with the property owner during which the program
352 administrator must confirm each finding or disclosure required
353 in subsection (3) and this section.

354 (5) NOTICE TO LIENHOLDERS AND SERVICERS.—At least 5
355 business days before entering into a financing agreement, the
356 property owner must provide to the holders or loan servicers of
357 any existing mortgages encumbering or otherwise secured by the
358 residential property a written notice of the owner's intent to



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359 enter into a financing agreement together with the maximum
360 amount to be financed, including the amount of any fees and
361 interest, and the maximum annual assessment necessary to repay
362 the total. A verified copy or other proof of such notice must be
363 provided to the program administrator. A provision in any
364 agreement between a mortgagor or other lienholder and a property
365 owner, or otherwise now or hereafter binding upon a property
366 owner, which allows for acceleration of payment of the mortgage,
367 note, or lien or other unilateral modification solely as a
368 result of entering into a financing agreement as provided for in
369 this section is unenforceable. This subsection does not limit
370 the authority of the holder or loan servicer to increase the
371 required monthly escrow by an amount necessary to pay the annual
372 assessment.

373 (6) CANCELLATION.—A property owner may cancel a financing
374 agreement on a form established by the program administrator
375 within 3 business days after signing the financing agreement
376 without any financial penalty for doing so.

377 (7) RECORDING.—Any financing agreement approved and entered
378 into pursuant to this section, or a summary memorandum of such
379 agreement, shall be submitted for recording in the public
380 records of the county within which the residential property is
381 located by the program administrator within 10 business days
382 after execution of the agreement and the 3-day cancelation
383 period. The recorded agreement must provide constructive notice
384 that the non-ad valorem assessment to be levied on the property
385 constitutes a lien of equal dignity to county taxes and
386 assessments from the date of recordation. A notice of lien for
387 the full amount of the financing may be recorded in the public



388 records of the county where the property is located. Such lien
389 is not enforceable in a manner that results in the acceleration
390 of the remaining nondelinquent unpaid balance under the
391 assessment financing agreement.

392 (8) SALE OF RESIDENTIAL PROPERTY.—At or before the time a
393 seller executes a contract for the sale of any residential
394 property for which a non-ad valorem assessment has been levied
395 under this section and has an unpaid balance due, the seller
396 shall give the prospective purchaser a written disclosure
397 statement in the following form, which must be set forth in the
398 contract or in a separate writing:

399
400 QUALIFYING IMPROVEMENTS.—The property being purchased
401 is subject to an assessment on the property pursuant
402 to s. 163.081, Florida Statutes. The assessment is for
403 a qualifying improvement to the property and is not
404 based on the value of the property. You are encouraged
405 to contact the property appraiser's office to learn
406 more about this and other assessments that may be
407 provided by law.

408
409 (9) DISBURSEMENTS.—Before disbursing final funds to a
410 qualifying improvement contractor for a qualifying improvement
411 on residential property, the program administrator shall confirm
412 that the applicable work or service has been completed or, as
413 applicable, that the final permit for the qualifying improvement
414 has been closed with all permit requirements satisfied or a
415 certificate of occupancy or similar evidence of substantial
416 completion of construction or improvement has been issued.



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417 (10) CONSTRUCTION.—This section is additional and
418 supplemental to county and municipal home rule authority and not
419 in derogation of such authority or a limitation upon such
420 authority.

421 Section 3. Section 163.082, Florida Statutes, is created to
422 read:

423 163.082 Financing qualifying improvements to commercial
424 property.—

425 (1) COMMERCIAL PROPERTY PROGRAM AUTHORIZATION.—

426 (a) A program administrator may only offer a program for
427 financing qualifying improvements to commercial property within
428 the jurisdiction of a county or municipality if the county or
429 municipality has authorized by ordinance or resolution the
430 program administrator to administer the program for financing
431 qualifying improvements to commercial property. The authorized
432 program must, at a minimum, meet the requirements of this
433 section.

434 (b) Pursuant to this section or as otherwise provided by
435 law or pursuant to a county's or municipality's home rule power,
436 a county or municipality may enter into an interlocal agreement
437 providing for a partnership between one or more local
438 governments for the purpose of facilitating a program for
439 financing qualifying improvements to commercial property located
440 within the jurisdiction of the local governments that are party
441 to the agreement.

442 (c) A program administrator may contract with one or more
443 third-party administrators to implement the program as provided
444 in s. 163.084.

445 (d) An authorized program administrator may levy non-ad



446 valorem assessments to facilitate repayment of financing or
447 refinancing qualifying improvements. Costs incurred by the
448 program administrator for such purpose may be collected as a
449 non-ad valorem assessment. A non-ad valorem assessment shall be
450 collected pursuant to s. 197.3632 and, notwithstanding s.
451 197.3632(8)(a), is not subject to discount for early payment.
452 However, the notice and adoption requirements of s. 197.3632(4)
453 do not apply if this section is used and complied with, and the
454 intent resolution, publication of notice, and mailed notices to
455 the property appraiser, tax collector, and Department of Revenue
456 required by s. 197.3632(3)(a) may be provided on or before
457 August 15 of each year in conjunction with any non-ad valorem
458 assessment authorized by this section, if the property
459 appraiser, tax collector, and program administrator agree. The
460 program administrator shall only compensate the tax collector
461 for the actual cost of collecting non-ad valorem assessments,
462 not to exceed 2 percent of the amount collected and remitted.

463 (e) A program administrator may incur debt for the purpose
464 of providing financing for qualifying improvements, which debt
465 is payable from revenues received from the improved property or
466 any other available revenue source authorized by law.

467 (2) APPLICATION.—The owner of record of the commercial
468 property within the jurisdiction of the authorized program may
469 apply to the program administrator to finance a qualifying
470 improvement and enter into a financing agreement with the
471 program administrator to make such improvement. The program
472 administrator may only enter into a financing agreement with a
473 property owner. However, a nongovernmental lessee may apply to
474 finance a qualifying improvement if the nongovernmental lessee



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475 provides the program administrator with written consent of the
476 government lessor. Any financing agreement with the
477 nongovernmental lessee must provide that the nongovernmental
478 lessee is the only party obligated to pay the assessment.

479 (3) FINANCING AGREEMENTS.—

480 (a) Before entering into a financing agreement, the program
481 administrator must make each of the following findings based on
482 a review of public records derived from a commercially accepted
483 source and the statements, records, and credit reports of the
484 commercial property owner or nongovernmental lessee:

485 1. There are sufficient resources to complete the project.

486 2. The total amount of any non-ad valorem assessment for a
487 commercial property under this section does not exceed 20
488 percent of the just value of the property as determined by the
489 property appraiser. The total amount may exceed this limitation
490 upon written consent of the holders or loan servicers of any
491 mortgage encumbering or otherwise secured by the commercial
492 property.

493 3. The combined mortgage-related debt and total amount of
494 any non-ad valorem assessments under the program for the
495 commercial property does not exceed 97 percent of the just value
496 of the property as determined by the property appraiser.

497 4. All property taxes and any other assessments, including
498 non-ad valorem assessments, levied on the same bill as the
499 property taxes are current.

500 5. There are no involuntary liens greater than \$5,000,
501 including, but not limited to, construction liens on the
502 commercial property.

503 6. No notices of default or other evidence of property-



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504 based debt delinquency have been recorded and not been released
505 during the preceding 3 years or the property owner's period of
506 ownership, whichever is less.

507 7. The property owner is current on all mortgage debt on
508 the commercial property.

509 8. The term of the financing agreement does not exceed the
510 weighted average useful life of the qualified improvements to
511 which the greatest portion of funds disbursed under the
512 assessment contract is attributable, not to exceed 30 years. The
513 program administrator shall determine the useful life of a
514 qualifying improvement using established standards, including
515 certification criteria from government agencies or nationally
516 recognized standards and testing organizations.

517 9. The property owner or nongovernmental lessee is not
518 currently the subject of a bankruptcy proceeding.

519 (b) Before entering into a financing agreement, the program
520 administrator shall determine if there are any current financing
521 agreements on the commercial property and whether the property
522 owner or nongovernmental lessee has obtained or sought to obtain
523 additional qualifying improvements on the same property which
524 have not yet been recorded. The existence of a prior qualifying
525 improvement non-ad valorem assessment or a prior financing
526 agreement is not evidence that the financing agreement under
527 consideration is affordable or meets other program requirements.

528 (c) Findings satisfying paragraphs (a) and (b) must be
529 documented, including supporting evidence relied upon, and
530 provided to the property owner or nongovernmental lessee prior
531 to a financing agreement being approved and recorded. The
532 program administrator must retain the documentation for the



533 duration of the financing agreement.

534 (d) A property owner or nongovernmental lessee and the
535 program administrator may agree to include in the financing
536 agreement provisions for allowing change orders necessary to
537 complete the qualifying improvement. Any financing agreement or
538 contract for qualifying improvements which includes such
539 provisions must meet the requirements of this paragraph. If a
540 proposed change order on a qualifying improvement will increase
541 the original cost of the qualifying improvement by 20 percent or
542 more or will expand the scope of the qualifying improvement by
543 20 percent or more, before the change order may be executed
544 which would result in an increase in the amount financed through
545 the program administrator for the qualifying improvement, the
546 program administrator must notify the property owner or
547 nongovernmental lessee, provide an updated written disclosure
548 form as described in subsection (4) to the property owner or
549 nongovernmental lessee, and obtain written approval of the
550 change from the property owner or nongovernmental lessee.

551 (e) A financing agreement may not be entered into if the
552 total cost of the qualifying improvement, including program fees
553 and interest, is less than \$2,500.

554 (4) DISCLOSURES.—In addition to the requirements in
555 subsection (3), a financing agreement may not be approved unless
556 the program administrator provides, whether on a separate
557 document or included with other disclosures or forms, a
558 financing estimate and disclosure to the property owner or
559 nongovernmental lessee which includes all of the following:

560 (a) The estimated total amount to be financed, including
561 the total and itemized cost of the qualifying improvement,



562 program fees, and capitalized interest, if any;
563 (b) The estimated annual non-ad valorem assessment;
564 (c) The term of the financing agreement and the schedule
565 for the non-ad valorem assessments;
566 (d) The interest charged and estimated annual percentage
567 rate;
568 (e) A description of the qualifying improvement;
569 (f) The total estimated annual costs that will be required
570 to be paid under the assessment contract, including program
571 fees;
572 (g) The estimated due date of the first payment that
573 includes the non-ad valorem assessment; and
574 (h) A disclosure that the property owner or nongovernmental
575 lessee may repay any remaining amount owed, at any time, without
576 penalty or imposition of additional prepayment fees or fines
577 other than nominal administrative costs.
578 (5) CONSENT OF LIENHOLDERS AND SERVICERS.—Before entering
579 into a financing agreement with a property owner, the program
580 administrator must have received the written consent of the
581 current holders or loan servicers of any mortgage that encumbers
582 or is otherwise secured by the commercial property or that will
583 otherwise be secured by the property at the time the financing
584 agreement is executed.
585 (6) RECORDING.—Any financing agreement approved and entered
586 into pursuant to this section or a summary memorandum of such
587 agreement must be submitted for recording in the public records
588 of the county within which the commercial property is located by
589 the program administrator within 10 business days after
590 execution of the agreement. The recorded agreement must provide



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591 constructive notice that the non-ad valorem assessment to be
592 levied on the property constitutes a lien of equal dignity to
593 county taxes and assessments from the date of recordation. A
594 notice of lien for the full amount of the financing may be
595 recorded in the public records of the county where the property
596 is located. Such lien is not enforceable in a manner that
597 results in the acceleration of the remaining nondelinquent
598 unpaid balance under the assessment financing agreement.

599 (7) SALE OF COMMERCIAL PROPERTY.—At or before the time a
600 seller executes a contract for the sale of any commercial
601 property for which a non-ad valorem assessment has been levied
602 under this section and has an unpaid balance due, the seller
603 shall give the prospective purchaser a written disclosure
604 statement in the following form, which must be set forth in the
605 contract or in a separate writing:

606
607 QUALIFYING IMPROVEMENTS.—The property being purchased
608 is subject to an assessment on the property pursuant
609 to s. 163.082, Florida Statutes. The assessment is for
610 a qualifying improvement to the property and is not
611 based on the value of the property. You are encouraged
612 to contact the property appraiser's office to learn
613 more about this and other assessments that may be
614 provided for by law.

615
616 (8) COMPLETION CERTIFICATE.—Upon disbursement of all
617 financing and completion of installation of qualifying
618 improvements financed, the program administrator shall file with
619 the applicable county or municipality a certificate that the



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620 qualifying improvements have been installed and are in good
621 working order.

622 (9) CONSTRUCTION.—This section is additional and
623 supplemental to county and municipal home rule authority and not
624 in derogation of such authority or a limitation upon such
625 authority.

626 Section 4. Section 163.083, Florida Statutes, is created to
627 read:

628 163.083 Qualifying improvement contractors.—

629 (1) A county or municipality shall establish a process, or
630 approve a process established by a program administrator, to
631 register contractors for participation in a program authorized
632 by a county or municipality pursuant to s. 163.081. A qualifying
633 improvement contractor may only perform such work that the
634 contractor is appropriately licensed, registered, and permitted
635 to conduct. At the time of application to participate and during
636 participation in the program, contractors must:

637 (a) Hold all necessary licenses or registrations for the
638 work to be performed which are in good standing. Good standing
639 includes no outstanding complaints with the state or local
640 government which issues such licenses or registrations.

641 (b) Comply with all applicable federal, state, and local
642 laws and regulations, including obtaining and maintaining any
643 other permits, licenses, or registrations required for engaging
644 in business in the jurisdiction in which it operates and
645 maintaining all state-required bond and insurance coverage.

646 (c) File with the program administrator a written statement
647 in a form approved by the county or municipality that the
648 contractor will comply with applicable laws and rules and



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649 qualifying improvement program policies and procedures,
650 including those on advertising and marketing.

651 (2) A third-party administrator or a program administrator,
652 either directly or through an affiliate, may not be registered
653 as a qualifying improvement contractor.

654 (3) A program administrator shall establish and maintain:

655 (a) A process to monitor qualifying improvement contractors
656 for performance and compliance with requirements of the program
657 and must conduct regular reviews of qualifying improvement
658 contractors to confirm that each qualifying improvement
659 contractor is in good standing.

660 (b) Procedures for notice and imposition of penalties upon
661 a finding of violation, which may consist of placement of the
662 qualifying improvement contractor in a probationary status that
663 places conditions for continued participation, suspension, or
664 termination from participation in the program.

665 (c) An easily accessible page on its website that provides
666 information on the status of registered qualifying improvement
667 contractors, including any imposed penalties, and the names of
668 any qualifying improvement contractors currently on probationary
669 status or that are suspended or terminated from participation in
670 the program.

671 Section 5. Section 163.084, Florida Statutes, is created to
672 read:

673 163.084 Third-party administrator for financing qualifying
674 improvements programs.—

675 (1) (a) A program administrator may contract with one or
676 more third-party administrators to administer a program
677 authorized by a county or municipality pursuant to s. 163.081 or



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678 s. 163.082 on behalf of and at the discretion of the program
679 administrator.

680 (b) The third-party administrator must be independent of
681 the program administrator and have no conflicts of interest
682 between managers or owners of the third-party administrator and
683 program administrator managers, owners, officials, or employees
684 with oversight over the contract. The contract must provide for
685 the entity to administer the program according to the
686 requirements of s. 163.081 or s. 163.082 and the ordinance or
687 resolution adopted by the county or municipality authorizing the
688 program. However, only the program administrator may levy or
689 administer non-ad valorem assessments.

690 (2) A program administrator may not contract with a third-
691 party administrator that, within the last 3 years, has been
692 prohibited from serving as a third-party administrator for
693 another program administrator for program or contract violations
694 or has been found by a court of competent jurisdiction to have
695 violated state or federal laws related to the administration of
696 ss. 163.081-163.086 or a similar program in another
697 jurisdiction.

698 (3) The program administrator must include in any contract
699 with the third-party administrator the right to perform annual
700 reviews of the administrator to confirm compliance with ss.
701 163.081-163.086, the ordinance or resolution adopted by the
702 county or municipality, and the contract with the program
703 administrator. If the program administrator finds that the
704 third-party administrator has committed a violation of ss.
705 163.081-163.086, the adopted ordinance or resolution, or the
706 contract with the program administrator, the program



707 administrator shall provide the third-party administrator with
708 notice of the violation and may, as set forth in the adopted
709 ordinance or resolution or the contract with the third-party
710 administrator:

711 (a) Place the third-party administrator in a probationary
712 status that places conditions for continued operations.

713 (b) Impose any fines or sanctions.

714 (c) Suspend the activity of the third-party administrator
715 for a period of time.

716 (d) Terminate the agreement with the third-party
717 administrator.

718 (4) A program administrator may terminate the agreement
719 with a third-party administrator, as set forth by the county or
720 municipality in its adopted ordinance or resolution or the
721 contract with the third-party administrator, if the program
722 administrator makes a finding that:

723 (a) The third-party administrator has violated the contract
724 with the program administrator. The contract may set forth
725 substantial violations that may result in contract termination
726 and other violations that may provide for a period of time for
727 correction before the contract may be terminated.

728 (b) The third-party administrator, or an officer, a
729 director, a manager or a managing member, or a control person of
730 the third-party administrator, has been found by a court of
731 competent jurisdiction to have violated state or federal laws
732 related to the administration a program authorized of the
733 provisions of ss. 163.081-163.086 or a similar program in
734 another jurisdiction within the last 5 years.

735 (c) Any officer, director, manager or managing member, or



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736 control person of the third-party administrator has been
737 convicted of, or has entered a plea of guilty or nolo contendere
738 to, regardless of whether adjudication has been withheld, a
739 crime related to administration of a program authorized of the
740 provisions of ss. 163.081-163.086 or a similar program in
741 another jurisdiction within the last 10 years.

742 (d) An annual performance review reveals a substantial
743 violation or a pattern of violations by the third-party
744 administrator.

745 (5) Any recorded financing agreements at the time of
746 termination or suspension by the program administrator shall
747 continue.

748 Section 6. Section 163.085, Florida Statutes, is created to
749 read:

750 163.085 Advertisement and solicitation for financing
751 qualifying improvements programs under s. 163.081 or s.
752 163.082.-

753 (1) When communicating with a property owner or a
754 nongovernmental lessee, a program administrator, qualifying
755 improvement contractor, or third-party administrator may not:

756 (a) Suggest or imply:

757 1. That a non-ad valorem assessment authorized under s.
758 163.081 or s. 163.082 is a government assistance program;

759 2. That qualifying improvements are free or provided at no
760 cost, or that the financing related to a non-ad valorem
761 assessment authorized under s. 163.081 or s. 163.082 is free or
762 provided at no cost; or

763 3. That the financing of a qualifying improvement using the
764 program authorized pursuant to s. 163.081 or s. 163.082 does not



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765 require repayment of the financial obligation.

766 (b) Make any representation as to the tax deductibility of
767 a non-ad valorem assessment. A program administrator, qualifying
768 improvement contractor, or third-party administrator may
769 encourage a property owner or nongovernmental lessee to seek the
770 advice of a tax professional regarding tax matters related to
771 assessments.

772 (2) A program administrator or third-party administrator
773 may not provide to a qualifying improvement contractor any
774 information that discloses the amount of financing for which a
775 property owner or nongovernmental lessee is eligible for
776 qualifying improvements or the amount of equity in a residential
777 property or commercial property.

778 (3) A qualifying improvement contractor may not advertise
779 the availability of financing agreements for, or solicit program
780 participation on behalf of, the program administrator unless the
781 contractor is registered by the program administrator to
782 participate in the program and is in good standing with the
783 program administrator.

784 (4) A program administrator or third-party administrator
785 may not provide any payment, fee, or kickback to a qualifying
786 improvement contractor for referring property owners or
787 nongovernmental lessees to the program administrator or third-
788 party administrator. However, a program administrator or third-
789 party administrator may provide information to a qualifying
790 improvement contractor to facilitate the installation of a
791 qualifying improvement for a property owner or nongovernmental
792 lessee.

793 (5) A program administrator or third-party administrator



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794 may not reimburse a qualifying improvement contractor for its
795 expenses in advertising and marketing campaigns and materials.

796 (6) A qualifying improvement contractor may not provide a
797 different price for a qualifying improvement financed under s.
798 163.081 than the price that the qualifying improvement
799 contractor would otherwise provide if the qualifying improvement
800 was not being financed through a financing agreement. Any
801 contract between a property owner or nongovernmental lessee and
802 a qualifying improvement contractor must clearly state all
803 pricing and cost provisions, including any process for change
804 orders which meet the requirements of s. 163.081(3)(d).

805 (7) A program administrator, qualifying improvement
806 contractor, or third-party administrator may not provide any
807 direct cash payment or other thing of material value to a
808 property owner or nongovernmental lessee which is explicitly
809 conditioned upon the property owner or nongovernmental lessee
810 entering into a financing agreement. However, a program
811 administrator or third-party administrator may offer programs or
812 promotions on a non-discriminatory basis that provide reduced
813 fees or interest rates if the reduced fees or interest rates are
814 reflected in the financing agreements and are not provided to
815 the property owner or nongovernmental lessee as cash
816 consideration.

817 Section 7. Section 163.086, Florida Statutes, is created to
818 read:

819 163.086 Unenforceable financing agreements for qualifying
820 improvements programs under s. 163.081 or s. 163.082;
821 attachment; fraud.-

822 (1) A recorded financing agreement may not be removed from



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823 attachment to a residential property or commercial property if
824 the property owner or nongovernmental lessee fraudulently
825 obtained funding pursuant to s. 163.081 or s. 163.082.

826 (2) A financing agreement may not be enforced, and a
827 recorded financing agreement may be removed from attachment to a
828 residential property or commercial property and deemed null and
829 void, if:

830 (a) The property owner or nongovernmental lessee applied
831 for, accepted, and canceled a financing agreement within the 3-
832 business-day period pursuant to s. 163.081(6). A qualifying
833 improvement contractor may not begin work under a canceled
834 contract.

835 (b) A person other than the property owner or
836 nongovernmental lessee obtained the recorded financing
837 agreement. The court may enter an order which holds that person
838 or persons personally liable for the debt.

839 (c) The program administrator, third-party administrator,
840 or qualifying improvement contractor approved or obtained
841 funding through fraudulent means and in violation of ss.
842 163.081-163.085, or this section for qualifying improvements on
843 the residential property or commercial property.

844 (3) If a qualifying improvement contractor has initiated
845 work on residential property or commercial property under a
846 contract deemed unenforceable under this section, the qualifying
847 improvement contractor:

848 (a) May not receive compensation for that work under the
849 financing agreement.

850 (b) Must restore the residential property or commercial
851 property to its original condition at no cost to the property



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852 owner or nongovernmental lessee.

853 (c) Must immediately return any funds, property, and other
854 consideration given by the property owner or nongovernmental
855 lessee. If the property owner or nongovernmental lessee provided
856 any property and the qualifying improvement contractor does not
857 or cannot return it, the qualifying improvement contractor must
858 immediately return the fair market value of the property or its
859 value as designated in the contract, whichever is greater.

860 (4) If the qualifying improvement contractor has delivered
861 chattel or fixtures to residential property or commercial
862 property pursuant to a contract deemed unenforceable under this
863 section, the qualifying improvement contractor has 90 days after
864 the date on which the contract was executed to retrieve the
865 chattel or fixtures, provided that:

866 (a) The qualifying improvement contractor has fulfilled the
867 requirements of paragraphs (3) (a) and (b).

868 (b) The chattel and fixtures can be removed at the
869 qualifying improvement contractor's expense without damaging the
870 residential property or commercial property.

871 (5) If a qualifying improvement contractor fails to comply
872 with this section, the property owner or nongovernmental lessee
873 may retain any chattel or fixtures provided pursuant to a
874 contract deemed unenforceable under this section.

875 (6) A contract that is otherwise unenforceable under this
876 section remains enforceable if the property owner or
877 nongovernmental lessee waives his or her right to cancel the
878 contract or cancels the financing agreement pursuant to s.
879 163.081(6) or s. 163.082(6) but allows the qualifying
880 improvement contractor to proceed with the installation of the



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881 qualifying improvement.

882 Section 8. Section 163.087, Florida Statutes, is created to
883 read:

884 163.087 Reporting for financing qualifying improvements
885 programs under s. 163.081 or s. 163.082.—

886 (1) Each program administrator that is authorized to
887 administer a program for financing qualifying improvements to
888 residential property or commercial property under s. 163.081 or
889 s. 163.082 shall post on its website an annual report within 45
890 days after the end of its fiscal year containing the following
891 information from the previous year for each program authorized
892 under s. 163.081 or s. 163.082:

893 (a) The number and types of qualifying improvements funded.

894 (b) The aggregate, average, and median dollar amounts of
895 annual non-ad valorem assessments and the total number of non-ad
896 valorem assessments collected pursuant to financing agreements
897 for qualifying improvements.

898 (c) The total number of defaulted non-ad valorem
899 assessments, including the total defaulted amount, the number
900 and dates of missed payments, and the total number of parcels in
901 default and the length of time in default.

902 (d) A summary of all reported complaints received by the
903 program administrator related to the program, including the
904 names of the third-party administrator, if applicable, and
905 qualifying improvement contractors and the resolution of each
906 complaint.

907 (2) The Auditor General must conduct an operational audit
908 of each program authorized under s. 163.081 or s. 163.082,
909 including any third-party administrators, for compliance with



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910 the provisions of ss. 163.08-163.086 and any adopted ordinance
911 at least once every 24 months. The Auditor General may stagger
912 evaluations such that a portion of all programs are evaluated in
913 1 year; however, every program must be evaluated at least once
914 by September 1, 2027. Each program administrator, and third-
915 party administrator if applicable, must post the most recent
916 report on its website.

917 Section 9. This act shall take effect July 1, 2024.

918

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

920 And the title is amended as follows:

921 Delete everything before the enacting clause
922 and insert:

923 A bill to be entitled
924 An act relating to improvements to real property;
925 amending s. 163.08, F.S.; deleting provisions relating
926 to legislative findings and intent; defining terms and
927 revising definitions; creating ss. 163.081 and
928 163.082, F.S.; allowing a program administrator to
929 offer a program for financing qualifying improvements
930 for residential or commercial property when authorized
931 by a county or municipality; requiring an authorized
932 program administrator that administers an authorized
933 program to meet certain requirements; authorizing a
934 county or municipality to enter into an interlocal
935 agreement to implement a program; authorizing a
936 program administrator to contract with third-party
937 administrators to implement the program; authorizing a
938 program administrator to levy non-ad valorem



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939 assessments for a certain purpose; providing for
940 compensation for tax collectors for actual costs
941 incurred to collect non-ad valorem assessments;
942 authorizing a program administrator to incur debt for
943 the purpose of providing financing for qualifying
944 improvements; authorizing the owner of the residential
945 property or commercial property or certain
946 nongovernmental lessees to apply to the program
947 administrator to finance a qualifying improvement;
948 requiring the program administrator to make certain
949 findings before entering into a financing agreement;
950 requiring the program administrator to ascertain
951 certain financial information from the property owner
952 or nongovernmental lessee before entering into a
953 financing agreement; requiring certain documentation;
954 requiring an advisement and notification for certain
955 qualifying improvements; requiring certain financing
956 agreement and contract provisions for change orders
957 under certain circumstances; prohibiting a financing
958 agreement from being entered into under certain
959 circumstances; requiring the program administrator to
960 provide certain information before a financing
961 agreement may be approved; requiring an oral, recorded
962 telephone call with the residential property owner to
963 confirm findings and disclosures before the approval
964 of a financing agreement; requiring the residential
965 property owner to provide written notice to the holder
966 or loan servicer of his or her intent to enter into a
967 financing agreement as well as other financial



968 information; requiring that proof of such notice be
969 provided to the program administrator; providing that
970 a certain acceleration provision in an agreement
971 between the residential property owner and mortgagor
972 or lienholder is unenforceable; providing that the
973 lienholder or loan servicer retains certain authority;
974 requiring the program administrator to receive the
975 written consent of certain lienholders on commercial
976 property; authorizing a residential property owner,
977 under certain circumstances and within a certain
978 timeframe, to cancel a financing agreement without
979 financial penalty; requiring recording of the
980 financing agreement in a specified timeframe; creating
981 the seller's disclosure statements for properties
982 offered for sale which have assessments on them for
983 qualifying improvements; requiring the program
984 administrator to confirm that certain conditions are
985 met before disbursing final funds to a qualifying
986 improvement contractor for qualifying improvements on
987 residential property; requiring a program
988 administrator to submit a certain certificate to a
989 county or municipality upon final disbursement and
990 completion of qualifying improvements on commercial
991 property; creating s. 163.083, F.S.; requiring a
992 county or municipality to establish or approve a
993 process for the registration of a qualifying
994 improvement contractor to install qualifying
995 improvements; requiring certain conditions for a
996 qualifying improvement contractor to participate in a



997 program; prohibiting a third-party administrator from
998 registering as a qualifying improvement contractor;
999 requiring the program administrator to monitor
1000 qualifying improvement contractors, enforce certain
1001 penalties for a finding of violation, and post certain
1002 information online; creating s. 163.084, F.S.;
1003 authorizing the program administrator to contract with
1004 entities to administer an authorized program;
1005 providing certain requirements for a third-party
1006 administrator; prohibiting a program administrator
1007 from contracting with a third-party administrator
1008 under certain circumstances; requiring the program
1009 administrator to include in its contract with the
1010 third-party administrator the right to perform annual
1011 reviews of the administrator; authorizing the program
1012 administrator to take certain actions if the program
1013 administrator finds that the third-party administrator
1014 has committed a violation of its contract; authorizing
1015 a program administrator to terminate an agreement with
1016 a third-party administrator under certain
1017 circumstances; providing for the continuation of
1018 certain financing agreements after the termination or
1019 suspension of the third-party administrator; creating
1020 s. 163.085, F.S.; requiring that, in communicating
1021 with the property owner or nongovernmental lessee, the
1022 program administrator, qualifying improvement
1023 contractor, or third-party administrator comply with
1024 certain requirements; prohibiting the program
1025 administrator or third-party administrator from



1026 disclosing certain financing information to a
1027 qualifying improvement contractor; prohibiting a
1028 qualifying improvement contractor from making certain
1029 advertisements or solicitations; providing exceptions;
1030 prohibiting a program administrator or third-party
1031 administrator from providing certain payments, fees,
1032 or kickbacks to a qualifying improvement contractor;
1033 authorizing a program administrator or third-party
1034 administrator to reimburse a qualifying improvement
1035 contractor for certain expenses; prohibiting a
1036 qualifying improvement contractor from providing
1037 different prices for a qualifying improvement;
1038 requiring a contract between a property owner or
1039 nongovernmental lessee and a qualifying improvement
1040 contractor to include certain provisions; prohibiting
1041 a program administrator, third-party administrator, or
1042 qualifying improvement contractor from providing any
1043 cash payment or anything of material value to a
1044 property owner or nongovernmental lessee which is
1045 explicitly conditioned on a financing agreement;
1046 creating s. 163.086, F.S.; prohibiting a recorded
1047 financing agreement from being removed from attachment
1048 to a property under certain circumstances; providing
1049 for the unenforceability of a financing agreement
1050 under certain circumstances; providing provisions for
1051 when a qualifying improvement contractor initiates
1052 work on an unenforceable contract; providing that a
1053 qualifying improvement contractor may retrieve chattel
1054 or fixtures delivered pursuant to an unenforceable



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1055 contract if certain conditions are met; providing that
1056 an unenforceable contract will remain unenforceable
1057 under certain circumstances; creating s. 163.087,
1058 F.S.; requiring a program administrator authorized to
1059 administer a program for financing a qualifying
1060 improvement to post on its website an annual report;
1061 specifying requirements for the report; requiring the
1062 auditor general to conduct an operational audit of
1063 each authorized program; providing an effective date.

By the Committee on Community Affairs; and Senator Martin

578-02372-24

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1 A bill to be entitled
 2 An act relating to improvements to real property;
 3 amending s. 163.08, F.S.; deleting provisions relating
 4 to legislative findings and intent; defining terms and
 5 revising definitions; creating ss. 163.081 and
 6 163.082, F.S.; allowing a program administrator to
 7 offer a program for financing qualifying improvements
 8 for residential or commercial property when authorized
 9 by a county or municipality; requiring an authorized
 10 program administrator that administers an authorized
 11 program to meet certain requirements; authorizing a
 12 county or municipality to enter into an interlocal
 13 agreement to implement a program; authorizing a
 14 program administrator to contract with third-party
 15 administrators to implement the program; authorizing a
 16 program administrator to levy non-ad valorem
 17 assessments for a certain purpose; authorizing a
 18 program administrator to incur debt for the purpose of
 19 providing financing for qualifying improvements;
 20 authorizing the owner of the residential property or
 21 commercial property or certain nongovernmental lessees
 22 to apply to the program administrator to finance a
 23 qualifying improvement; requiring the program
 24 administrator to make certain findings before entering
 25 into a financing agreement; requiring the program
 26 administrator to ascertain certain financial
 27 information from the property owner or nongovernmental
 28 lessee before entering into a financing agreement;
 29 requiring certain documentation; requiring certain

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

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30 financing agreement and contract provisions for change
 31 orders if the property owner or nongovernmental lessee
 32 and program administrator agree to allow change orders
 33 to complete a qualifying improvement; prohibiting a
 34 financing agreement from being entered into under
 35 certain circumstances; requiring the program
 36 administrator to provide certain information before a
 37 financing agreement may be approved; requiring an
 38 oral, recorded telephone call with the residential
 39 property owner to confirm findings and disclosures
 40 before the approval of a financing agreement;
 41 requiring the residential property owner to provide
 42 written notice to the holder or loan servicer of his
 43 or her intent to enter into a financing agreement as
 44 well as other financial information; requiring that
 45 proof of such notice be provided to the program
 46 administrator; providing that a certain acceleration
 47 provision in an agreement between the residential
 48 property owner and mortgagor or lienholder is
 49 unenforceable; providing that the lienholder or loan
 50 servicer retains certain authority; requiring the
 51 program administrator to receive the written consent
 52 of certain lienholders on commercial property;
 53 authorizing a residential property owner, under
 54 certain circumstances and within a certain timeframe,
 55 to cancel a financing agreement without financial
 56 penalty; requiring recording of the financing
 57 agreement in a specified timeframe; creating the
 58 seller's disclosure statements for properties offered

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59 for sale which have assessments on them for qualifying
 60 improvements; requiring the program administrator to
 61 confirm that certain conditions are met before
 62 disbursing final funds to a qualifying improvement
 63 contractor for qualifying improvements on residential
 64 property; requiring a program administrator to submit
 65 a certain certificate to a county or municipality upon
 66 final disbursement and completion of qualifying
 67 improvements; creating s. 163.083, F.S.; requiring a
 68 county or municipality to establish or approve a
 69 process for the registration of a qualifying
 70 improvement contractor to install qualifying
 71 improvements; requiring certain conditions for a
 72 qualifying improvement contractor to participate in a
 73 program; prohibiting a third-party administrator from
 74 registering as a qualifying improvement contractor;
 75 requiring the program administrator to monitor
 76 qualifying improvement contractors, enforce certain
 77 penalties for a finding of violation, and post certain
 78 information online; creating s. 163.084, F.S.;
 79 authorizing the program administrator to contract with
 80 entities to administer an authorized program;
 81 providing certain requirements for a third-party
 82 administrator; prohibiting a program administrator
 83 from contracting with a third-party administrator
 84 under certain circumstances; requiring the program
 85 administrator to include in its contract with the
 86 third-party administrator the right to perform annual
 87 reviews of the administrator; authorizing the program

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88 administrator to take certain actions if the program
 89 administrator finds that the third-party administrator
 90 has committed a violation of its contract; authorizing
 91 a program administrator to terminate an agreement with
 92 a third-party administrator under certain
 93 circumstances; providing for the continuation of
 94 certain financing agreements after the termination or
 95 suspension of the third-party administrator; creating
 96 s. 163.085, F.S.; requiring that, in communicating
 97 with the property owner or nongovernmental lessee, the
 98 program administrator, qualifying improvement
 99 contractor, or third-party administrator comply with
 100 certain requirements; prohibiting the program
 101 administrator or third-party administrator from
 102 disclosing certain financing information to a
 103 qualifying improvement contractor; prohibiting a
 104 qualifying improvement contractor from making certain
 105 advertisements or solicitations; providing exceptions;
 106 prohibiting a program administrator or third-party
 107 administrator from providing certain payments, fees,
 108 or kickbacks to a qualifying improvement contractor;
 109 authorizing a program administrator or third-party
 110 administrator to reimburse a qualifying improvement
 111 contractor for certain expenses; prohibiting a
 112 qualifying improvement contractor from providing
 113 different prices for a qualifying improvement;
 114 requiring a contract between a property owner or
 115 nongovernmental lessee and a qualifying improvement
 116 contractor to include certain provisions; prohibiting

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117 a program administrator, third-party administrator, or
 118 qualifying improvement contractor from providing any
 119 cash payment or anything of material value to a
 120 property owner or nongovernmental lessee which is
 121 explicitly conditioned on a financing agreement;
 122 creating s. 163.086, F.S.; prohibiting a recorded
 123 financing agreement from being removed from attachment
 124 to a property under certain circumstances; providing
 125 for the unenforceability of a financing agreement
 126 under certain circumstances; providing provisions for
 127 when a qualifying improvement contractor initiates
 128 work on an unenforceable contract; providing that a
 129 qualifying improvement contractor may retrieve chattel
 130 or fixtures delivered pursuant to an unenforceable
 131 contract if certain conditions are met; providing that
 132 an unenforceable contract will remain unenforceable
 133 under certain circumstances; creating s. 163.087,
 134 F.S.; requiring a program administrator authorized to
 135 administer a program for financing a qualifying
 136 improvement to post on its website an annual report;
 137 specifying requirements for the report; requiring the
 138 auditor general to conduct an operational audit of
 139 each authorized program; providing an effective date.

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

142
 143 Section 1. Section 163.08, Florida Statutes, is amended to
 144 read:

145 (Substantial rewording of section. See

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146 s. 163.08, F.S., for present text.)
 147 163.08 Definitions.—As used in ss. 163.081-163.087, the
 148 term:
 149 (1) "Commercial property" means real property other than
 150 residential property. The term includes, but is not limited to,
 151 a property zoned multifamily residential which is composed of
 152 five or more dwelling units; a long-term care or assisted living
 153 facility; real property owned by a nonprofit; government
 154 commercial property; and real property used for commercial,
 155 industrial, or agricultural purposes.
 156 (2) "Government commercial property" means real property
 157 owned by a local government and leased to a nongovernmental
 158 lessee for commercial use. The term does not include residential
 159 property.
 160 (3) "Nongovernmental lessee" means a person or an entity
 161 other than a local government which leases government commercial
 162 property.
 163 (4) "Program administrator" means a county, a municipality,
 164 a dependent special district as defined in s. 189.012, or a
 165 separate legal entity created pursuant to s. 163.01(7).
 166 (5) "Property owner" means the owner or owners of record of
 167 real property. The term includes real property held in trust for
 168 the benefit of one or more individuals, in which case the
 169 individual or individuals may be considered as the property
 170 owner or owners, provided that the trustee provides written
 171 consent. The term does not include persons renting, using,
 172 living, or otherwise occupying real property, except for a
 173 nongovernmental lessee.
 174 (6) "Qualifying improvement" means the following permanent

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175 improvements located on real property within the jurisdiction of
 176 an authorized financing program:

177 (a) For improvements on residential property:

178 1. Repairing, replacing, or improving a central sewerage
 179 system, converting an onsite sewage treatment and disposal
 180 system to a central sewerage system, or, if no central sewerage
 181 system is available, removing, repairing, replacing, or
 182 improving an onsite sewage treatment and disposal system to an
 183 advanced system or technology.

184 2. Repairing, replacing, or improving a roof, including
 185 improvements that strengthen the roof deck attachment; create a
 186 secondary water barrier to prevent water intrusion; install
 187 wind-resistant shingles or gable-end bracing; or reinforce roof-
 188 to-wall connections.

189 3. Providing flood and water damage mitigation and
 190 resiliency improvements, prioritizing repairs, replacement, or
 191 improvements that qualify for reductions in flood insurance
 192 premiums, including raising a structure above the base flood
 193 elevation to reduce flood damage; constructing a flood diversion
 194 apparatus, drainage gate, or seawall improvement, including
 195 seawall repairs and seawall replacements; purchasing flood-
 196 damage-resistant building materials; or making electrical,
 197 mechanical, plumbing, or other system improvements that reduce
 198 flood damage.

199 4. Replacing windows or doors, including garage doors, with
 200 energy-efficient windows or doors.

201 5. Installing energy-efficient heating, cooling, or
 202 ventilation systems.

203 6. Replacing or installing insulation.

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204 7. Replacing or installing energy-efficient water heaters.

205 8. Installing and affixing a permanent generator.

206 (b) For installing or constructing improvements on
 207 commercial property:

208 1. Waste system improvements, which consists of repairing,
 209 replacing, improving, or constructing a central sewerage system,
 210 converting an onsite sewage treatment and disposal system to a
 211 central sewerage system, or, if no central sewerage system is
 212 available, removing, repairing, replacing, or improving an
 213 onsite sewage treatment and disposal system to an advanced
 214 system or technology.

215 2. Making resiliency improvements, which includes but is
 216 not limited to:

217 a. Repairing, replacing, improving, or constructing a roof,
 218 including improvements that strengthen the roof deck attachment;

219 b. Creating a secondary water barrier to prevent water
 220 intrusion;

221 c. Installing wind-resistant shingles or gable-end bracing;
 222 or

223 d. Reinforcing roof-to-wall connections.

224 e. Providing flood and water damage mitigation and
 225 resiliency improvements, prioritizing repairs, replacement, or
 226 improvements that qualify for reductions in flood insurance
 227 premiums, including raising a structure above the base flood
 228 elevation to reduce flood damage; creating or improving
 229 stormwater and flood resiliency, including flood diversion
 230 apparatus, drainage gates, or shoreline improvements; purchasing
 231 flood-damage-resistant building materials; or making any other
 232 improvements necessary to achieve a sustainable building rating

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233 or compliance with a national model resiliency standard and any
 234 improvements to a structure to achieve wind or flood insurance
 235 rate reductions, including building elevation.

236 3. Energy conservation and efficiency improvements, which
 237 are measures to reduce consumption through efficient use or
 238 conservation of electricity, natural gas, propane, or other
 239 formers of energy, including but not limited to, air sealing;
 240 installation of insulation; installation of energy-efficient
 241 heating, cooling, or ventilation systems; building modification
 242 to increase the use of daylight; window replacement; windows;
 243 energy controls or energy recovery systems; installation of
 244 electric vehicle charging equipment; installation of efficient
 245 lighting equipment; or any other improvements necessary to
 246 achieve a sustainable building rating or compliance with a
 247 national model green building code.

248 4. Renewable energy improvements, which is the installation
 249 of any system in which the electrical, mechanical, or thermal
 250 energy is produced from a method that uses solar, geothermal,
 251 bioenergy, wind, or hydrogen.

252 5. Water conservation efficiency improvements, which are
 253 measures to reduce consumption through efficient use or
 254 conservation of water.

255 (7) "Qualifying improvement contractor" means a licensed or
 256 registered contractor who has been registered to participate by
 257 a program administrator pursuant to s. 163.083 to install or
 258 otherwise perform work to make qualifying improvements on
 259 residential property financed pursuant to a program authorized
 260 under s. 163.081.

261 (8) "Residential property" means real property zoned as

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262 residential or multifamily residential and composed of four or
 263 fewer dwelling units.

264 Section 2. Section 163.081, Florida Statutes, is created to
 265 read:

266 163.081 Financing qualifying improvements to residential
 267 property.—

268 (1) RESIDENTIAL PROPERTY PROGRAM AUTHORIZATION.—

269 (a) A program administrator may only offer a program for
 270 financing qualifying improvements to residential property within
 271 the jurisdiction of a county or municipality if the county or
 272 municipality has authorized by ordinance or resolution the
 273 program administrator to administer the program for financing
 274 qualifying improvements to residential property. The authorized
 275 program must, at a minimum, meet the requirements of this
 276 section. Pursuant to this section or as otherwise provided by
 277 law or pursuant to a county's or municipality's home rule power,
 278 a county or municipality may enter into an interlocal agreement
 279 providing for a partnership between one or more local
 280 governments for the purpose of facilitating a program to finance
 281 qualifying improvements to residential property located within
 282 the jurisdiction of the local governments party to the
 283 agreement. A program administrator may contract with one or more
 284 third-party administrators to implement the program as provided
 285 in s. 163.084.

286 (b) An authorized program administrator may levy non-ad
 287 valorem assessments to facilitate repayment of financing
 288 qualifying improvements. Costs incurred by the program
 289 administrator for such purpose may be collected as a non-ad
 290 valorem assessment. A non-ad valorem assessment shall be

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291 collected pursuant to s. 197.3632 and, notwithstanding s.
 292 197.3632(8) (a), shall not be subject to discount for early
 293 payment. However, the notice and adoption requirements of s.
 294 197.3632(4) do not apply if this section is used and complied
 295 with, and the intent resolution, publication of notice, and
 296 mailed notices to the property appraiser, tax collector, and
 297 Department of Revenue required by s. 197.3632(3) (a) may be
 298 provided on or before August 15 of each year in conjunction with
 299 any non-ad valorem assessment authorized by this section, if the
 300 property appraiser, tax collector, and program administrator
 301 agree.

302 (c) A program administrator may incur debt for the purpose
 303 of providing financing for qualifying improvements, which debt
 304 is payable from revenues received from the improved property or
 305 any other available revenue source authorized by law.

306 (2) APPLICATION.—The owner of record of the residential
 307 property within the jurisdiction of an authorized program may
 308 apply to the authorized program administrator to finance a
 309 qualifying improvement. The program administrator may only enter
 310 into a financing agreement with the property owner.

311 (3) FINANCING AGREEMENTS.—

312 (a) Before entering into a financing agreement, the program
 313 administrator must review the residential property owner's
 314 public records derived from a commercially accepted source and
 315 the property owner's statements, records, and credit reports and
 316 make each of the following findings:

317 1. There are sufficient resources to complete the project.

318 2. The total amount of any non-ad valorem assessment for a
 319 residential property under this section does not exceed 20

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320 percent of the just value of the property as determined by the
 321 property appraiser. The total amount may exceed this limitation
 322 upon written consent of the holders or loan servicers of any
 323 mortgage encumbering or otherwise secured by the residential
 324 property.

325 3. The combined mortgage-related debt and total amount of
 326 any non-ad valorem assessments under the program for the
 327 residential property does not exceed 97 percent of the just
 328 value of the property as determined by the property appraiser.

329 4. The financing agreement does not utilize a negative
 330 amortization schedule, a balloon payment, or prepayment fees or
 331 finances other than nominal administrative costs. Capitalized
 332 interest included in the original balance of the assessment
 333 financing agreement does not constitute negative amortization.

334 5. All property taxes and any other assessments, including
 335 non-ad valorem assessments, levied on the same bill as the
 336 property taxes are current and have not been delinquent for the
 337 preceding 3 years, or the property owner's period of ownership,
 338 whichever is less.

339 6. There are no outstanding fines or fees related to zoning
 340 or code enforcement violations issued by a county or
 341 municipality, unless the qualifying improvement will remedy the
 342 zoning or code violation.

343 7. There are no involuntary liens, including, but not
 344 limited to, construction liens on the residential property.

345 8. No notices of default or other evidence of property-
 346 based debt delinquency have been recorded and not released
 347 during the preceding 3 years or the property owner's period of
 348 ownership, whichever is less.

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349 9. The property owner is current on all mortgage debt on
 350 the residential property.

351 10. The property owner has not been subject to a bankruptcy
 352 proceeding within the last 5 years unless it was discharged or
 353 dismissed more than 2 years before the date on which the
 354 property owner applied for financing.

355 11. The residential property is not subject to an existing
 356 home equity conversion mortgage or reverse mortgage product.

357 12. The term of the financing agreement does not exceed the
 358 weighted average useful life of the qualified improvements to
 359 which the greatest portion of funds disbursed under the
 360 assessment contract is attributable, not to exceed 20 years. The
 361 program administrator shall determine the useful life of a
 362 qualifying improvement using established standards, including
 363 certification criteria from government agencies or nationally
 364 recognized standards and testing organizations.

365 13. The total estimated annual payment amount for all
 366 financing agreements entered into under this section on the
 367 residential property does not exceed 10 percent of the property
 368 owner's annual household income. Income must be confirmed using
 369 reasonable evidence and not solely by a property owner's
 370 statement.

371 14. If the qualifying improvement is estimated to cost
 372 \$5,000 or more, the property owner has obtained estimates from
 373 at least two unaffiliated, registered qualifying improvement
 374 contractors for the qualifying improvement to be financed.

375 (b) Before entering into a financing agreement, the
 376 property administrator must determine if there are any current
 377 financing agreements on the residential property and if the

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378 property owner has obtained or sought to obtain additional
 379 qualifying improvements on the same property which have not yet
 380 been recorded. The failure to disclose information related to
 381 not yet recorded financing agreements does not invalidate a
 382 financing agreement or any obligation thereunder, even if the
 383 total financed amount of the qualifying improvement exceeds the
 384 amount that would otherwise be authorized under this section.
 385 The existence of a prior qualifying improvement non-ad valorem
 386 assessment or a prior financing agreement is not evidence that
 387 the financing agreement under consideration is affordable or
 388 meets other program requirements.

389 (c) Findings satisfying paragraphs (a) and (b) must be
 390 documented, including supporting evidence relied upon, and
 391 provided to the property owner prior to a financing agreement
 392 being approved and recorded.

393 (d) A property owner and the program administrator may
 394 agree to include in the financing agreement provisions for
 395 allowing change orders necessary to complete the qualifying
 396 improvement. Any financing agreement or contract for qualifying
 397 improvements which includes such provisions must meet the
 398 requirements of this paragraph. If a proposed change order on a
 399 qualifying improvement will significantly increase the original
 400 cost of the qualifying improvement or significantly expand the
 401 scope of the qualifying improvement, before the change order may
 402 be executed which would result in an increase in the amount
 403 financed through the program administrator for the qualifying
 404 improvement, the program administrator must notify the property
 405 owner, provide an updated written disclosure form as described
 406 in subsection (4) to the property owner, and obtain written

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407 approval of the change from the property owner.
 408 (e) A financing agreement may not be entered into if the
 409 total cost of the qualifying improvement, including program fees
 410 and interest, is less than \$2,500.
 411 (f) A financing agreement may not be entered into for
 412 qualifying improvements in buildings or facilities under new
 413 construction or construction for which a certificate of
 414 occupancy or similar evidence of substantial completion of new
 415 construction or improvement has not been issued.
 416 (4) DISCLOSURES.—
 417 (a) In addition to the requirements in subsection (3), a
 418 financing agreement may not be approved unless the program
 419 administrator first provides, including via electronic means, a
 420 written financing estimate and disclosure to the property owner
 421 which includes all of the following:
 422 1. The estimated total amount to be financed, including the
 423 total and itemized cost of the qualifying improvement, program
 424 fees, and capitalized interest, if any;
 425 2. The estimated annual non-ad valorem assessment;
 426 3. The term of the financing agreement and the schedule for
 427 the non-ad valorem assessments;
 428 4. The interest charged and estimated annual percentage
 429 rate;
 430 5. A description of the qualifying improvement;
 431 6. The total estimated annual costs that will be required
 432 to be paid under the assessment contract, including program
 433 fees;
 434 7. The total estimated average monthly equivalent amount of
 435 funds that would need to be saved in order to pay the annual

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436 costs of the non-ad valorem assessment, including program fees;
 437 8. The estimated due date of the first payment that
 438 includes the non-ad valorem assessment;
 439 9. A disclosure that the financing agreement may be
 440 canceled within 5 business days after signing the financing
 441 agreement without any financial penalty for doing so;
 442 10. A disclosure that the property owner may repay any
 443 remaining amount owed, at any time, without penalty or
 444 imposition of additional prepayment fees or fines other than
 445 nominal administrative costs;
 446 11. A disclosure that if the property owner sells or
 447 refinances the residential property, the property owner may be
 448 required by a mortgage lender to pay off the full amount owed
 449 under each financing agreement under this section;
 450 12. A disclosure that the assessment will be collected
 451 along with the property owner's property taxes, and will result
 452 in a lien on the property from the date the financing agreement
 453 is recorded;
 454 13. A disclosure that potential utility or insurance
 455 savings are not guaranteed, and will not reduce the assessment
 456 amount; and
 457 14. A disclosure that failure to pay the assessment may
 458 result in penalties, fees, including attorney fees, court costs,
 459 and the issuance of a tax certificate that could result in the
 460 property owner losing the property and a judgment against the
 461 property owner, and may affect the property owner's credit
 462 rating.
 463 (b) Prior to the financing agreement being approved, the
 464 program administrator must conduct an oral, recorded telephone

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465 call with the property owner during which the program
 466 administrator must confirm each finding or disclosure required
 467 in subsection (3) and this section.

468 (5) NOTICE TO LIENHOLDERS AND SERVICERS.—At least 30 days
 469 before entering into a financing agreement, the property owner
 470 must provide to the holders or loan servicers of any existing
 471 mortgages encumbering or otherwise secured by the residential
 472 property a written notice of the owner’s intent to enter into a
 473 financing agreement together with the maximum amount to be
 474 financed, including the amount of any fees and interest, and the
 475 maximum annual assessment necessary to repay the total. A
 476 verified copy or other proof of such notice must be provided to
 477 the program administrator. A provision in any agreement between
 478 a mortgagor or other lienholder and a property owner, or
 479 otherwise now or hereafter binding upon a property owner, which
 480 allows for acceleration of payment of the mortgage, note, or
 481 lien or other unilateral modification solely as a result of
 482 entering into a financing agreement as provided for in this
 483 section is unenforceable. This subsection does not limit the
 484 authority of the holder or loan servicer to increase the
 485 required monthly escrow by an amount necessary to pay the annual
 486 assessment.

487 (6) CANCELLATION.—A property owner may cancel a financing
 488 agreement on a form established by the program administrator
 489 within 5 business days after signing the financing agreement
 490 without any financial penalty for doing so.

491 (7) RECORDING.—Any financing agreement approved and entered
 492 into pursuant to this section, or a summary memorandum of such
 493 agreement, shall be submitted for recording in the public

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494 records of the county within which the residential property is
 495 located by the program administrator within 10 business days
 496 after execution of the agreement. The recorded agreement must
 497 provide constructive notice that the non-ad valorem assessment
 498 to be levied on the property constitutes a lien of equal dignity
 499 to county taxes and assessments from the date of recordation. A
 500 notice of lien for the full amount of the financing may be
 501 recorded in the public records of the county where the property
 502 is located. Such lien is not enforceable in a manner that
 503 results in the acceleration of the remaining nondelinquent
 504 unpaid balance under the assessment financing agreement.

505 (8) SALE OF RESIDENTIAL PROPERTY.—At or before the time a
 506 seller executes a contract for the sale of any residential
 507 property for which a non-ad valorem assessment has been levied
 508 under this section and has an unpaid balance due, the seller
 509 shall give the prospective purchaser a written disclosure
 510 statement in the following form, which must be set forth in the
 511 contract or in a separate writing:

512 QUALIFYING IMPROVEMENTS.—The property being purchased
 513 is subject to an assessment on the property pursuant
 514 to s. 163.081, Florida Statutes. The assessment is for
 515 a qualifying improvement to the property and is not
 516 based on the value of the property. You are encouraged
 517 to contact the property appraiser’s office to learn
 518 more about this and other assessments that may be
 519 provided by law.

520 (9) DISBURSEMENTS.—Before disbursing final funds to a
 521
 522

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523 qualifying improvement contractor for a qualifying improvement
 524 on residential property, the program administrator shall confirm
 525 that the applicable work or service has been completed or, as
 526 applicable, that the final permit for the qualifying improvement
 527 has been closed with all permit requirements satisfied or a
 528 certificate of occupancy or similar evidence of substantial
 529 completion of construction or improvement has been issued.

530 (10) CONSTRUCTION.—This section is additional and
 531 supplemental to county and municipal home rule authority and not
 532 in derogation of such authority or a limitation upon such
 533 authority.

534 Section 3. Section 163.082, Florida Statutes, is created to
 535 read:

536 163.082 Financing qualifying improvements to commercial
 537 property.—

538 (1) COMMERCIAL PROPERTY PROGRAM AUTHORIZATION.—

539 (a) A program administrator may only offer a program for
 540 financing qualifying improvements to commercial property within
 541 the jurisdiction of a county or municipality if the county or
 542 municipality has authorized by ordinance or resolution the
 543 program administrator to administer the program for financing
 544 qualifying improvements. The authorized program must, at a
 545 minimum, meet the requirements of this section. Pursuant to this
 546 section or as otherwise provided by law or pursuant to a
 547 county's or municipality's home rule power, a county or
 548 municipality may enter into an interlocal agreement providing
 549 for a partnership between one or more local governments for the
 550 purpose of facilitating a program for financing qualifying
 551 improvements to commercial property located within the

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552 jurisdiction of the local governments party to the agreement. A
 553 program administrator may contract with one or more third-party
 554 administrators to implement the program as provided in s.
 555 163.084.

556 (b) An authorized program administrator may levy non-ad
 557 valorem assessments to facilitate repayment of financing or
 558 refinancing qualifying improvements. Costs incurred by the
 559 program administrator for such purpose may be collected as a
 560 non-ad valorem assessment. A non-ad valorem assessment shall be
 561 collected pursuant to s. 197.3632 and, notwithstanding s.
 562 197.3632(8)(a), is not subject to discount for early payment.
 563 However, the notice and adoption requirements of s. 197.3632(4)
 564 do not apply if this section is used and complied with, and the
 565 intent resolution, publication of notice, and mailed notices to
 566 the property appraiser, tax collector, and Department of Revenue
 567 required by s. 197.3632(3)(a) may be provided on or before
 568 August 15 of each year in conjunction with any non-ad valorem
 569 assessment authorized by this section, if the property
 570 appraiser, tax collector, and program administrator agree.

571 (c) A program administrator may incur debt for the purpose
 572 of providing financing for qualifying improvements, which debt
 573 is payable from revenues received from the improved property or
 574 any other available revenue source authorized by law.

575 (2) APPLICATION.—The owner of record of the commercial
 576 property within the jurisdiction of the authorized program may
 577 apply to the program administrator to finance a qualifying
 578 improvement and enter into a financing agreement with the
 579 program administrator to make such improvement. The program
 580 administrator may only enter into a financing agreement with a

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581 property owner. However, a nongovernmental lessee may apply to
 582 finance a qualifying improvement if the nongovernmental lessee
 583 provides the program administrator with written consent of the
 584 government lessor. Any financing agreement with the
 585 nongovernmental lessee must provide that the nongovernmental
 586 lessee is the only party obligated to pay the assessment.

587 (3) FINANCING AGREEMENTS.—

588 (a) Before entering into a financing agreement, the program
 589 administrator must make each of the following findings based on
 590 a review of public records derived from a commercially accepted
 591 source and the statements, records, and credit reports of the
 592 commercial property owner or nongovernmental lessee:

593 1. There are sufficient resources to complete the project.

594 2. The total amount of any non-ad valorem assessment for a
 595 commercial property under this section does not exceed 20
 596 percent of the just value of the property as determined by the
 597 property appraiser. The total amount may exceed this limitation
 598 upon written consent of the holders or loan servicers of any
 599 mortgage encumbering or otherwise secured by the commercial
 600 property.

601 3. The combined mortgage-related debt and total amount of
 602 any non-ad valorem assessments under the program for the
 603 commercial property does not exceed 97 percent of the just value
 604 of the property as determined by the property appraiser.

605 4. All property taxes and any other assessments, including
 606 non-ad valorem assessments, levied on the same bill as the
 607 property taxes are current.

608 5. There are no involuntary liens greater than \$5,000,
 609 including, but not limited to, construction liens on the

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610 commercial property.

611 6. No notices of default or other evidence of property-
 612 based debt delinquency have been recorded and not been released
 613 during the preceding 3 years or the property owner's period of
 614 ownership, whichever is less.

615 7. The property owner is current on all mortgage debt on
 616 the commercial property.

617 8. The term of the financing agreement does not exceed the
 618 weighted average useful life of the qualified improvements to
 619 which the greatest portion of funds disbursed under the
 620 assessment contract is attributable, not to exceed 30 years. The
 621 program administrator shall determine the useful life of a
 622 qualifying improvement using established standards, including
 623 certification criteria from government agencies or nationally
 624 recognized standards and testing organizations.

625 9. The property owner or nongovernmental lessee is not
 626 currently the subject of a bankruptcy proceeding.

627 (b) Before entering into a financing agreement, the program
 628 administrator shall determine if there are any current financing
 629 agreements on the commercial property and whether the property
 630 owner or nongovernmental lessee has obtained or sought to obtain
 631 additional qualifying improvements on the same property which
 632 have not yet been recorded. The failure to disclose information
 633 related to not yet recorded financing agreements does not
 634 invalidate a financing agreement or any obligation thereunder,
 635 even if the total financed amount of the qualifying improvement
 636 exceeds the amount that would otherwise be authorized under this
 637 section. The existence of a prior qualifying improvement non-ad
 638 valorem assessment or a prior financing agreement is not

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639 evidence that the financing agreement under consideration is
 640 affordable or meets other program requirements.

641 (c) Findings satisfying paragraphs (a) and (b) must be
 642 documented, including supporting evidence relied upon, and
 643 provided to the property owner or nongovernmental lessee prior
 644 to a financing agreement being approved and recorded.

645 (d) A property owner or nongovernmental lessee and the
 646 program administrator may agree to include in the financing
 647 agreement provisions for allowing change orders necessary to
 648 complete the qualifying improvement. Any financing agreement or
 649 contract for qualifying improvements which includes such
 650 provisions must meet the requirements of this paragraph. If a
 651 proposed change order on a qualifying improvement will
 652 significantly increase the original cost of the qualifying
 653 improvement or significantly expand the scope of the qualifying
 654 improvement, before the change order may be executed which would
 655 result in an increase in the amount financed through the program
 656 administrator for the qualifying improvement, the program
 657 administrator must notify the property owner or nongovernmental
 658 lessee, provide an updated written disclosure form as described
 659 in subsection (4) to the property owner or nongovernmental
 660 lessee, and obtain written approval of the change from the
 661 property owner or nongovernmental lessee.

662 (e) A financing agreement may not be entered into if the
 663 total cost of the qualifying improvement, including program fees
 664 and interest, is less than \$2,500.

665 (4) DISCLOSURES.—In addition to the requirements in
 666 subsection (3), a financing agreement may not be approved unless
 667 the program administrator provides, whether on a separate

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668 document or included with other disclosures or forms, a
 669 financing estimate and disclosure to the property owner or
 670 nongovernmental lessee which includes all of the following:

671 (a) The estimated total amount to be financed, including
 672 the total and itemized cost of the qualifying improvement,
 673 program fees, and capitalized interest, if any;

674 (b) The estimated annual non-ad valorem assessment;

675 (c) The term of the financing agreement and the schedule
 676 for the non-ad valorem assessments;

677 (d) The interest charged and estimated annual percentage
 678 rate;

679 (e) A description of the qualifying improvement;

680 (f) The total estimated annual costs that will be required
 681 to be paid under the assessment contract, including program
 682 fees;

683 (g) The total estimated average monthly equivalent amount
 684 of funds that would need to be saved in order to pay the annual
 685 costs of the non-ad valorem assessment, including program fees;

686 (h) The estimated due date of the first payment that
 687 includes the non-ad valorem assessment; and

688 (i) A disclosure that the property owner or nongovernmental
 689 lessee may repay any remaining amount owed, at any time, without
 690 penalty or imposition of additional prepayment fees or fines
 691 other than nominal administrative costs.

692 (5) CONSENT OF LIENHOLDERS AND SERVICERS.—Before entering
 693 into a financing agreement with a property owner, the program
 694 administrator must have received the written consent of the
 695 current holders or loan servicers of any mortgage that encumbers
 696 or is otherwise secured by the commercial property or that will

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697 otherwise be secured by the property at the time the financing
698 agreement is executed.

699 (6) RECORDING.—Any financing agreement approved and entered
700 into pursuant to this section or a summary memorandum of such
701 agreement must be submitted for recording in the public records
702 of the county within which the commercial property is located by
703 the program administrator within 10 business days after
704 execution of the agreement. The recorded agreement must provide
705 constructive notice that the non-ad valorem assessment to be
706 levied on the property constitutes a lien of equal dignity to
707 county taxes and assessments from the date of recordation. A
708 notice of lien for the full amount of the financing may be
709 recorded in the public records of the county where the property
710 is located. Such lien is not enforceable in a manner that
711 results in the acceleration of the remaining nondelinquent
712 unpaid balance under the assessment financing agreement.

713 (7) SALE OF COMMERCIAL PROPERTY.—At or before the time a
714 seller executes a contract for the sale of any commercial
715 property for which a non-ad valorem assessment has been levied
716 under this section and has an unpaid balance due, the seller
717 shall give the prospective purchaser a written disclosure
718 statement in the following form, which must be set forth in the
719 contract or in a separate writing:

720
721 QUALIFYING IMPROVEMENTS.—The property being purchased
722 is subject to an assessment on the property pursuant
723 to s. 163.082, Florida Statutes. The assessment is for
724 a qualifying improvement to the property and is not
725 based on the value of the property. You are encouraged

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726 to contact the property appraiser's office to learn
727 more about this and other assessments that may be
728 provided for by law.

729
730 (8) COMPLETION CERTIFICATE.—Upon disbursement of all
731 financing and completion of installation of qualifying
732 improvements financed, the program administrator shall file with
733 the applicable county or municipality a certificate that the
734 qualifying improvements have been installed and are in good
735 working order.

736 (9) CONSTRUCTION.—This section is additional and
737 supplemental to county and municipal home rule authority and not
738 in derogation of such authority or a limitation upon such
739 authority.

740 Section 4. Section 163.083, Florida Statutes, is created to
741 read:

742 163.083 Qualifying improvement contractors.—

743 (1) A county or municipality shall establish a process, or
744 approve a process established by a program administrator, to
745 register contractors for participation in a program authorized
746 by a county or municipality pursuant to s. 163.081. A qualifying
747 improvement contractor may only perform such work that the
748 contractor is appropriately licensed, registered, and permitted
749 to conduct. At the time of application to participate and during
750 participation in the program, contractors must:

751 (a) Hold all necessary licenses or registrations for the
752 work to be performed which are in good standing. Good standing
753 includes no outstanding complaints with the state or local
754 government which issues such licenses or registrations.

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755 (b) Comply with all applicable federal, state, and local
 756 laws and regulations, including obtaining and maintaining any
 757 other permits, licenses, or registrations required for engaging
 758 in business in the jurisdiction in which it operates and
 759 maintaining all state-required bond and insurance coverage.
 760 (c) File with the program administrator a written statement
 761 in a form approved by the county or municipality that the
 762 contractor will comply with applicable laws and rules and
 763 qualifying improvement program policies and procedures,
 764 including those on advertising and marketing.
 765 (2) A third-party administrator or a program administrator,
 766 either directly or through an affiliate, may not be registered
 767 as a qualifying improvement contractor.
 768 (3) A program administrator shall establish and maintain:
 769 (a) A process to monitor qualifying improvement contractors
 770 for performance and compliance with requirements of the program
 771 and must conduct regular reviews of qualifying improvement
 772 contractors to confirm that each qualifying improvement
 773 contractor is in good standing.
 774 (b) Procedures for notice and imposition of penalties upon
 775 a finding of violation, which may consist of placement of the
 776 qualifying improvement contractor in a probationary status that
 777 places conditions for continued participation, payment of fines
 778 or sanctions, suspension, or termination from participation in
 779 the program.
 780 (c) An easily accessible page on its website that provides
 781 information on the status of registered qualifying improvement
 782 contractors, including any imposed penalties, and the names of
 783 any qualifying improvement contractors currently on probationary

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784 status or that are suspended or terminated from participation in
 785 the program.
 786 Section 5. Section 163.084, Florida Statutes, is created to
 787 read:
 788 163.084 Third-party administrator for financing qualifying
 789 improvements programs.—
 790 (1) (a) A program administrator may contract with one or
 791 more entities to administer a program authorized by a county or
 792 municipality pursuant to s. 163.081 or s. 163.082 on behalf of
 793 and at the discretion of the program administrator.
 794 (b) The third-party administrator must be independent of
 795 the program administrator and have no conflicts of interest
 796 between managers or owners of the third-party administrator and
 797 program administrator managers, owners, officials, or employees
 798 with oversight over the contract. The contract must provide for
 799 the entity to administer the program according to the
 800 requirements of s. 163.081 or s. 163.082 and the ordinance or
 801 resolution adopted by the county or municipality authorizing the
 802 program. However, only the program administrator may levy or
 803 administer non-ad valorem assessments.
 804 (2) A program administrator may not contract with a third-
 805 party administrator that, within the last 3 years, has been
 806 prohibited from serving as a third-party administrator for
 807 another program administrator for program or contract violations
 808 or has been found by a court of competent jurisdiction to have
 809 violated state or federal laws related to the administration of
 810 ss. 163.081-163.086 or a similar program in another
 811 jurisdiction.
 812 (3) The program administrator must include in any contract

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813 with the third-party administrator the right to perform annual
 814 reviews of the administrator to confirm compliance with ss.
 815 163.081-163.086, the ordinance or resolution adopted by the
 816 county or municipality, and the contract with the program
 817 administrator. If the program administrator finds that the
 818 third-party administrator has committed a violation of ss.
 819 163.081-163.086, the adopted ordinance or resolution, or the
 820 contract with the program administrator, the program
 821 administrator shall provide the third-party administrator with
 822 notice of the violation and may, as set forth in the adopted
 823 ordinance or resolution or the contract with the third-party
 824 administrator:

825 (a) Place the third-party administrator in a probationary
 826 status that places conditions for continued operations.

827 (b) Impose any fines or sanctions.

828 (c) Suspend the activity of the third-party administrator
 829 for a period of time.

830 (d) Terminate the agreement with the third-party
 831 administrator.

832 (4) A program administrator may terminate the agreement
 833 with a third-party administrator, as set forth by the county or
 834 municipality in its adopted ordinance or resolution or the
 835 contract with the third-party administrator, if the program
 836 administrator makes a finding that:

837 (a) The third-party administrator has violated the contract
 838 with the program administrator. The contract may set forth
 839 substantial violations that may result in contract termination
 840 and other violations that may provide for a period of time for
 841 correction before the contract may be terminated.

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842 (b) The third-party administrator, or an officer, a
 843 director, a manager or a managing member, or a control person of
 844 the third-party administrator, has been found by a court of
 845 competent jurisdiction to have violated state or federal laws
 846 related to the administration a program authorized of the
 847 provisions of ss. 163.081-163.086 or a similar program in
 848 another jurisdiction within the last 5 years.

849 (c) Any officer, director, manager or managing member, or
 850 control person of the third-party administrator has been
 851 convicted of, or has entered a plea of guilty or nolo contendere
 852 to, regardless of whether adjudication has been withheld, a
 853 crime related to administration of a program authorized of the
 854 provisions of ss. 163.081-163.086 or a similar program in
 855 another jurisdiction within the last 10 years.

856 (d) An annual performance review reveals a substantial
 857 violation or a pattern of violations by the third-party
 858 administrator.

859 (5) Any recorded financing agreements at the time of
 860 termination or suspension by the program administrator shall
 861 continue.

862 Section 6. Section 163.085, Florida Statutes, is created to
 863 read:

864 163.085 Advertisement and solicitation for financing
 865 qualifying improvements programs under s. 163.081 or s.
 866 163.082.—

867 (1) When communicating with a property owner or a
 868 nongovernmental lessee, a program administrator, qualifying
 869 improvement contractor, or third-party administrator may not:

870 (a) Suggest or imply:

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871 1. That a non-ad valorem assessment authorized under s.
 872 163.081 or s. 163.082 is a government assistance program;
 873 2. That qualifying improvements are free or provided at no
 874 cost, or that the financing related to a non-ad valorem
 875 assessment authorized under s. 163.081 or s. 163.082 is free or
 876 provided at no cost; or
 877 3. That the financing of a qualifying improvement using the
 878 program authorized pursuant to s. 163.081 or s. 163.082 does not
 879 require repayment of the financial obligation.
 880 (b) Make any representation as to the tax deductibility of
 881 a non-ad valorem assessment. A program administrator, qualifying
 882 improvement contractor, or third-party administrator may
 883 encourage a property owner or nongovernmental lessee to seek the
 884 advice of a tax professional regarding tax matters related to
 885 assessments.
 886 (2) A program administrator or third-party administrator
 887 may not provide to a qualifying improvement contractor any
 888 information that discloses the amount of financing for which a
 889 property owner or nongovernmental lessee is eligible for
 890 qualifying improvements or the amount of equity in a residential
 891 property or commercial property.
 892 (3) A qualifying improvement contractor may not advertise
 893 the availability of financing agreements for, or solicit program
 894 participation on behalf of, the program administrator unless the
 895 contractor is registered by the program administrator to
 896 participate in the program and is in good standing with the
 897 program administrator.
 898 (4) A program administrator or third-party administrator
 899 may not provide any payment, fee, or kickback to a qualifying

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900 improvement contractor for referring property owners or
 901 nongovernmental lessees to the program administrator or third-
 902 party administrator. However, a program administrator or third-
 903 party administrator may provide information to a qualifying
 904 improvement contractor to facilitate the installation of a
 905 qualifying improvement for a property owner or nongovernmental
 906 lessee.
 907 (5) A program administrator or third-party administrator
 908 may reimburse a qualifying improvement contractor for its
 909 expenses in advertising and marketing campaigns and materials.
 910 (6) A qualifying improvement contractor may not provide a
 911 different price for a qualifying improvement financed under s.
 912 163.081 than the price that the qualifying improvement
 913 contractor would otherwise provide if the qualifying improvement
 914 was not being financed through a financing agreement. Any
 915 contract between a property owner or nongovernmental lessee and
 916 a qualifying improvement contractor must clearly state all
 917 pricing and cost provisions, including any process for change
 918 orders which meet the requirements of s. 163.081(3)(d).
 919 (7) A program administrator, qualifying improvement
 920 contractor, or third-party administrator may not provide any
 921 direct cash payment or other thing of material value to a
 922 property owner or nongovernmental lessee which is explicitly
 923 conditioned upon the property owner or nongovernmental lessee
 924 entering into a financing agreement. However, a program
 925 administrator or third-party administrator may offer programs or
 926 promotions that provide reduced fees or interest rates if the
 927 reduced fees or interest rates are reflected in the financing
 928 agreements and are not provided to the property owner or

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929 nongovernmental lessee as cash consideration.

930 Section 7. Section 163.086, Florida Statutes, is created to
931 read:

932 163.086 Unenforceable financing agreements for qualifying
933 improvements programs under s. 163.081 or s. 163.082;
934 attachment; fraud.—

935 (1) A recorded financing agreement may not be removed from
936 attachment to a residential property or commercial property if
937 the property owner or nongovernmental lessee fraudulently
938 obtained funding pursuant to s. 163.081 or s. 163.082.

939 (2) A financing agreement may not be enforced, and a
940 recorded financing agreement may be removed from attachment to a
941 residential property or commercial property and deemed null and
942 void, if:

943 (a) The property owner or nongovernmental lessee applied
944 for, accepted, and canceled a financing agreement within the 5-
945 business-day period pursuant to s. 163.081(6). A qualifying
946 improvement contractor may not begin work under a canceled
947 contract.

948 (b) A person other than the property owner or
949 nongovernmental lessee obtained the recorded financing
950 agreement. The court may enter an order which holds that person
951 or persons personally liable for the debt.

952 (c) The program administrator, third-party administrator,
953 or qualifying improvement contractor approved or obtained
954 funding through fraudulent means and in violation of ss.
955 163.081-163.085, or this section for qualifying improvements on
956 the residential property or commercial property.

957 (3) If a qualifying improvement contractor has initiated

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958 work on residential property or commercial property under a
959 contract deemed unenforceable under this section, the qualifying
960 improvement contractor:

961 (a) May not receive compensation for that work under the
962 financing agreement.

963 (b) Must restore the residential property or commercial
964 property to its original condition at no cost to the property
965 owner or nongovernmental lessee.

966 (c) Must immediately return any funds, property, and other
967 consideration given by the property owner or nongovernmental
968 lessee. If the property owner or nongovernmental lessee provided
969 any property and the qualifying improvement contractor does not
970 or cannot return it, the qualifying improvement contractor must
971 immediately return the fair market value of the property or its
972 value as designated in the contract, whichever is greater.

973 (4) If the qualifying improvement contractor has delivered
974 chattel or fixtures to residential property or commercial
975 property pursuant to a contract deemed unenforceable under this
976 section, the qualifying improvement contractor has 90 days after
977 the date on which the contract was executed to retrieve the
978 chattel or fixtures, provided that:

979 (a) The qualifying improvement contractor has fulfilled the
980 requirements of paragraphs (3) (a) and (b).

981 (b) The chattel and fixtures can be removed at the
982 qualifying improvement contractor's expense without damaging the
983 residential property or commercial property.

984 (5) If a qualifying improvement contractor fails to comply
985 with this section, the property owner or nongovernmental lessee
986 may retain any chattel or fixtures provided pursuant to a

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987 contract deemed unenforceable under this section.

988 (6) A contract that is otherwise unenforceable under this
 989 section remains enforceable if the property owner or
 990 nongovernmental lessee waives his or her right to cancel the
 991 contract or cancels the financing agreement pursuant to s.
 992 163.081(6) or s. 163.082(6) but allows the qualifying
 993 improvement contractor to proceed with the installation of the
 994 qualifying improvement.

995 Section 8. Section 163.087, Florida Statutes, is created to
 996 read:

997 163.087 Reporting for financing qualifying improvements
 998 programs under s. 163.081 or s. 163.082.-

999 (1) Each program administrator that is authorized to
 1000 administer a program for financing qualifying improvements to
 1001 residential property or commercial property under s. 163.081 or
 1002 s. 163.082 shall post on its website an annual report within 45
 1003 days after the end of its fiscal year containing the following
 1004 information from the previous year for each program authorized
 1005 under s. 163.081 or s. 163.082:

1006 (a) The number and types of qualifying improvements funded.

1007 (b) The aggregate, average, and median dollar amounts of
 1008 annual non-ad valorem assessments and the total number of non-ad
 1009 valorem assessments collected pursuant to financing agreements
 1010 for qualifying improvements.

1011 (c) The total number of defaulted non-ad valorem
 1012 assessments, including the total defaulted amount, the number
 1013 and dates of missed payments, and the total number of parcels in
 1014 default and the length of time in default.

1015 (d) A summary of all reported complaints received by the

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1016 program administrator related to the program, including the
 1017 names of the third-party administrator, if applicable, and
 1018 qualifying improvement contractors and the resolution of each
 1019 complaint.

1020 (2) The Auditor General must conduct an operational audit
 1021 of each program authorized under s. 163.081 or s. 163.082,
 1022 including any third-party administrators, for compliance with
 1023 the provisions of ss. 163.08-163.086 and any adopted ordinance
 1024 at least once every 24 months. The Auditor General may stagger
 1025 evaluations such that a portion of all programs are evaluated in
 1026 1 year; however, every program must be evaluated at least once
 1027 by September 1, 2027. Each program administrator, and third-
 1028 party administrator if applicable, must post the most recent
 1029 report on its website.

1030 Section 9. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

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

SB 770

Bill Number or Topic

092964

Amendment Barcode (if applicable)

1/31/24

Meeting Date

Fiscal Policy

Committee

Name Leah Wiggs

Phone ~~450 570 ?~~

Address Street

Email Lwiggs@renewfinancial.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:

Renew Financial

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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1/31

Meeting Date

SB 770

Bill Number or Topic

Fiscal Policy

Committee

692964

Amendment Barcode (if applicable)

Name

MARK SCHULTE

Phone

303-523-3497

Address

6303 Blue Logan Dr

Street

Email

MARK-Schulte@gmail.com

Miami

City

FL

State

33126

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 \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-JointRules.pdf)

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SB 770

Bill Number or Topic

1/31/24

Meeting Date

S Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Jared Grigas

Phone (850) 322-0224

Address 100 S Monroe St

Street

Email jgrigas@fl-counties.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:

FL. Assoc. of Counties

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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1/31/24

Meeting Date

Fiscal Policy

Committee

Strike all 770

Bill Number or Topic

Amendment Barcode (if applicable)

Name Tim Qualls

Phone 850 222 7206

Address 216 S. Monroe

Email TQualls@yular.mit

Street

Tally

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:

Florida Tax Collectors Assn

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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The Florida Senate

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SB 770

01-31-2024

Meeting Date

Fiscal Policy

Committee

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Bill Number or Topic

Amendment Barcode (if applicable)

Name E. Ivonne Fernandez

Phone 954-850-7262

Address 215 S Monroe Street - 601

Email ifernandez@aarp.org

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:

AARP

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 Fiscal Policy

BILL: CS/SB 1698

INTRODUCER: Agriculture Committee and Senator Burton

SUBJECT: Food and Hemp Products

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Becker</u>	<u>Becker</u>	<u>AG</u>	<u>Fav/CS</u>
2.	<u>Becker</u>	<u>Yeatman</u>	<u>FP</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1698 makes a number of changes to s. 581.217, F.S., the State Hemp Program.

The bill modifies the definition of “attractive to children” to include containers displaying toys, novel shapes, animations, promotional characters, licensed characters, or other features that specifically target children, or, for hemp extracted intended for inhalation, the addition of any flavoring. It revises the definition of “hemp” and “hemp extract” and provides a definition of “total delta-9-tetrahydrocannabinol concentration.”

The bill adds requirements for the manufacture, delivery, hold, and offer for sale to the regulation of the distribution and sale of hemp extract. It specifies that if a batch is sold at retail that it must meet the new requirements for total delta-9-tetrahydrocannabinol concentration limits. It also requires such products to be sold in a container that includes the toll-free telephone number for the national Poison Control Help line.

The bill clarifies that hemp extract may only be sold to *or procured by* a business in this state if that business is properly permitted. A business or food establishment may not possess hemp extract products that are attractive to children.

The bill prohibits the department from granting permission to remove or use, except for disposal, hemp extract products subject to a stop-sale order which are attractive to children until the department determines that the hemp extract products comply with state law.

The bill prohibits an event organizer from promoting, advertising, or facilitating an event where hemp extract products sold that do not comply with general law or are sold by a business that is not properly permitted.

Before an event where hemp extract products are sold or marketed, an event organizer must provide the department with a list of the businesses selling or marketing hemp extract products at the event and verify that each business is only selling hemp products from an approved source. The event organizer must ensure that each participating business is properly permitted.

The bill takes effect July 1, 2024.

II. Present Situation:

Industrial Hemp

Industrial hemp is a *Cannabis sativa* plant (cannabis) that has been cultivated for approximately 10,000 years as a fiber and grain crop. It is used for textiles, building materials, seed oil, and essential oil.¹

Cannabis

Cannabis is a Schedule I controlled substance.² It is a felony of the third degree³ to sell, manufacture, deliver, or possess with intent to sell, manufacture, or deliver, cannabis in Florida.⁴

As a controlled substance in chapter 893, F.S., “cannabis” is defined to mean: all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. The term does not include “marijuana,” as defined in s. 381.986, F.S., if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed, in conformance with s. 381.986, F.S., [the Compassionate Medical Cannabis Act of 2014], hemp as defined in s. 581.217, F.S., [the state hemp program], or industrial hemp as defined in s. 1004.4473, F.S., [industrial hemp pilot projects].⁵

Medical Marijuana

On November 4, 2016, Amendment 2 was approved by the electors and is codified in Article X, section 29, of the Florida Constitution. This section of the constitution became effective on January 3, 2017, and created several exemptions from criminal and civil liability for:

- Qualifying patients medically using marijuana in compliance with the amendment;
- Physicians, solely for issuing physician certifications with reasonable care and in compliance with the amendment; and

¹ See University of Florida, *UF/IFAS Industrial Hemp Pilot Project* at: <https://programs.ifas.ufl.edu/hemp/> (last visited January 22, 2024).

² Section 893.03(1)(c)7., F.S.

³ Section 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not to exceed 5 years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not to exceed \$5,000.

⁴ Section 893.13(1)(a)2., F.S.

⁵ Section 893.02(3), F.S.

- Medical marijuana treatment centers (MMTCs), their agents, and employees for actions or conduct under the amendment and in compliance with rules promulgated by the Florida Department of Health.

Subsequently, the Legislature passed SB 8-A in Special Session A of 2017.⁶ The bill revised the Compassionate Medical Cannabis Act of 2014⁷ in s. 381.986, F.S., to implement Article X, section 29 of the Florida Constitution.

The term medical marijuana includes two distinct forms of the plant genus *Cannabis*:

- Marijuana without any limitation or restriction on the percentage of THC;⁸ and
- “Low-THC cannabis” in which the percentage of THC is limited to 0.8 percent or less and has more than 10 percent of cannabidiol⁹ weight for weight.¹⁰

The Coalition for Medical Marijuana Research and Education located at the H. Lee Moffitt Cancer Center and Research Institute, Inc., is authorized to conduct medical marijuana research and education.¹¹

A MMTC and a qualified patient or caregiver are specifically exempt from the criminal prohibition against the possession of cannabis.¹²

2014 Federal Farm Bill and State Industrial Hemp Pilot Programs

The Agricultural Improvement Act of 2014 (2014 Farm Bill) defined industrial hemp and allowed state departments of agriculture or universities to grow and produce industrial hemp as part of research or pilot programs. Specifically, the law allowed universities and state departments of agriculture to grow or cultivate industrial hemp if:

- The industrial hemp is grown or cultivated for purposes of research conducted under an agricultural pilot program or other agricultural or academic research; and
- The growing or cultivating of industrial hemp is allowed under the laws of the state in which such institution of higher education or state department of agriculture is located and such research occurs.¹³

The 2014 Farm Bill defines “industrial hemp” to mean:

...the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether

⁶ Chapter 2017-232, Laws of Fla.

⁷ Chapter 2014-157, Laws of Fla.

⁸ THC, or tetrahydrocannabinol, is the main active ingredient in cannabis and is responsible for most of the psychological effects of cannabis.

⁹ Cannabidiol (CBD) is a chemical compound, known as a cannabinoid, found in cannabis. CBD does not have the same psychoactivity as THC. See Michael J Breus, *Despite What You May Think... CBD Is Not Weed* (Sept. 20, 2018), Psychology Today, available at: <https://www.psychologytoday.com/us/blog/sleep-newzzz/201809/despite-what-you-may-think-cbd-is-not-weed> (last visited January 22, 2024).

¹⁰ See s. 381.986(1)(e) and (f), F.S.

¹¹ Section 1004.4351, F.S.

¹² See s. 381.986(14), F.S.

¹³ Agricultural Improvement Act of 2014, Pub. L. No. 113-79, s. 7606, 128 Stat. 912 (2014) (codified at 7 U.S.C. s. 5940).

growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.¹⁴

Section 1004.4473, F.S., authorizes the Florida Department of Agriculture and Consumer Services (department) to oversee the development of industrial hemp pilot projects for the Institute of Food and Agricultural Sciences (IFAS) at the University of Florida, Florida Agricultural and Mechanical University, any land grant university in the state that has a college of agriculture, and any Florida College System institution or state university that has an established agriculture, engineering, or pharmacy program.¹⁵ The purpose of the pilot projects is to cultivate, process, test, research, create, and market safe and effective commercial applications for industrial hemp in the agricultural sector in this state. The department has adopted a rule addressing safety, compliance, and accountability and other concerns.¹⁶

2018 Federal Farm Bill

In the Agricultural Improvement Act of 2018 (2018 Farm Bill), the U.S. Congress legalized industrial hemp as an agricultural product by removing hemp's classification as a controlled substance.¹⁷ The 2018 Farm Bill defines "hemp" to mean:

...the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.¹⁸

The 2018 Farm Bill allows a state department of agriculture or an Indian tribe to submit a plan to the United States Secretary of Agriculture and apply for primary regulatory authority over the production of hemp in their state or tribal territory. A state or tribal plan must include:

- A procedure for tracking land upon which hemp will be produced;
- Testing methods for determining THC concentration levels of hemp;
- Methods for effective disposal of noncompliant products;
- Enforcement procedures;
- Inspection procedures; and
- Certification procedures for the persons authorized to produce hemp producers, test hemp products, inspect hemp producers, and enforce the provisions of the state or tribal plan.¹⁹

¹⁴ *Id.*

¹⁵ Section 1004.4473(2)(a), F.S.

¹⁶ Fla. Admin. Code R. 5B-57.013 (2018).

¹⁷ Agricultural Improvement Act of 2018, Pub. L. No. 115-334, s. 12619, 132 Stat. 409 (2018) (codified at 21 U.S.C 802(16)).

¹⁸ Agricultural Improvement Act of 2018, Pub. L. No. 115-334, s. 10113, 132 Stat. 409 (2018) (codified at 7 U.S.C. s. 1639o).

¹⁹ Agricultural Improvement Act of 2018, Pub. L. No. 115-334, s. 10113, 132 Stat. 409 (2018) (codified at 7 U.S.C. s. 1639p).

State Hemp Program

The state hemp program was created within the Department of Agriculture and Consumer Services (department) to regulate the cultivation of hemp in Florida.²⁰

Section 581.217(3)(e), F.S., defines the term “hemp” to mean:

...the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers thereof, whether growing or not, that has a total delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry-weight basis, with the exemption of hemp extract, which may not exceed 0.3 percent total delta-9-tetrahydrocannabinol on a wet-weight basis.

Section 581.217(3)(f), F.S., defines the term “hemp extract” to mean “a substance or compound intended for ingestion, containing more than trace amounts of cannabinoid, or for inhalation which is derived from or contains hemp and which does not contain other controlled substances.” The term does not include synthetic cannabidiol or seeds or seed-derived ingredients that are generally recognized as safe by the United States Food and Drug Administration.²¹ Products that are intended for inhalation and contain hemp extract may not be sold in this state to a person who is under 21 years of age.²²

The department was required to seek federal approval of the state plan for the regulation of the cultivation of hemp with the United States Secretary of Agriculture (USDA) in accordance with the 2018 Farm Bill within 30 days of adopting rules.²³ A license is required to cultivate hemp²⁴ and to obtain a license, a person must apply to the department and submit a full set of fingerprints.²⁵ A person seeking to cultivate hemp must provide the department with a legal land description and GPS coordinates of where the hemp will be cultivated.²⁶ The department must deny an application under certain circumstances.²⁷

Distribution and Retail Sale of Hemp Extract

Hemp extract may only be distributed and sold in this state if the product has a certificate of analysis prepared by an independent testing laboratory that states:

- The hemp extract is the product of a batch tested by the independent testing laboratory;
- The batch contained a total delta-9-tetrahydrocannabinol concentration that did not exceed 0.3 percent pursuant to the testing of a random sample of the batch;
- The batch does not contain contaminants unsafe for human consumption; and

²⁰ See s. 581.217, F.S.

²¹ Section 581.219(3)(f), F.S.

²² Section 581.217(7)(d), F.S.

²³ Section 581.217(4), F.S.

²⁴ Section 581.217(5)(a), F.S.

²⁵ Section 581.217(5)(b), F.S.

²⁶ Section 581.217(5)(d), F.S.

²⁷ Section 581.217(5)(e), F.S.

- The batch was processed in a facility that meets certain human health or food safety requirements.²⁸

Additionally, hemp extract may only be distributed or sold in a container that includes:

- A scannable barcode or quick response code linked to the certificate of analysis of the hemp extract batch by an independent testing laboratory;
- The batch number;
- The Internet address of a website where batch information may be obtained;
- The expiration date; and
- The number of milligrams of each marketed cannabinoid per serving.²⁹

Such container must:

- Be suitable to contain products for human consumption;
- Be composed of materials designed to minimize exposure to light;
- Mitigate exposure to high temperatures;
- Not be attractive to children; and³⁰
- Be compliant with the United States Poison Prevention Packaging Act of 1970.³¹

III. Effect of Proposed Changes:

CS/SB 1698 makes a number of changes to s. 581.217, F.S., the State Hemp Program.

Definitions

The bill modifies the definition of “attractive to children” to include containers displaying toys, novel shapes, animations, promotional characters, licensed characters, or other features that specifically target children, or, for hemp extracted intended for inhalation, the addition of any flavoring. It revises the definition of “hemp” to outline that hemp extract may not exceed 0.3 percent total delta-9-tetrahydrocannabinol concentration on a wet-weight basis or exceed 2 milligrams per serving and 10 milligrams per container on a wet-weight basis, whichever is less.

The bill revises the definition of “hemp extract” to prohibit it from containing synthetic or naturally occurring versions of controlled substances listed in s. 893.03, F.S., such as delta-8-tetrahydrocannabinol, delta-10-tetrahydrocannabinol, hexahydrocannabinol, tetrahydrocannabinol acetate, tetrahydrocannabiphorol, and tetrahydrocannabivarin. It also creates a definition for “total delta-9-tetrahydrocannabinol concentration” to mean a concentration calculated as: [delta-9-tetrahydrocannabinol] + (0.877 x [delta-9-tetrahydrocannabinolic acid]).

²⁸ Section 581.217(7)(a), F.S.

²⁹ Id.

³⁰ Section 581.217(3)(a), F.S., defines “attractive to children” to mean manufactured in the shape of humans, cartoons or animals; manufactured in a form that bears any reasonable resemblance to an existing candy product that is familiar to the public as a widely distributed, branded food product such that a product could be mistaken for the branded product, especially by children, or containing color additives.

³¹ Section 581.217(7)(a), F.S.

Distribution and Sale of Hemp Extract

The bill adds requirements for the manufacture, delivery, hold, and offer for sale to the regulation of the distribution and sale of hemp extract. It specifies that if a batch is sold at retail that it must meet the new requirements for total delta-9-tetrahydrocannabinol concentration limits. It also requires such products to be sold in a container that includes the toll-free telephone number for the national Poison Control Help line.

The bill clarifies that hemp extract may only be sold to *or procured by* a business in this state if that business is properly permitted. A business or food establishment may not possess hemp extract products that are attractive to children.

The bill prohibits the department from granting permission to remove or use, except for disposal, hemp extract products subject to a stop-sale order which are attractive to children until the department determines that the hemp extract products comply with state law.

The bill prohibits an event organizer from promoting, advertising, or facilitating an event where:

- Hemp extract products that do not comply with general law, including hemp extract products that are not from an approved source are sold or marketed; or
- Hemp extract products are sold or marketed by businesses that are not properly permitted by this section and chapter 500.

Before an event where hemp extract products are sold or marketed, an event organizer must provide the department with a list of the businesses selling or marketing hemp extract products at the event and verify that each business is only selling hemp products from an approved source. The event organizer must ensure that each participating business is properly permitted.

The bill takes effect July 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:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There are additional requirements for businesses that manufacture, distribute, or sell products containing hemp extract. Event organizers have additional requirements to ensure businesses participating in the event meet certain requirements.

C. Government Sector Impact:

The department could incur increased costs to ensure compliance with the changes set forth in the bill.

The Florida Department of Law Enforcement estimates the bill will have a total fiscal impact on their department of \$2,972,519, of which \$2,028,092 is nonrecurring. This is mostly for Salaries and Benefits, Operating Capital Outlay, and Contracted Services.³²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 581.217 of the Florida Statutes.

IX. Additional Information:

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

CS by Agriculture on January 23, 2024:

The committee substitute adds a requirement that hemp extract must be sold in a container that includes the toll-free telephone number for the national Poison Help line.

³² Florida Department of Law Enforcement Agency Analysis on file with the Senate Agriculture Committee.

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 the Committee on Agriculture; and Senator Burton

575-02409-24

20241698c1

A bill to be entitled

An act relating to food and hemp products; amending s. 581.217, F.S.; revising legislative findings; revising definitions; defining the term "total delta-9-tetrahydrocannabinol concentration"; providing conditions for the manufacture, delivery, hold, offer for sale, distribution, or sale of hemp extract; prohibiting businesses and food establishments from possessing hemp extract products that are attractive to children; prohibiting the Department of Agriculture and Consumer Services from granting permission to remove or use certain hemp extract products until it determines that such hemp extract products comply with state law; prohibiting event organizers from promoting, advertising, or facilitating certain events; requiring organizers of certain events to provide a list of certain vendors to the department, verify that vendors are only selling hemp products from approved sources, and ensure that such vendors are properly permitted; providing for administrative fines; providing an effective date.

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

Section 1. Paragraph (b) of subsection (2), paragraphs (a), (e), and (f) of subsection (3), and subsection (7) of section 581.217, Florida Statutes, are amended, and paragraph (h) is added to subsection (3) of that section, to read:

581.217 State hemp program.—

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(2) LEGISLATIVE FINDINGS.—The Legislature finds that:

(b) Hemp and hemp extract as defined in this section ~~Hemp-~~
~~derived cannabinoids, including, but not limited to,~~
~~cannabidiol,~~ are not controlled substances ~~or adulterants if~~
~~they are in compliance with this section.~~

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

(a) "Attractive to children" means manufactured in the shape of or packaged in containers displaying humans, cartoons, ~~or~~ animals, toys, novel shapes, animations, promotional characters, licensed characters, or other features that specifically target children; manufactured in a form or packaged in a container that bears any reasonable resemblance to an existing candy or snack product that is familiar to the public; manufactured in a form or packaged in a container that bears any reasonable resemblance to a ~~as a widely distributed,~~ branded food product such that the ~~a~~ product could be mistaken for the branded food product, especially by children; ~~or~~ containing any color additives; or, for hemp extract intended for inhalation, the addition of any flavoring.

(e) "Hemp" means the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers thereof, whether growing or not, that has a total delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry-weight basis, with the exception of hemp extract, which may not exceed 0.3 percent total delta-9-tetrahydrocannabinol concentration on a wet-weight basis or that does not exceed 2 milligrams per serving and 10 milligrams per container on a wet-weight basis, whichever is less.

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59 (f) "Hemp extract" means a substance or compound intended
 60 for ingestion, containing more than trace amounts of a
 61 cannabinoid, or for inhalation which is derived from or contains
 62 hemp ~~but and which~~ does not contain synthetic or naturally
 63 occurring versions of controlled substances listed in s. 893.03,
 64 such as delta-8-tetrahydrocannabinol, delta-10-
 65 tetrahydrocannabinol, hexahydrocannabinol, tetrahydrocannabinol
 66 acetate, tetrahydrocannabiphorol, and tetrahydrocannabivarin.
 67 The term does not include synthetic cannabidiol or seeds or
 68 seed-derived ingredients that are generally recognized as safe
 69 by the United States Food and Drug Administration.

70 (h) "Total delta-9-tetrahydrocannabinol concentration"
 71 means a concentration calculated as follows: [delta-9-
 72 tetrahydrocannabinol] + (0.877 x [delta-9-tetrahydrocannabinolic
 73 acid]).

74 (7) MANUFACTURE, DELIVERY, HOLD, OFFER FOR SALE,
 75 DISTRIBUTION, AND RETAIL SALE OF HEMP EXTRACT.—

76 (a) Hemp extract may only be manufactured, delivered, held,
 77 offered for sale, distributed, or ~~and~~ sold in this ~~the~~ state if
 78 the product:

79 1. Has a certificate of analysis prepared by an independent
 80 testing laboratory that states:

81 a. The hemp extract is the product of a batch tested by the
 82 independent testing laboratory;

83 b. The batch contained a total delta-9-tetrahydrocannabinol
 84 concentration that did not exceed 0.3 percent pursuant to the
 85 testing of a random sample of the batch. However, if the batch
 86 is sold at retail, the batch must meet the total delta-9-
 87 tetrahydrocannabinol concentration limits set forth in paragraph

575-02409-24

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88 (3) (e) for hemp extract;

89 c. The batch does not contain contaminants unsafe for human
 90 consumption; and

91 d. The batch was processed in a facility that holds a
 92 current and valid permit issued by a human health or food safety
 93 regulatory entity with authority over the facility, and that
 94 facility meets the human health or food safety sanitization
 95 requirements of the regulatory entity. Such compliance must be
 96 documented by a report from the regulatory entity confirming
 97 that the facility meets such requirements.

98 2. Is manufactured, delivered, held, offered for sale,
 99 distributed, or sold in a container that includes:

100 a. A scannable barcode or quick response code linked to the
 101 certificate of analysis of the hemp extract batch by an
 102 independent testing laboratory;

103 b. The batch number;

104 c. The Internet address of a website where batch
 105 information may be obtained;

106 d. The expiration date; ~~and~~

107 e. The number of milligrams of each marketed cannabinoid
 108 per serving; and

109 f. The toll-free telephone number for the national Poison
 110 Help line, (800)222-1222.

111 3. Is manufactured, delivered, held, offered for sale,
 112 distributed, or sold in a container that:

113 a. Is suitable to contain products for human consumption;

114 b. Is composed of materials designed to minimize exposure
 115 to light;

116 c. Mitigates exposure to high temperatures;

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117 d. Is not attractive to children; and

118 e. Is compliant with the United States Poison Prevention

119 Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq., without

120 regard to provided exemptions.

121 (b) Hemp extract may only be sold to or procured by a

122 business in this state if that business is properly permitted as

123 required by this section. A business or food establishment may

124 not possess hemp extract products that are attractive to

125 children.

126 (c) Hemp extract manufactured, delivered, held, offered for

127 sale, distributed, or sold in this state is subject to the

128 applicable requirements of chapter 500, chapter 502, or chapter

129 580.

130 (d) Products that are intended for human ingestion or

131 inhalation and that contain hemp extract, including, but not

132 limited to, snuff, chewing gum, and other smokeless products,

133 may not be sold in this state to a person who is under 21 years

134 of age. A person who violates this paragraph commits a

135 misdemeanor of the second degree, punishable as provided in s.

136 775.082 or s. 775.083. A person who commits a second or

137 subsequent violation of this paragraph within 1 year after the

138 initial violation commits a misdemeanor of the first degree,

139 punishable as provided in s. 775.082 or s. 775.083.

140 (e) Hemp extract possessed, manufactured, delivered, held,

141 offered for sale, distributed, or sold in violation of this

142 subsection by an entity regulated under chapter 500 is subject

143 to s. 500.172 and penalties as provided in s. 500.121. Hemp

144 extract products found to be mislabeled or attractive to

145 children are subject to an immediate stop-sale order. The

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20241698c1

146 department may not grant permission to remove or use, except for

147 disposal, hemp extract products subject to a stop-sale order

148 which are attractive to children until the department determines

149 that the hemp extract products comply with state law.

150 (f)1. An event organizer may not promote, advertise, or

151 facilitate an event where:

152 a. Hemp extract products that do not comply with general

153 law, including hemp extract products that are not from an

154 approved source as provided in sub-subparagraph (a)1.d, are sold

155 or marketed; or

156 b. Hemp extract products are sold or marketed by businesses

157 that are not properly permitted as required by this section and

158 chapter 500.

159 2. Before an event where hemp extract products are sold or

160 marketed, an event organizer must provide to the department a

161 list of the businesses selling or marketing hemp extract

162 products at the event and verify that each business is only

163 selling hemp products from an approved source. The event

164 organizer must ensure that each participating business is

165 properly permitted as required by this section and chapter 500.

166 3. A person who violates this paragraph is subject to an

167 administrative fine in the Class III category under s. 570.971

168 for each violation.

169 Section 2. This act shall take effect July 1, 2024.

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The Florida Senate

APPEARANCE RECORD

1-31-2024

Meeting Date

Fiscal Policy

Committee

1698

Bill Number or Topic

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

Amendment Barcode (if applicable)

Name Pat O'Brien

Phone

Address 206 N. Pleasant Rd

Street

Email pobmgmt@gmail.com

Apopka

City

FL

State

32703

Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [] In Support [X] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[X] 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:

POB Ventures

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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1698

1/31/2024

Meeting Date

Bill Number or Topic

Fiscal Policy

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Committee

Amendment Barcode (if applicable)

Name **Izzy Garbarino**

Phone **850-617-7700**

Address

Email

Street

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:

FL Dept. of Agriculture

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

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Meeting Date

1698

Bill Number or Topic

Fiscal Policy
Committee

Amendment Barcode (if applicable)

Name Doug Bell

Phone 850 205 9000

Address 119 S. Monroe St,
Street

Email doug.bell@unhdfirm.com

City TLH

State FL

Zip 32312

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 Chapter of the American Academy of Pediatrics

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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Meeting Date

Fiscal Policy

Committee

1698

Bill Number or Topic

Amendment Barcode (if applicable)

Name Kristen Allen

Phone 850-681-0061

Address 1018 Thomasville Road

Street

Email kristen.allen@maddi.org

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:

Mothers Against Drunk Driving

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)

1/31/24

Meeting Date

The Florida Senate APPEARANCE RECORD

1698

Bill Number or Topic

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Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name **Bill Helmich**

Phone **850-251-3126**

Address **303 Johns Drive**

Email **bill@helmichconsulting.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:

Florida Healthy Alternatives 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 \(flsenate.gov\)](#)

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APPEARANCE RECORD

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1/31/2024

Meeting Date

1698

Bill Number or Topic

Policy

Committee

Amendment Barcode (if applicable)

Name

Ashley Guy

Phone

245-0287

Address

Street

Tallahassee

FL

32312

City

State

Zip

Email

Tallahassee cld@gmail.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. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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240131

Meeting Date

Heup

Bill Number or Topic

Fiscal

Committee

Amendment Barcode (if applicable)

Name Devin Alvarez

Phone 303 718 1139

Address 1122 NW 22nd St

Email devine.alvarez@gmail.com

City Gainesville

State FL

Zip 32603

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 \(flsenate.gov\)](#)

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The Florida Senate

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1698

Bill Number or Topic

1/31/24

Meeting Date

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Shau Ortiz

Phone 813 965-1777

Address 108 West Robertson St

Email shau@siestag.com

Bravelon FL

33511

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 \(flsenate.gov\)](#)

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11/21/24

Meeting Date

93 1698

Bill Number or Topic

Foreign Policy

Committee

Amendment Barcode (if applicable)

Name CHRISTOPHER LINGSET

Phone 406 540-2323

Address 3311 Green River Drive

Email

Street

Reno NV 89503

City

State

Zip

Speaking: [X] For [] Against [] Information OR Waive Speaking: [] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing:

ATTACH

[] 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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The Florida Senate

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1-31-24

Meeting Date

Fiscal Policy

Committee

1698

Bill Number or Topic

Amendment Barcode (if applicable)

Name Brandon Gomes

Phone 941-900-5117

Address 108 W Robertson ST

Email

Street

Brandon

City

FL

State

33511

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:

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The Florida Senate

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1-31-2024

Meeting Date

Fiscal Policy
Committee

1698

Bill Number or Topic

Amendment Barcode (if applicable)

Name Pat O'Brien Phone _____

Address 206 N. Luke Pleasant Rd Email pob.msmt@gmail.com

Street

Apopka
City

FL

State

32703

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:

POB Ventures

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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The Florida Senate

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1/31/2024

Meeting Date

1698

Bill Number or Topic

1698 Fiscal policy

Committee

Amendment Barcode (if applicable)

Name Randy Rembert

Phone 727-851-7422

Address 230 Cessna Way

Street

Email Rembertfamilyfarm@gmail.com

Hawthorne FL 32640

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:

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The Florida Senate

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Meeting Date

1698

Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name J.D. McCormick

Phone 407-508-0340

Address 108 E. Jefferson St. Street

Email jd@amer!canhealthyalternatives.org

Tallahassee City

FL State

32301 Zip

Speaking: [] For [x] Against [] Information OR Waive Speaking: [] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[x] 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:

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The Florida Senate

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1/31/24

Meeting Date

1698

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name DR ROBERT MILLER

Phone 908-625-4621

Address 811 SE 33RD TERR

Email BOB.M@ACTLAB.COM

Street

CAPE CORAL

City

FL

State

33904

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:

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The Florida Senate
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SB 1698

Meeting Date
Fiscal Policy

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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name VIN SEUDATH

Phone (813) 334-9311

Address 9529 Lake Park DR.

Email Kushypies@gmail.com

Street

Thonotosassa FL 33592

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:

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1/3/24

Meeting Date

SB1698

Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Melissa Viller

Phone (850) 3548424

Address PO Box 11254

Street

Email melissa@norma/tallahassee.org

TLH

City

FL

State

32302

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:

Norma Tallahassee

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 \(flsenate.gov\)](#)

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11/3/24
Meeting Date

Fiscal
Committee

SB 1698
Bill Number or Topic

Amendment Barcode (if applicable)

Name Hannah Potter

Phone 813 400 5044

Address 6929 Park Dr.
Street

Email KushyPies@gmail.com

33692
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:

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S-001 (08/10/2021)

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Meeting Date

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Committee

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SB 1698

Bill Number or Topic

Amendment Barcode (if applicable)

954 616 9282

Name

Carlos Hermida

Phone

Address

2723 W. Henry Ave

Email

cubancarlhermida@gmail.com

Street

Tampa

City

FL

State

33614

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 \(flsenate.gov\)](#)

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S-001 (08/10/2021)

1-31

Meeting Date

The Florida Senate APPEARANCE RECORD

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SB 1698/1613

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Leigh Karns Phone 305-401-1611

Address 3050 FAIRBANKS FERRY RD Email Leighakarns@gmail
Street

HAVANA FL 32333
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 \(flsenate.gov\)](#)

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Meeting Date

SB 1698

Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Martha Bueno

Phone (305) 951-2040

Address

Email Martha.Bueno@yahoo.com

Street

Miami

City

FL

State

33175

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:

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1/31/24

Meeting Date

1698

Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Dr. Dan Polberesky

Phone 407-567-0000

Nemours (Na-mours) Children's Health

Address

Email Daniel.Polberesky@nemours.org

Street 6535 Nemours Pkwy

Orlando

FL

32328

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:

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The Florida Senate

APPEARANCE RECORD

1.31.2024

Meeting Date

1698

Bill Number or Topic

Fiscal

Committee

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Amendment Barcode (if applicable)

Name Jodi James Phone 321 890 9302

Address 1375 Cypress Ave Street Email Jodi@FLCAN.org

Mulbourne FL 32935 City State Zip

Speaking: [] For [X] 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:

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

Florida Cannabis Action Network

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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Meeting Date

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SB 1698

Bill Number or Topic

Fiscal

Committee

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Amendment Barcode (if applicable)

Name Dr. Marc Mestre

Phone 305-666-6511

Address 3100 SW 62nd Ave.

Street

Email marcos.mestre@nicklaushealth.org

Miami FL 33155

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:

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1-31-24

Meeting Date

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SB 1698

Bill Number or Topic

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Committee

Amendment Barcode (if applicable)

Name Michelle Tolan

Phone 727-773-7229

Address 537 Kirkwood Terr N

Email Pippy.tolan@gmail.com

St Pete FL 33701

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:

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S-001 (08/10/2021)

The Florida Senate

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01/31/2024 Meeting Date

SB 1698 Bill Number or Topic

Fiscal Policy Committee

Amendment Barcode (if applicable)

Name Kassie Stuart Phone (850) 212 7530

Address 1828 Chardonnay Pl Street Email KSTU313@aol.com

Tallahassee FL 32317 City State Zip

Speaking: [] For [X] Against [] Information OR Waive Speaking: [] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

- [X] 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:

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The Florida Senate

APPEARANCE RECORD

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Jan 31 2024

Meeting Date

Fiscal Policy

Committee

1698

Bill Number or Topic

Amendment Barcode (if applicable)

Name Ellen Snelling

Phone 813-731-2696

Address 521 Lantern Circle

Email er.snelling@verizon.net

Tempe Terrace, FL 33617

Street

City

State

Zip

Speaking: [X] 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:

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1.31.24

Meeting Date

SB 1698

Bill Number or Topic

Fiscal

Committee

Amendment Barcode (if applicable)

Name Cure Allife Yomaira Pinelro

Phone 813.352.8754

Address 7402 N. 56th ST,

Email Cure Allife Tamp@gmail.com

Street

Tampa

City

FL

State

33617

Zip

Speaking: [] For [X] Against [] Information OR Waive Speaking: [] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[X] 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:

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The Florida Senate

APPEARANCE RECORD

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1/31/24

Meeting Date

Fiscal Policy

Committee

SB 1698 / HB 1613

Bill Number or Topic

Amendment Barcode (if applicable)

Name Jammie Treadwell

Phone 352 771-2318

Address 145 E. 6th Ave #8

Street

Email jammietreadwell@treadwellfarms.com

Mt Dora FL 32757

City

State

Zip

Speaking: [] For [X] Against [] Information OR Waive Speaking: [] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[X] 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:

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/CS/SB 1758

INTRODUCER: Fiscal Policy Committee; Children, Families, and Elder Affairs and Senator Brodeur

SUBJECT: Individuals with Disabilities

DATE: January 31, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Rao</u>	<u>Tuszynski</u>	<u>CF</u>	Fav/CS
2.	<u>Rao</u>	<u>Yeatman</u>	<u>FP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

The Agency for Persons with Disabilities (APD) administers services to individuals with developmental disabilities through federally funded Medicaid waiver programs. APD’s iBudget program permits individuals to receive home and community-based waiver services and select the services that are best suited for them while living in their home, rather than an institutional setting.

CS/CS/SB 1758 amends multiple sections of law related to the APD to:

- Require the APD to offer care navigation services to clients and their caregivers, including, but not limited to, creating care plans that address immediate, intermediate, and long term needs and goals of the client.
- Modify the application process for APD services, requiring the creation of an online application process and streamlines the timeframes the APD has to determine eligibility.
- Reduce the age requirement of a client’s caregiver in pre-enrollment category 4 from 70 years of age to 60 years of age or older. This will allow a higher number of individuals to be included in category 4 of the pre-enrollment prioritization list.
- Require iBudget waiver support coordinators to inform iBudget clients of the option to apply for the CDC+ program when creating family or individual support plans.

The bill transfers the Florida Unique Abilities Partner Program from the Department of Commerce to the Agency for Persons with Disabilities.

The bill requires the Agency for Health Care Administration, the APD, and other stakeholders to develop a plan for a new home and community-based services Medicaid waiver program for clients transitioning to adulthood and requires a report to the Governor, President of the Senate, and Speaker of the House by December 1, 2024 on the progress of this plan.

The bill also appropriates funding to the Agency for Persons with Disabilities for the 2024-2025 fiscal year and has a significant negative fiscal impact on state government. *See* Section V. Fiscal Impact Statement.

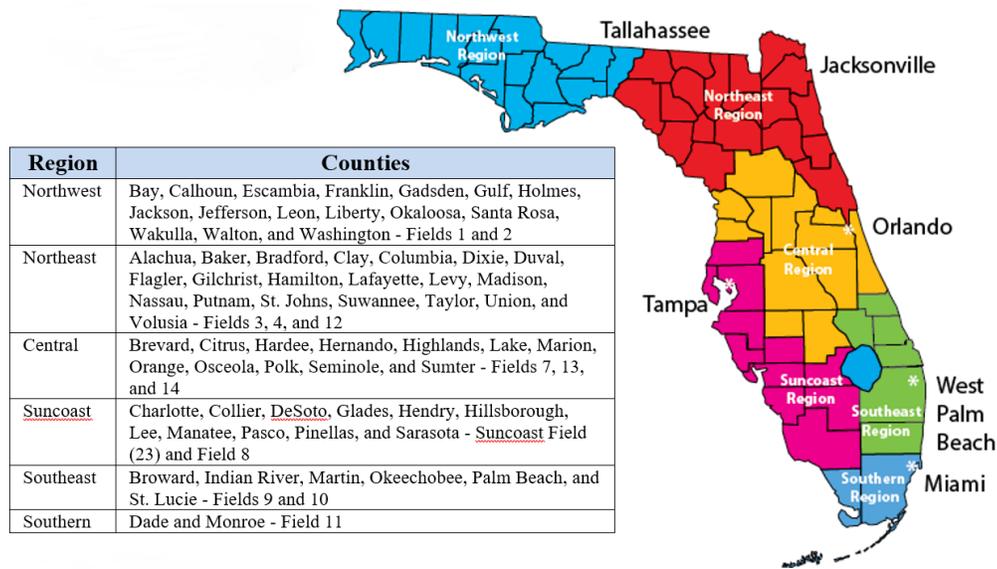
The bill has an effective date of July 1, 2024.

II. Present Situation:

Agency for Persons with Disabilities – Generally

Chapter 393, F.S., identifies the need to provide community-based services and programs for individuals with developmental disabilities that enable individuals to achieve their greatest potential for independent living while reducing the number of individuals in unnecessary institutional placements.¹

The Agency for Persons with Disabilities (APD) provides services to individuals with developmental disabilities and manages Medicaid waivers that provide federally approved services for individuals with developmental disabilities.² Florida has procured waivers of federal Medicaid requirements for the purpose of providing home and community-based (HCBS) services to individuals at risk of institutionalization.³ The HCBS waiver provides services to individuals with developmental disabilities that allow recipients to live in their home or a home-



¹ Section 393.062, F.S.
² Section 20.197, F.S.
³ Rule 59G-13.080(1), F.A.C.

like setting and avoid an institutional setting.⁴ Eligible recipients must meet institutional level of care requirements.⁵ In addition to central headquarters in Tallahassee, the APD operates a total of six regional offices and 14 field offices throughout the state, as detailed below:⁶

iBudget Florida Program

The APD administers Florida's individual budget-based HCBS Waiver, known as iBudget Florida, for individuals with specified developmental disabilities who meet Medicaid eligibility requirements.⁷ The iBudget program allocates available funding to eligible, Medicaid-enrolled clients and provides the client an established budget with the flexibility to choose services within a specified service package that best allows them to live in their community.⁸

The APD began implementation of iBudget Florida on May 1, 2011; the final areas of the state transitioned from the previous tiered waiver system on July 1, 2013.⁹ The iBudget program uses an algorithm, or formula, to set individuals' funding allocations for waiver services.¹⁰ The APD administers the iBudget pursuant to s. 393.0662, F.S.

The APD serves approximately 35,000 individuals through iBudget Florida, contracting with service providers to offer various supports and services to assist individuals to live in their community.¹¹ Examples of waiver services include residential habilitation, behavioral services, personal supports, adult day training, employment services, and occupational and physical therapy.¹²

Section 393.066, F.S., requires the APD to plan, develop, organize, and implement its programs of services and treatment for persons with developmental disabilities to allow clients to live as independently as possible in their own homes or communities.¹³ All elements of community-based services must be made available, and eligibility for these services must be consistent across the state.¹⁴ Services for clients must be purchased rather than provided directly by the APD when more cost-efficient. However, the APD must approve all purchased services.¹⁵

⁴ The Centers for Medicare and Medicaid Services, *Home and Community-Based Services 1915(c)*, available at: <https://www.medicare.gov/medicaid/home-community-based-services/home-community-based-services-authorities/home-community-based-services-1915c/index.html> (last visited 1/18/24).

⁵ *Id.*; Rule 59G-13.080(1), F.A.C.

⁶ Agency for Persons with Disabilities, *Regional Offices*, available at: <https://apd.myflorida.com/region/> (last visited 1/18/24).

⁷ Section 393.0662, F.S.

⁸ *Id.*

⁹ The Agency for Persons with Disabilities, *Quarterly Report on Agency Services to Floridians with Developmental Disabilities and their Costs: First Quarter Fiscal Year 2022-23*, p. 2, November 15, 2022 available at: <https://apd.myflorida.com/publications/reports/> (last visited 1/18/24).

¹⁰ *Id.*

¹¹ E-mail from Kendall Kelley, APD Legislative Affairs Director, January 19, 2024 (on file with the Senate Committee on Children, Families, and Elder Affairs)

¹² *Supra.* note 9.

¹³ Section 393.066(1), F.S.

¹⁴ *Id.*

¹⁵ Section 393.066, F.S.

Eligibility for iBudget Services

Current Florida law requires the APD to review applications for eligibility of iBudget program services within 60 days after receipt of the signed application. If the applicant is deemed to be in crisis,¹⁶ Florida law requires the APD to review eligibility determination within 45 days.¹⁷ Individuals who are determined to be eligible for the Waiver program are either given a slot in the program or placed on a wait list if the demand exceeds available funding. As of December 2023, there were 21,587 individuals on the waiting list.¹⁸

The APD assigns each waitlisted client to a preenrollment category based on their needs and prioritized in the following decreasing order of priority:¹⁹

- Category 1 – Clients deemed to be in crisis.
- Category 2 – Includes clients in the preenrollment categories who are:
 - From the child welfare system with an open case in the Department of Children and Families' statewide automated child welfare information system and who are either:
 - Transitioning out of the child welfare system into permanency; or
 - At least 18 years but not yet 22 years of age and who need both waiver services and extended foster care services; or
 - At least 18 years but not yet 22 years of age and who withdrew consent to remain in the extended foster care system.
- Category 3 – Includes, but is not limited to, clients:
 - Whose caregiver has a documented condition that is expected to render the caregiver unable to provide care within the next 12 months and for whom a caregiver is required but no alternate caregiver is available;
 - At substantial risk of incarceration or court commitment without supports;
 - Whose documented behaviors or physical needs place them or their caregiver at risk of serious harm and other supports are not currently available to alleviate the situation; or
 - Who are identified as ready for discharge within the next year from a state mental health hospital or skilled nursing facility and who require a caregiver but for whom no caregiver is available or whose caregiver is unable to provide the care needed.
- Category 4 – Includes, but is not limited to, clients whose caregivers are 70 years of age or older and for whom a caregiver is required but no alternate caregiver is available.
- Category 5 – Includes, but is not limited to, clients who are expected to graduate within the next 12 months from secondary school and need support to obtain a meaningful day activity, maintain competitive employment, or pursue an accredited program of postsecondary education to which they have been accepted.
- Category 6 – Clients 21 years of age or older who do not meet the criteria for categories 1-5.
- Category 7 – Clients younger than 21 years of age who do not meet the criteria for categories 1-4.

¹⁶ Rule 65G-1.047, F.A.C. provides that the severity of crisis is determined by risk to the health, safety, and welfare of each applicant relative to other applicants. Rule 65G-11.004 provides a procedure for determining if a client is considered to be in crisis.

¹⁷ Section 393.065, F.S.

¹⁸ *Supra* note 11.

¹⁹ Section 393.065, F.S.

Eligible individuals that meet the criteria for Categories 1 or 2 are directly enrolled onto the iBudget waiver.²⁰ Currently, there is a higher demand for iBudget services than the amount of funding that is available, which means individuals that require services are put on the waitlist for services based on the categorization of their needs. The following table displays the number of individuals in the preenrollemnt categories as of December 2023.²¹

Category	Description	Total Clients
Category 1	Crisis	-
Category 2	Children in Welfare System at the time of permanency or turning 18	-
Category 3	Intensive Needs	210
Category 4	Caregiver Over Age 70	83
Category 5	Transition from School	20
Category 6	Age 21 and Over	12,809
Category 7	Age Under 21	8,464
Grand Total		21,587

The average time a client spends in a preenrollment category is 8.6 years.²² The following chart identifies the length of time clients have been in a preenrollment category.²³

Length of Time in a Preenrollment Category	Percentage of Individuals
Under 5 years	42%
5 –10 years	20%
10+ years	37%

iBudget Waiver Support Coordinators and Family Support Plans

After an individual is deemed eligible for services, the APD is required to consult with the client, if competent, the client’s parent or guardian, or, when appropriate, the client advocate to create a family or individual support plan.²⁴ A support plan must be designed to include the most appropriate, least restrictive, and most cost-beneficial environment for the accomplishment of the objectives for client progress, including an appropriate placement in the client’s home or community.²⁵

Waiver support coordinators are permitted to review the progress of and annually revise the family or individual support plan upon consultation with the client, the client’s parent or

²⁰ Agency for Persons with Disabilities, *SB 1768 Analysis*, p. 2 (on file with the Senate Committee on Children, Families, and Elder Affairs)

²¹ *Supra* note 11.

²² *Supra* note 11.

²³ *Supra* note 11.

²⁴ Section 393.0651, F.S.

²⁵ *Id.*

guardian, or the client advocate.²⁶ Additionally, waiver support coordinators collaborate with the recipient of services and service providers to accommodate the needs of the recipient within the recipient's iBudget services allocation.²⁷

Florida Consumer-Directed Care Plus Program

The Legislature created the Florida Consumer-Directed Care Act in 2002 aimed to increase the choice and control over long-term care services individuals with disabilities receive.²⁸

Authorized by the federal Medicaid State Plan Amendment, the Consumer-Directed Care Plus (CDC+) program permits individuals to choose their providers and to direct the delivery of services as they see fit, within the funds appropriated by the Legislature.²⁹

Consumers are able to use the monthly budget allowance to purchase long-term care services which include, but are not limited to, the following:³⁰

- Personal care.
- Homemaking and chores, including housework, meals, shopping, and transportation.
- Home modifications and assistive devices which may increase the consumer's independence or make it possible to avoid institutional placement.
- Assistance in taking self-administered medication.
- Day care and respite care services, including those provided by nursing home facilities or adult day care facilities.
- Personal care and support services provided in an assisted living facility.

To be eligible for the CDC+ Program, a recipient must:³¹

- Be enrolled in the Individual Budgeting Waiver (also known as the iBudget Waiver);
- Reside in their own family home or the home of a relative; and
- Not be disenrolled from the CDC+ Program due to their mismanagement or inappropriate use of Medicaid funds.

Hope Florida

Hope Florida is a program dedicated to guiding Floridians on an individualized path to prosperity, economic self-sufficiency, and hope. Hope Navigators offer services that identify barriers that individuals face and work with the individual to discover resources and develop a plan to achieve economic self-sufficiency. Through a community approach that utilizes resources from the private sector, faith-based community, nonprofits, and government entities, Hope Navigators can identify the services and resources that are the best fit for the individual.

²⁶ *Id.*

²⁷ Agency for Health Care Administration, *Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook*, available at: <https://apd.myflorida.com/ibudget/rules-regs.htm> (last visited 1/18/24).

²⁸ Chapter 2002-223, Laws of Florida.

²⁹ Section 409.221(4), F.S.; Florida Agency for Health Care Administration, *Federal Waivers*, available at: <https://ahca.myflorida.com/medicaid/medicaid-policy-quality-and-operations/medicaid-policy-and-quality/medicaid-policy/federal-authorities/federal-waivers> (last visited 1/19/24).

³⁰ Section 409.221, F.S.

³¹ Agency for Health Care Administration, *Consumer-Directed Care Plus Program Coverage, Limitations, and Reimbursement Handbook*, available at: <https://apd.myflorida.com/cdcplus/participants/> (last visited 1/19/24)/

Florida Unique Abilities Partner Program

In 2016, the Legislature created the Florida Unique Abilities Partner Program within the Department of Commerce.³² The purpose of the program is to recognize business entities that demonstrate a commitment, through employment or support, to the independence of individuals with disabilities.³³

The program allows for a designation as a Florida Unique Abilities Partner based on achievement in at least one of the following:³⁴

- Employment of Individuals who have a disability.
- Contributions to local or national disability organizations.
- Contributions to, or the establishment of, a program that contributes to the independence of individuals who have a disability.

Any entity designated as a partner must recertify annually.³⁵

The Department of Commerce must quarterly provide the Florida Tourism Industry Marketing Corporation with a list of designated partners. The Florida Tourism Industry Marketing Corporation must consider these partners in the development of marketing campaigns, specifically any targeted campaigns for individuals who have a disability or their families.³⁶

The Department of Commerce must annually report to the President of the Senate and the Speaker of the house, at a minimum, the following:³⁷

- The number of applications and nominations received.
- The number of nominations accepted and declined.
- The number of designations awarded.
- Annual certifications.
- The use of information provided under the marketing section.
- Any other information the agency deems deemed necessary to evaluate the program.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 393.064, F.S. to require the APD to offer care navigation services to clients and their caregivers. The participation in this program must be voluntary and part of eligibility or renewal review. The bill provides that the goals of care navigation are to create a seamless network of community resources and supports for the client and the client's family to support the client in daily living, community integration, and achievement of individual goals.

³² Chapter 2016-3, s. 8, Laws of Fla.; codified as s. 413.801, F.S.; the Department of Commerce was named the Department of Economic Opportunity at the time of creation.

³³ Section 413.801(1), F.S.

³⁴ Section 413.801(3), F.S.

³⁵ Section 413.801(5), F.S.

³⁶ Section 413.801(8), F.S.

³⁷ Section 413.801(9), F.S.

The bill provides requirements for care plans, that include, but are not limited to, addressing the immediate, intermediate, and long-term needs of the client to increase well-being and opportunities for education, employment, social engagement, community integration, and caregiver support.

The bill requires the care plan to be integrated with a student's individual education plan (IEP) if the client is a public school student. The bill requires both the care plan and IEP to maximize the attainment of educational and habilitation goals.

The bill removes part of current statute that provides for the APD's role in the development of programs that have the potential to prevent, correct, cure, or reduce the severity of developmental disabilities. This reflects an increased focus on identifying resources individuals with disabilities need, rather than attempting to prevent developmental disabilities.

Section 2 of the bill amends s. 393.065, F.S., to require the APD to develop and implement an online application process for individuals applying for services from the agency. This online application process must, at a minimum:

- Support paperless, electronic submissions with immediate e-mail confirmation to each applicant upon submission.
- Permit an applicant to view the status of his or her application in the online application system, and provide additional information.

The bill requires the APD to maintain a printable paper application on its website and provide applicants with a printed paper application upon request. The bill allows applicants to apply for services through writing to the agency in the region where he or she resides. This change expands the options that applicants have for how they wish to submit their application for services from the APD.

The bill requires the APD to review submitted applications in accordance with federal time standards and changes eligibility determination timelines for individuals in a pre-enrollment category. The bill defines "complete application" as an application submitted to the APD that is signed and dated by the applicant or an individual with legal authority to apply for public benefits on behalf of the applicant. The application must also have all parts filled out and contains documentation of the applicant's diagnosis to be considered a complete application.

The bill requires the following eligibility determination timelines for applicants requesting enrollment in the home and community-based services Medicaid waiver program:

- If the applicant meets the criteria for Category 1,³⁸ the APD is required to make an eligibility determination within 15 calendar days after receipt of a complete application.
- If the applicant meets the criteria for Category 2,³⁹ the APD is required to review the application and make an eligibility determination as soon as practicable after receipt of a complete application.

³⁸ Section 393.065, F.S. includes clients deemed to be in crisis.

³⁹ Section 393.065, F.S. provides that Category 2 includes clients in preenrollment categories who are from the child welfare system with an open case in the Department of Children and Families' statewide automated child welfare information system and who are either: (a) transitioning out of the child welfare system into permanency; or (b) at least 18 years but not yet 22

- If the applicant meets the criteria for Categories 3-7,⁴⁰ the APD is required to make an eligibility determination within 60 days after receipt of a complete application.

The bill requires the client to be informed through verbal contact (with the client or the client's designated caregiver) of any delays in the eligibility determination process or any tolling of the time standards. This verbal contact must be confirmed with a written notice of the delay, the anticipated length of delay, and a contact person for the client.

The bill reduces the age requirement of a client's caregiver in category 4 from 70 years of age to 60 years of age or older. This change expands the number of clients who are eligible for category 4, allowing more individuals to be placed in a higher priority pre-enrollment category.

Section 3 of the bill amends s. 393.0651, F.S., to specify that the APD must provide directly or contract for the development of a family support plan for clients *served by the home and community-based services Medicaid waiver program under s. 393.0662, F.S.* Current law simply states each 'client.' This change recognizes that the APD provides services and supports to many individuals that could be considered clients, but only those receiving services under the HCBS waiver program require a support plan. The bill also specifies that the support plan must be developed within 60 *calendar* days, not just 60 days as currently in statute.

The bill requires the waiver support coordinator to inform the client, the client's parent or guardian, or the client advocate about the CDC+ program established under s. 409.221, F.S., which allows enrolled persons to choose the providers of services and to direct the delivery of services to best meet their long-term care needs.⁴¹

Sections 4 through 6 of the bill creates a type two transfer, as described in s. 20.06(2), F.S., of all powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and any other funds relating to the Florida Unique Abilities Partner Program from the Department of Commerce to the Agency for Persons with Disabilities.

The bill amends ss. 20.60 and 413.801, F.S., to make conforming changes update the entity that administers the Florida Unique Abilities Partner Program from the Department of Commerce to the Agency for Persons with Disabilities.

Section 7 of the bill appropriates, for the 2024-2025 fiscal year, \$16,562,703 in recurring funds from the General Revenue fund and \$22,289,520 in recurring funds from the Operations and Maintenance Trust Fund to the APD in the Home and Community Based Services Waiver category. These funds are appropriated to offer waiver services to the greatest number of individuals eligible.

years of age and who need both waiver services and extended foster care services. Clients who are at least 18 years but not yet 22 years of age and who withdrew consent to remain in extended foster care are also included in Category 2.

⁴⁰ See Section 393.065 for specific eligibility requirements.

⁴¹ Section 409.221, F.S.

Section 8 of the bill requires the AHCA and APD to consult with other stakeholders to develop a comprehensive plan for the administration, finance, and delivery of a new home and community-based services Medicaid waiver program for clients as they transition into adulthood, to avoid future crisis enrollment into the waiver program.

The bill requires the AHCA to submit a report to the Governor, President of the Senate, and Speaker of the House of Representatives by December 1, 2024 addressing, at a minimum, all of the following:

- The purpose, rationale, and expected benefits of the new waiver program.
- The proposed eligibility criteria for clients and service packages to be offered through the new waiver program.
- A proposed implementation plan and timeline, including recommendations for the number of clients to be served by the new waiver program at initial implementation, changes over time, and any per-client benefit caps.
- Proposals for how clients will transition onto and off of the new waiver, including, but not limited to, transitions between this new waiver and the home and community-based services waiver.
- The fiscal impact for the implementation year and projections for the subsequent 5 years, determined on an actuarially sound basis.
- An analysis of the availability of services that would be offered under the new waiver program and recommendations to increase availability of such services, if necessary.
- A list of all stakeholders, public and private, who were consulted or contacted as part of developing the plan for the new waiver program.

Section 9 of the bill provides an effective date of July 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:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has an indeterminate negative fiscal impact on the APD to develop and implement an online application process. This will likely require nonrecurring funds to develop and implement and recurring funds to maintain and operate.

The bill appropriates funding to the Agency for Persons with Disabilities for services and the Agency for Health Care Administration (AHCA) to establish budget authority for Medicaid services: \$16,562,703 in recurring funds from the General Revenue fund and \$22,289,520 in recurring funds from the Operations and Maintenance Trust Fund are appropriated to the APD to the Home and Community Based Services Waiver category.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 20.60, 393.064, 393.065, 393.0651, and 413.801 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Fiscal Policy on January 31, 2024:**

The CS transfers all powers, duties, and functions of the Florida Unique Abilities Partner Program in s. 413.801, F.S., from the Department of Commerce to the Agency for Persons with Disabilities.

CS by Children, Families, and Elder Affairs on January 23, 2024:

The CS aligns SB 1758 with HB 1271 by making the following changes:

- Requires APD to offer care navigation services to clients and their caregivers, including, but not limited to, creating care plans that address immediate, intermediate, and long term needs and goals of the client.
- Requires AHCA, APD, and other stakeholders to develop a plan for a new home and community-based services Medicaid waiver program for clients transitioning to adulthood and requires a report to the Governor, President of the Senate, and Speaker of the House by December 1, 2024 on the progress of this plan.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/31/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Brodeur) recommended the following:

Senate Amendment (with title amendment)

Between lines 323 and 324

insert:

Section 4. Type two transfer from the Department of Commerce.—All powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and any other funds relating to the



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11 Florida Unique Abilities Partner Program are transferred by a
12 type two transfer, as described in s. 20.06(2), Florida
13 Statutes, from the Department of Commerce to the Agency for
14 Persons with Disabilities.

15 Section 5. Paragraph (c) of subsection (10) of section
16 20.60, Florida Statutes, is amended to read:

17 20.60 Department of Commerce; creation; powers and duties.—

18 (10) The department shall, by November 1 of each year,
19 submit an annual report to the Governor, the President of the
20 Senate, and the Speaker of the House of Representatives on the
21 condition of the business climate and economic development in
22 the state.

23 (c) The report must incorporate annual reports of other
24 programs, including:

25 1. A detailed report of the performance of the Black
26 Business Loan Program and a cumulative summary of quarterly
27 report data required under s. 288.714.

28 2. The Rural Economic Development Initiative established
29 under s. 288.0656.

30 ~~3. The Florida Unique Abilities Partner Program.~~

31 ~~4.~~ A detailed report of the performance of the Florida
32 Development Finance Corporation and a summary of the
33 corporation's report required under s. 288.9610.

34 ~~4.5.~~ Information provided by Space Florida under s.
35 331.3051 and an analysis of the activities and accomplishments
36 of Space Florida.

37 Section 6. Section 413.801, Florida Statutes, is amended to
38 read:

39 413.801 Florida Unique Abilities Partner Program.—



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40 (1) CREATION AND PURPOSE.—The Agency for Persons with
41 Disabilities Department of Economic Opportunity shall establish
42 the Florida Unique Abilities Partner Program to designate a
43 business entity as a Florida Unique Abilities Partner if the
44 business entity demonstrates commitment, through employment or
45 support, to the independence of individuals who have a
46 disability. The agency department shall consult with the
47 Department of Commerce Agency for Persons with Disabilities, the
48 Division of Vocational Rehabilitation of the Department of
49 Education, the Division of Blind Services of the Department of
50 Education, and CareerSource Florida, Inc., in creating the
51 program.

52 (2) DEFINITIONS.—As used in this section, the term:

53 (a) "Agency Department" means the Agency for Persons with
54 Disabilities Department of Economic Opportunity.

55 (b) "Individuals who have a disability" means persons who
56 have a physical or intellectual impairment that substantially
57 limits one or more major life activities, persons who have a
58 history or record of such an impairment, or persons who are
59 perceived by others as having such an impairment.

60 (3) DESIGNATION.—

61 (a) A business entity may apply to the agency department to
62 be designated as a Florida Unique Abilities Partner, based on
63 the business entity's achievements in at least one of the
64 following categories:

65 1. Employment of individuals who have a disability.

66 2. Contributions to local or national disability
67 organizations.

68 3. Contributions to, or the establishment of, a program



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69 that contributes to the independence of individuals who have a
70 disability.

71 (b) As an alternative to application by a business entity,
72 the agency ~~department~~ must consider nominations from members of
73 the community where the business entity is located. The
74 nomination must identify the business entity's achievements in
75 at least one of the categories provided in paragraph (a).

76 (c) The name, location, and contact information of the
77 business entity must be included in the business entity's
78 application or nomination.

79 (d) The agency ~~department~~ shall adopt procedures for the
80 application, nomination, and designation processes for the
81 Florida Unique Abilities Partner Program. Designation as a
82 Florida Unique Abilities Partner does not establish or involve
83 licensure, does not affect the substantial interests of a party,
84 and does not constitute a final agency action. The Florida
85 Unique Abilities Partner Program and designation are not subject
86 to chapter 120.

87 (4) ELIGIBILITY AND AWARD.—In determining the eligibility
88 for the designation of a business entity as a Florida Unique
89 Abilities Partner, the agency ~~department~~ shall consider, at a
90 minimum, the following criteria:

91 (a) For a designation based on an application by a business
92 entity, the business entity must certify that:

93 1. It employs at least one individual who has a disability.
94 Such employees must be residents of this state and must have
95 been employed by the business entity for at least 9 months
96 before the business entity's application for the designation.
97 The agency ~~department~~ may not require the employer to provide



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98 personally identifiable information about its employees;

99 2. It has made contributions to local and national
100 disability organizations or contributions in support of
101 individuals who have a disability. Contributions may be
102 accomplished through financial or in-kind contributions,
103 including employee volunteer hours. Contributions must be
104 documented by providing copies of written receipts or letters of
105 acknowledgment from recipients or donees. A business entity with
106 100 or fewer employees must make a financial or in-kind
107 contribution of at least \$1,000, and a business entity with more
108 than 100 employees must make a financial or in-kind contribution
109 of at least \$5,000; or

110 3. It has established, or has contributed to the
111 establishment of, a program that contributes to the independence
112 of individuals who have a disability. Contributions must be
113 documented by providing copies of written receipts, a summary of
114 the program, program materials, or letters of acknowledgment
115 from program participants or volunteers. A business entity with
116 100 or fewer employees must make a financial or in-kind
117 contribution of at least \$1,000 in the program, and a business
118 entity with more than 100 employees must make a financial or in-
119 kind contribution of at least \$5,000.

120
121 A business entity that applies to the agency ~~department~~ to be
122 designated as a Florida Unique Abilities Partner shall be
123 awarded the designation upon meeting the requirements of this
124 section.

125 (b) For a designation based upon receipt of a nomination of
126 a business entity:



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127 1. The agency ~~department~~ shall determine whether the
128 nominee, based on the information provided by the nominating
129 person or entity, meets the requirements of paragraph (a). The
130 agency ~~department~~ may request additional information from the
131 nominee.

132 2. If the nominee meets the requirements, the agency
133 ~~department~~ shall provide notice, including the qualification
134 criteria provided in the nomination, to the nominee regarding
135 the nominee's eligibility to be awarded a designation as a
136 Florida Unique Abilities Partner.

137 3. The nominee shall be provided 30 days after receipt of
138 the notice to certify that the information in the notice is true
139 and accurate and accept the nomination, to provide corrected
140 information for consideration by the agency ~~department~~ and
141 indicate an intention to accept the nomination, or to decline
142 the nomination. If the nominee accepts the nomination, the
143 agency ~~department~~ shall award the designation. The agency
144 ~~department~~ may not award the designation if the nominee declines
145 the nomination or has not accepted the nomination within 30 days
146 after receiving notice.

147 (5) ANNUAL CERTIFICATION.—After an initial designation as a
148 Florida Unique Abilities Partner, a business entity must certify
149 each year that it continues to meet the criteria for the
150 designation. If the business entity does not submit the yearly
151 certification of continued eligibility, the agency ~~department~~
152 shall remove the designation. The business entity may elect to
153 discontinue its designation status at any time by notifying the
154 agency ~~department~~ of such decision.

155 (6) LOGO DEVELOPMENT.—



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156 (a) The agency department, in consultation with members of
157 the disability community, shall develop a logo that identifies a
158 business entity that is designated as a Florida Unique Abilities
159 Partner.

160 (b) The agency department shall adopt guidelines and
161 requirements for the use of the logo, including how the logo may
162 be used in advertising. The agency department may allow a
163 business entity to display a Florida Unique Abilities Partner
164 logo upon designation. A business entity that has not been
165 designated as a Florida Unique Abilities Partner or has elected
166 to discontinue its designated status may not display the logo.

167 (7) WEBSITE.—The agency department shall maintain a website
168 for the program. At a minimum, the website must provide a list
169 of business entities, by county, which currently have the
170 Florida Unique Abilities Partner designation, updated quarterly;
171 information regarding the eligibility requirements for the
172 designation and the method of application or nomination; and
173 best practices for business entities to facilitate the inclusion
174 of individuals who have a disability, updated annually. The
175 website may provide links to the websites of organizations or
176 other resources that will aid business entities to employ or
177 support individuals who have a disability.

178 (8) INTERAGENCY COLLABORATION.—

179 (a) The Department of Commerce Agency for Persons with
180 ~~Disabilities~~ shall provide a link on its website to the agency's
181 ~~department's~~ website for the Florida Unique Abilities Partner
182 Program.

183 (b) On a quarterly basis, the agency department shall
184 provide the Florida Tourism Industry Marketing Corporation with



890114

185 a current list of all businesses that are designated as Florida
186 Unique Abilities Partners. The Florida Tourism Industry
187 Marketing Corporation must consider the Florida Unique Abilities
188 Partner Program in the development of marketing campaigns, and
189 specifically in any targeted marketing campaign for individuals
190 who have a disability or their families.

191 (c) The agency department and CareerSource Florida, Inc.,
192 shall identify employment opportunities posted by business
193 entities that currently have the Florida Unique Abilities
194 Partner designation in the workforce information system under s.
195 445.011.

196 (9) REPORT.—

197 ~~(a) By January 1, 2025, and annually thereafter 2017, the~~
198 ~~agency department shall provide a report on the progress and use~~
199 ~~of the program to the President of the Senate and the Speaker of~~
200 ~~the House of Representatives on the status of the implementation~~
201 ~~of this section, including the adoption of rules, development of~~
202 ~~the logo, and development of application procedures.~~

203 ~~(b) Beginning in 2017 and each year thereafter, the~~
204 ~~department's annual report required under s. 20.60 must describe~~
205 ~~in detail the progress and use of the program. At a minimum, the~~
206 ~~report must include, for the most recent year, all of the~~
207 ~~following:~~

208 (a) The number of applications and nominations received.†

209 (b) The number of nominations accepted and declined.†

210 (c) The number of designations awarded.†

211 (d) Annual certifications.†

212 (e) The use of information provided under subsection (8).†

213 and



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214 (f) Any other information the agency deems ~~deemed~~ necessary
215 to evaluate the program.

216 (10) RULES.—The agency ~~department~~ shall adopt rules to
217 administer this section.

218

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

220 And the title is amended as follows:

221 Delete line 29

222 and insert:

223 individual support plan; providing for a type two
224 transfer of the Florida Unique Abilities Partner
225 Program from the Department of Commerce to the Agency
226 for Persons with Disabilities; amending ss. 20.60 and
227 413.801, F.S.; conforming provisions to changes made
228 by the act; providing appropriations;

By the Committee on Children, Families, and Elder Affairs; and
Senator Brodeur

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1 A bill to be entitled
2 An act relating to individuals with disabilities;
3 amending s. 393.064, F.S.; revising provisions related
4 to programs and services provided by the Agency for
5 Persons with Disabilities; requiring the agency,
6 within available resources, to offer voluntary
7 participation care navigation services to clients and
8 their caregivers at specified times; specifying goals
9 and requirements for such care navigation services;
10 specifying requirements for care plans; requiring the
11 integration of care plans with any individual
12 education plans of clients; specifying requirements
13 for such integration; amending s. 393.065, F.S.;

14 requiring the agency to develop and implement an
15 online application process; specifying requirements
16 for the online application process; defining the term
17 "complete application"; revising timeframes within
18 which the agency must make eligibility determinations
19 for services; lowering the age that a caregiver must
20 be for an individual to be placed in a certain
21 preenrollment category; amending s. 393.0651, F.S.;

22 revising which types of clients are eligible for an
23 individual support plan; clarifying the timeframe
24 within which a family or individual support plan must
25 be developed; requiring waiver support coordinators to
26 inform the client, client's parent or guardian, or
27 client's advocate, as appropriate, of certain
28 information when developing or reviewing the family or
29 individual support plan; providing appropriations;

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30 requiring the Agency for Health Care Administration
31 and the Agency for Persons with Disabilities, in
32 consultation with other stakeholders, to jointly
33 develop a comprehensive plan for the administration,
34 finance, and delivery of home and community-based
35 services through a new home and community-based
36 services Medicaid waiver program; providing
37 requirements for the waiver program; authorizing the
38 Agency for Health Care Administration to contract with
39 necessary experts to assist in developing the plan;
40 requiring the Agency for Health Care Administration to
41 submit a specified report to the Governor and the
42 Legislature by a specified date; providing an
43 effective date.

44
45 Be It Enacted by the Legislature of the State of Florida:

46
47 Section 1. Section 393.064, Florida Statutes, is amended to
48 read:

49 393.064 Care navigation ~~Prevention~~.

50 (1) Within available resources, the agency shall offer to
51 clients and their caregivers care navigation services for
52 voluntary participation at the time of application and as part
53 of any eligibility or renewal review. The goals of care
54 navigation are to create a seamless network of community
55 resources and supports for the client and the client's family as
56 a whole to support a client in daily living, community
57 integration, and achievement of individual goals. Care
58 navigation services must involve assessing client needs and

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59 developing and implementing care plans, including, but not
 60 limited to, connecting a client to resources and supports. At a
 61 minimum, a care plan must address immediate, intermediate, and
 62 long-term needs and goals to promote and increase well-being and
 63 opportunities for education, employment, social engagement,
 64 community integration, and caregiver support. For a client who
 65 is a public school student entitled to a free appropriate public
 66 education under the Individuals with Disabilities Education Act,
 67 I.D.E.A., as amended, the care plan must be integrated with the
 68 student's individual education plan (IEP). The care plan and IEP
 69 must be implemented to maximize the attainment of educational
 70 and habilitation goals give priority to the development,
 71 planning, and implementation of programs which have the
 72 potential to prevent, correct, cure, or reduce the severity of
 73 developmental disabilities. The agency shall direct an
 74 interagency and interprogram effort for the continued
 75 development of a prevention plan and program. The agency shall
 76 identify, through demonstration projects, through program
 77 evaluation, and through monitoring of programs and projects
 78 conducted outside of the agency, any medical, social, economic,
 79 or educational methods, techniques, or procedures that have the
 80 potential to effectively ameliorate, correct, or cure
 81 developmental disabilities. The agency shall determine the costs
 82 and benefits that would be associated with such prevention
 83 efforts and shall implement, or recommend the implementation of,
 84 those methods, techniques, or procedures which are found likely
 85 to be cost-beneficial.

86 (2) Prevention Services provided by the agency must shall
 87 include services to high-risk children from 3 to 5 years of age,

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88 and their families, to meet the intent of chapter 411. Except
 89 for services for children from birth to age 3 years which are
 90 the responsibility of the Division of Children's Medical
 91 Services in the Department of Health or part H of the
 92 Individuals with Disabilities Education Act, such services may
 93 include:

94 (a) Individual evaluations or assessments necessary to
 95 diagnose a developmental disability or high-risk condition and
 96 to determine appropriate, individual family and support
 97 services.

98 (b) Early intervention services, including developmental
 99 training and specialized therapies.

100 (c) Support services, such as respite care, parent
 101 education and training, parent-to-parent counseling, homemaker
 102 services, and other services which allow families to maintain
 103 and provide quality care to children in their homes.

104 (3) Other agencies of state government shall cooperate with
 105 and assist the agency, within available resources, in
 106 implementing programs which have the potential to prevent, or
 107 reduce the severity of, developmental disabilities and shall
 108 consider the findings and recommendations of the agency in
 109 developing and implementing agency programs and formulating
 110 agency budget requests.

111 (4) There is created at the developmental disabilities
 112 center in Gainesville a research and education unit. Such unit
 113 shall be named the Raymond C. Philips Research and Education
 114 Unit. The functions of such unit shall include:

115 (a) Research into the etiology of developmental
 116 disabilities.

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117 (b) Ensuring that new knowledge is rapidly disseminated
118 throughout the agency.

119 (c) Diagnosis of unusual conditions and syndromes
120 associated with developmental disabilities in clients identified
121 throughout developmental disabilities programs.

122 (d) Evaluation of families of clients with developmental
123 disabilities of genetic origin in order to provide them with
124 genetic counseling aimed at preventing the recurrence of the
125 disorder in other family members.

126 (e) Ensuring that health professionals in the developmental
127 disabilities center at Gainesville have access to information
128 systems that will allow them to remain updated on newer
129 knowledge and maintain their postgraduate education standards.

130 (f) Enhancing staff training for professionals throughout
131 the agency in the areas of genetics and developmental
132 disabilities.

133 Section 2. Subsection (1) and paragraph (d) of subsection
134 (5) of section 393.065, Florida Statutes, are amended to read:

135 393.065 Application and eligibility determination.—

136 (1)(a) The agency shall develop and implement an online
137 application process that, at a minimum, supports paperless,
138 electronic application submissions with immediate e-mail
139 confirmation to each applicant to acknowledge receipt of
140 application upon submission. The online application system must
141 allow an applicant to review the status of a submitted
142 application and respond to provide additional information.

143 (b) The agency shall maintain access to a printable paper
144 application on its website and, upon request, must provide an
145 applicant with a printed paper application. Paper applications

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146 ~~may Application for services shall be submitted made~~ in writing
147 to the agency, in the region in which the applicant resides.

148 (c) ~~The agency must shall~~ review each submitted application
149 in accordance with federal time standards and make an
150 eligibility determination within 60 days after receipt of the
151 signed application. If, at the time of the application, an
152 applicant is requesting enrollment in the home and community-
153 based services Medicaid waiver program for individuals with
154 developmental disabilities deemed to be in crisis, as described
155 in paragraph (5)(a), the agency shall complete an eligibility
156 determination within 45 days after receipt of the signed
157 application.

158 1. ~~(a)~~ If the agency determines additional documentation is
159 necessary to make an eligibility determination, the agency may
160 request the additional documentation from the applicant.

161 2. ~~(b)~~ When necessary to definitively identify individual
162 conditions or needs, the agency or its designee must provide a
163 comprehensive assessment.

164 ~~(c) If the agency requests additional documentation from~~
165 ~~the applicant or provides or arranges for a comprehensive~~
166 ~~assessment, the agency's eligibility determination must be~~
167 ~~completed within 90 days after receipt of the signed~~
168 ~~application.~~

169 (d)1. For purposes of this paragraph, the term "complete
170 application" means an application submitted to the agency which
171 is signed and dated by the applicant or an individual with legal
172 authority to apply for public benefits on behalf of the
173 applicant, is responsive on all parts of the application, and
174 contains documentation of a diagnosis.

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175 2. If the applicant requesting enrollment in the home and
 176 community-based services Medicaid waiver program for individuals
 177 with developmental disabilities is deemed to be in crisis as
 178 described in paragraph (5) (a), the agency must make an
 179 eligibility determination within 15 calendar days after receipt
 180 of a complete application.

181 3. If the applicant meets the criteria specified in
 182 paragraph (5) (b), the agency must review and make an eligibility
 183 determination as soon as practicable after receipt of a complete
 184 application.

185 4. If the application meets any of the criteria specified
 186 in paragraphs (5) (c)-(g), the agency shall make an eligibility
 187 determination within 60 days after receipt of a complete
 188 application.

189 (e) Any delays in the eligibility determination process, or
 190 any tolling of the time standard until certain information or
 191 actions have been completed, must be conveyed to the client as
 192 soon as such delays are known through verbal contact with the
 193 client or the client's designated caregiver and confirmed by a
 194 written notice of the delay, the anticipated length of delay,
 195 and a contact person for the client.

196 (5) Except as provided in subsections (6) and (7), if a
 197 client seeking enrollment in the developmental disabilities home
 198 and community-based services Medicaid waiver program meets the
 199 level of care requirement for an intermediate care facility for
 200 individuals with intellectual disabilities pursuant to 42 C.F.R.
 201 ss. 435.217(b) (1) and 440.150, the agency must assign the client
 202 to an appropriate preenrollment category pursuant to this
 203 subsection and must provide priority to clients waiting for

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204 waiver services in the following order:

205 (d) Category 4, which includes, but is not required to be
 206 limited to, clients whose caregivers are ~~60~~ 70 years of age or
 207 older and for whom a caregiver is required but no alternate
 208 caregiver is available.

209
 210 Within preenrollment categories 3, 4, 5, 6, and 7, the agency
 211 shall prioritize clients in the order of the date that the
 212 client is determined eligible for waiver services.

213 Section 3. Section 393.0651, Florida Statutes, is amended
 214 to read:

215 393.0651 Family or individual support plan.—The agency
 216 shall provide directly or contract for the development of a
 217 family support plan for children ages 3 to 18 years of age and
 218 an individual support plan for each client served by the home
 219 and community-based services Medicaid waiver program under s.
 220 393.0662. The client, if competent, the client's parent or
 221 guardian, or, when appropriate, the client advocate, shall be
 222 consulted in the development of the plan and shall receive a
 223 copy of the plan. Each plan must include the most appropriate,
 224 least restrictive, and most cost-beneficial environment for
 225 accomplishment of the objectives for client progress and a
 226 specification of all services authorized. The plan must include
 227 provisions for the most appropriate level of care for the
 228 client. Within the specification of needs and services for each
 229 client, when residential care is necessary, the agency shall
 230 move toward placement of clients in residential facilities based
 231 within the client's community. The ultimate goal of each plan,
 232 whenever possible, shall be to enable the client to live a

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233 dignified life in the least restrictive setting, be that in the
 234 home or in the community. The family or individual support plan
 235 must be developed within 60 calendar days after the agency
 236 determines the client eligible pursuant to s. 393.065(3).

237 (1) The agency shall develop and specify by rule the core
 238 components of support plans.

239 (2) The family or individual support plan shall be
 240 integrated with the individual education plan (IEP) for all
 241 clients who are public school students entitled to a free
 242 appropriate public education under the Individuals with
 243 Disabilities Education Act, I.D.E.A., as amended. The family or
 244 individual support plan and IEP must be implemented to maximize
 245 the attainment of educational and habilitation goals.

246 (a) If the IEP for a student enrolled in a public school
 247 program indicates placement in a public or private residential
 248 program is necessary to provide special education and related
 249 services to a client, the local education agency must provide
 250 for the costs of that service in accordance with the
 251 requirements of the Individuals with Disabilities Education Act,
 252 I.D.E.A., as amended. This does not preclude local education
 253 agencies and the agency from sharing the residential service
 254 costs of students who are clients and require residential
 255 placement.

256 (b) For clients who are entering or exiting the school
 257 system, an interdepartmental staffing team composed of
 258 representatives of the agency and the local school system shall
 259 develop a written transitional living and training plan with the
 260 participation of the client or with the parent or guardian of
 261 the client, or the client advocate, as appropriate.

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262 (3) Each family or individual support plan shall be
 263 facilitated through case management designed solely to advance
 264 the individual needs of the client.

265 (4) In the development of the family or individual support
 266 plan, a client advocate may be appointed by the support planning
 267 team for a client who is a minor or for a client who is not
 268 capable of express and informed consent when:

269 (a) The parent or guardian cannot be identified;

270 (b) The whereabouts of the parent or guardian cannot be
 271 discovered; or

272 (c) The state is the only legal representative of the
 273 client.

274
 275 Such appointment may not be construed to extend the powers of
 276 the client advocate to include any of those powers delegated by
 277 law to a legal guardian.

278 (5) The agency shall place a client in the most appropriate
 279 and least restrictive, and cost-beneficial, residential facility
 280 according to his or her individual support plan. The client, if
 281 competent, the client's parent or guardian, or, when
 282 appropriate, the client advocate, and the administrator of the
 283 facility to which placement is proposed shall be consulted in
 284 determining the appropriate placement for the client.
 285 Considerations for placement shall be made in the following
 286 order:

287 (a) Client's own home or the home of a family member or
 288 direct service provider.

289 (b) Foster care facility.

290 (c) Group home facility.

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291 (d) Intermediate care facility for the developmentally
 292 disabled.

293 (e) Other facilities licensed by the agency which offer
 294 special programs for people with developmental disabilities.

295 (f) Developmental disabilities center.

296 (6) In developing a client's annual family or individual
 297 support plan, the individual or family with the assistance of
 298 the support planning team shall identify measurable objectives
 299 for client progress and shall specify a time period expected for
 300 achievement of each objective.

301 (7) The individual, family, and support coordinator shall
 302 review progress in achieving the objectives specified in each
 303 client's family or individual support plan, and shall revise the
 304 plan annually, following consultation with the client, if
 305 competent, or with the parent or guardian of the client, or,
 306 when appropriate, the client advocate. The agency or designated
 307 contractor shall annually report in writing to the client, if
 308 competent, or to the parent or guardian of the client, or to the
 309 client advocate, when appropriate, with respect to the client's
 310 habilitative and medical progress.

311 (8) Any client, or any parent of a minor client, or
 312 guardian, authorized guardian advocate, or client advocate for a
 313 client, who is substantially affected by the client's initial
 314 family or individual support plan, or the annual review thereof,
 315 shall have the right to file a notice to challenge the decision
 316 pursuant to ss. 120.569 and 120.57. Notice of such right to
 317 appeal shall be included in all support plans provided by the
 318 agency.

319 (9) When developing or reviewing a client's family or

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320 individual support plan, the waiver support coordinator shall
 321 inform the client, the client's parent or guardian, or, when
 322 appropriate, the client advocate about the consumer-directed
 323 care program established under s. 409.221.

324 Section 4. For the 2024-2025 fiscal year, the sums of
 325 \$16,562,703 in recurring funds from the General Revenue Fund and
 326 \$22,289,520 in recurring funds from the Operations and
 327 Maintenance Trust Fund are appropriated in the Home and
 328 Community Based Services Waiver category to the Agency for
 329 Persons with Disabilities to offer waiver services to the
 330 greatest number of individuals permissible under the
 331 appropriation from preenrollment categories 3, 4, and 5,
 332 including individuals whose caregiver is age 60 or older in
 333 category 4, as provided in s. 393.065, Florida Statutes, as
 334 amended by this act.

335 Section 5. The Agency for Health Care Administration and
 336 the Agency for Persons with Disabilities, in consultation with
 337 other stakeholders, shall jointly develop a comprehensive plan
 338 for the administration, finance, and delivery of home and
 339 community-based services through a new home and community-based
 340 services Medicaid waiver program. The waiver program shall be
 341 for clients transitioning into adulthood and shall be designed
 342 to prevent future crisis enrollment into the waiver program
 343 authorized under s. 393.0662, Florida Statutes. The Agency for
 344 Health Care Administration is authorized to contract with
 345 necessary experts to assist in developing the plan. The Agency
 346 for Health Care Administration must submit a report to the
 347 Governor, the President of the Senate, and the Speaker of the
 348 House of Representatives by December 1, 2024, addressing, at a

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349 minimum, all of the following:

350 (1) The purpose, rationale, and expected benefits of the
351 new waiver program.

352 (2) The proposed eligibility criteria for clients and
353 service packages to be offered through the new waiver program.

354 (3) A proposed implementation plan and timeline, including
355 recommendations for the number of clients to be served by the
356 new waiver program at initial implementation, changes over time,
357 and any per-client benefit caps.

358 (4) Proposals for how clients will transition onto and off
359 of the new waiver, including, but not limited to, transitions
360 between this new waiver and the waiver established under s.
361 393.0662, Florida Statutes.

362 (5) The fiscal impact for the implementation year and
363 projections for the subsequent 5 years, determined on an
364 actuarially sound basis.

365 (6) An analysis of the availability of services that would
366 be offered under the new waiver program and recommendations to
367 increase availability of such services, if necessary.

368 (7) A list of all stakeholders, public and private, who
369 were consulted or contacted as part of developing the plan for
370 the new waiver program.

371 Section 6. This act shall take effect July 1, 2024.

6/31/28

Meeting Date
Fiscal Policy

Committee
Name Christian Harvey

Address 5030 Esplanade Way

Street
Tallahassee FL 32399
City State Zip

The Florida Senate
APPEARANCE RECORD

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

SB 1758

Bill Number or Topic
890114

Amendment Barcode (if applicable)

Phone 850-491-0704

Email christian.harvey@apt-care.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:

APD Employee

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 \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-Joint-Rules.pdf)

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1/31/24

Meeting Date

SB 1758

Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Christian Harvey

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City

State

Zip

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

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The Florida Senate

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1-31-24

Meeting Date

SB1758

Bill Number or Topic

Senate Finance

Committee

Amendment Barcode (if applicable)

Name ALAN ABRA MOWITZ

Phone 850-241-3232

Address 2098 MALEN DR.

Email CEO@ARCFLORIDA.ORG

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Tallahassee FL 32308

City

State

Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [X] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing:

The Arc of Florida

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

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

1/31/2024

Meeting Date

The Florida Senate APPEARANCE RECORD

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SB 1758

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Melissa Mazacda

Phone 941 809 3134

Address 1930 Century Oak Dr.
Street

Email mmazacda@jardmusc.com

San Jose FL 34241
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 \(flsenate.gov\)](#)

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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 Fiscal Policy

BILL: SB 7020

INTRODUCER: Judiciary Committee

SUBJECT: Delivery of Notices

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Collazo</u>	<u>Cibula</u>		JU Submitted as Committee Bill/FAV
1.	<u>Blizzard</u>	<u>Betta</u>	<u>AEG</u>	Favorable
2.	<u>Collazo</u>	<u>Yeatman</u>	<u>FP</u>	Favorable

I. Summary:

SB 7020 amends the statute defining “registered mail” to expand upon the kinds of delivery services that may be used to comply with statutory registered mail requirements in this state.

The bill explicitly provides that registered mail requirements may be satisfied by using not only services offered by the U.S. Postal Service, but also private delivery services, so long as criteria in the bill are met. The effect of the bill is to eliminate ambiguity as to whether other forms of delivery can also demonstrate compliance with statutory registered mail requirements, and to give persons seeking to comply with those requirements greater flexibility in choosing an acceptable form of delivery.

The bill provides that its amendments are remedial in nature and apply retroactively.

The bill has no fiscal impact on state revenues and expenditures.

The bill takes effect upon becoming a law.

II. Present Situation:

Section 1.01, F.S., defines “registered mail” to include “certified mail with return receipt requested.”¹ The term is significant because the Florida Statutes contain hundreds of references to “registered mail” (and “certified mail” and “return receipt”), which contemplate the use of services traditionally provided by the U.S. Postal Service to confirm that legal documents (e.g. required notice or service of process) have been delivered to an intended recipient.

¹ Section 1.01(11), F.S.

Certified Mail

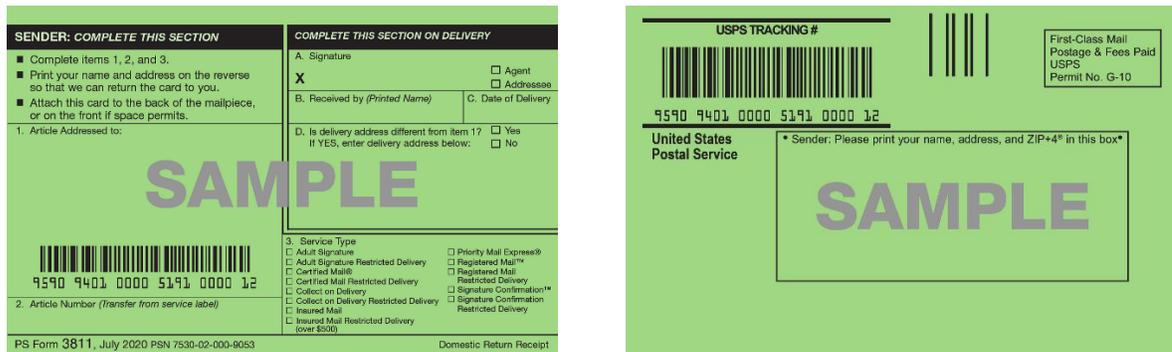
With respect to the “certified mail” component of registered mail, the U.S. Postal Service will provide the sender (if requested, and for a small fee),² a mailing receipt (PS Form 3800, Certified Mail Receipt) as confirmation that an item was sent. Although certified mail does also require a signature from the recipient, it does not provide the sender a return receipt with proof of signature, unless that service is separately requested (see below).³



PS Form 3800, Certified Mail Receipt (front and back)⁴

Return Receipt

With respect to the “return receipt” component of registered mail, the U.S. Postal Service will return to the sender (if requested, and for a small fee),⁵ a green postcard popularly known as a “Green Card” (PS Form 3811, Domestic Return Receipt) signed by the recipient. The purpose of the Green Card is to provide a sender evidence that an item has been delivered to an intended recipient. Return receipt is also available in electronic form only.⁶



PS Form 3811, Domestic Return Receipt (front and back)⁷

² The fee for Certified Mail is \$4.35; the fee for Certified Mail Restricted Delivery is \$11.45; the fee for Certified Mail Adult Signature Required is \$11.45; and the fee for Certified Mail Adult Signature Restricted Delivery is \$11.45. U.S. Postal Service, *Notice 123 (Price List)*, July 9, 2023, <https://pe.usps.com/text/dmm300/Notice123.htm>.

³ U.S. Postal Service, *Certified Mail – The Basics*, <https://faq.usps.com/s/article/Certified-Mail-The-Basics> (last visited Jan. 3, 2024).

⁴ *Id.*

⁵ The fee for Return Receipt on a hard copy Green Card is \$3.55, and for Return Receipt in electronic form is \$2.20. U.S. Postal Service, *Notice 123 (Price List)*, July 9, 2023, <https://pe.usps.com/text/dmm300/Notice123.htm>.

⁶ U.S. Postal Service, *Return Receipt – The Basics*, <https://faq.usps.com/s/article/Return-Receipt-The-Basics> (last visited Jan. 3, 2024).

⁷ *Id.*

Traditional Reliance on the U.S. Postal Service

It is unclear from a plain reading of the statutory definition of registered mail whether other forms of delivery, either through the U.S. Postal Service or alternative private delivery services, could also demonstrate compliance with registered mail requirements. For this reason, litigants, contractors, attorneys, and others in this state have traditionally relied upon the U.S. Postal Service certified mail and return receipt services as a kind of “safe harbor” way of satisfying these requirements.

For example, consider a situation where a litigant has delivered a required notice to an opposing party via Federal Express with a signature required; the basic purpose of registered mail requirements, which is to ensure that the recipient actually received the notice on a date certain, has arguably been accomplished. On the other hand, based upon the language in the statute specifically referring to “certified mail with return receipt requested,” the opposing party could argue that the definition of registered mail only contemplates delivery via the U.S. Postal Service, not Federal Express. Accordingly, the argument would be that the delivery of the notice via Federal Express does not demonstrate compliance with statutory requirements and is therefore invalid.

This dynamic exists against the backdrop of a changing landscape for U.S. Postal Service practices. On January 16, 2020, the Postal Regulatory Commission approved a U.S. Postal Service request to eliminate return receipts for merchandise service.⁸ Although the U.S. Postal Service has not yet eliminated return receipts for other kinds of domestic mail such as legal documents, it could choose to do so in the future.

III. Effect of Proposed Changes:

The bill amends the statute defining “registered mail” to expand upon the kinds of delivery services that may be used to comply with statutory registered mail requirements in this state.

Specifically, the bill amends the definition of “registered mail” to explicitly include any delivery service by the U.S. Postal Service or a private delivery service that is regularly engaged in the delivery of documents which provides proof of mailing or shipping and proof of delivery. Proof of delivery must be established by a receipt that is signed by the addressee or other responsible person at the delivery address.

The bill defines “return receipt requested” to include a delivery confirmation service by the U.S. Postal Service or a private delivery service that is regularly engaged in the mailing or shipping of documents and that confirms delivery by receipt that is signed by the addressee or other responsible person at the delivery address.

The effect of the bill is to eliminate ambiguity as to whether other forms of delivery can also demonstrate compliance with statutory registered mail requirements, and to give persons seeking to comply with those requirements greater flexibility in choosing an acceptable form of delivery.

⁸ U.S. Postal Service, *Postal Bulletin* 22546 (May 21, 2020), at 15, <https://about.usps.com/resources/postal-bulletin.htm>.

The bill provides that its amendments to the definition of registered mail are remedial in nature and apply retroactively.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Generally, remedial and procedural laws may be applied retroactively without violating the Florida Constitution, while substantive laws may not be applied retroactively if they abolish or curtail protected rights or impose unconstitutional obligations.⁹ Because the bill clearly provides that it is remedial in nature and intended to apply retroactively, and in any case does not abolish or curtail protected rights or impose unconstitutional obligations, it may be constitutionally applied retroactively.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private delivery services may see increases in revenue associated with greater use of their services by persons seeking to comply with statutory registered mail requirements.

C. Government Sector Impact:

The U.S. Postal Service may see decreases in revenue associated with reduced use of its services by persons seeking to comply with statutory registered mail requirements.

⁹ *Patronis v. United Insurance Company of America*, 299 So. 3d 1152, 1156-57 (Fla. 1st DCA 2020).

State agencies that send out large quantities of mail will have an additional option which may result in a cost savings due to implementation of this bill. For example, the Department of Revenue has requirements in place for issuance of certain child support and tax related documents that are only allowed to be mailed by certified mail.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1.01 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 the Committee on Judiciary

590-01982-24

20247020__

1 A bill to be entitled
 2 An act relating to the delivery of notices; amending
 3 s. 1.01, F.S.; revising the definition of the term
 4 "registered mail" for purposes of construction of the
 5 Florida Statutes; defining the term "return receipt
 6 requested" for purposes of construction of the Florida
 7 Statutes; providing for construction and retroactive
 8 application; providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Subsection (11) of section 1.01, Florida
 13 Statutes, is amended, and subsection (20) is added to that
 14 section, to read:

15 1.01 Definitions.—In construing these statutes and each and
 16 every word, phrase, or part hereof, where the context will
 17 permit:

18 (11) The ~~term words~~ "registered mail" includes include
 19 certified mail with return receipt requested. The term also
 20 includes any delivery service by the United States Postal
 21 Service or a private delivery service that is regularly engaged
 22 in the delivery of documents which provides proof of mailing or
 23 shipping and proof of delivery. Proof of delivery must be
 24 established by a receipt that is signed by the addressee or
 25 other responsible person at the delivery address.

26 (20) The term "return receipt requested" includes a
 27 delivery confirmation service by the United States Postal
 28 Service or a private delivery service that is regularly engaged
 29 in the mailing or shipping of documents and that confirms

Page 1 of 2

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

590-01982-24

20247020__

30 delivery by receipt that is signed by the addressee or other
 31 responsible person at the delivery address.

32 Section 2. The amendments made by this act to s. 1.01,
 33 Florida Statutes, are remedial in nature and apply
 34 retroactively.

35 Section 3. This act shall take effect upon becoming a law.

Page 2 of 2

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

The Florida Senate

APPEARANCE RECORD

1-31-2024

Meeting Date

Fiscal Policy

Committee

SB 7020

Bill Number or Topic

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

Amendment Barcode (if applicable)

Name Peter Dunbar

Phone 850/214-5100

Address 106 E. College Street

Email peter.dunbar@joneswalker.com

Tallahassee 32301 City State Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [X] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing:

Real Property, Probate & Trust Law Section of the Fla. Bar

[] 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.

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 Fiscal Policy

BILL: CS/SB 7028

INTRODUCER: Fiscal Policy Committee; Banking and Insurance Committee

SUBJECT: My Safe Florida Home Program

DATE: January 31, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Thomas</u>	<u>Knudson</u>	<u>FP</u>	BI Submitted as Comm. Bill/Fav.
	<u>Thomas</u>	<u>Yeatman</u>		Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7028 amends s. 215.5586, F.S., relating to the My Safe Florida Home (MSFH) Program to:

- Allow a subsequent application for a mitigation inspection or mitigation grant only under certain circumstances;
- Provide that an applicant meeting the requirements for a mitigation inspection may receive an inspection even if the applicant is not eligible for a mitigation grant or the applicant does not apply for such grant;
- Require the homeowner to agree to provide information received from the homeowner's insurer identifying the premium discounts realized by the homeowner due to the mitigation improvements funded through the program;
- Provide that the Department of Financial Services (DFS) is not required to maintain a list of participating contractors, but rather, the homeowner must use a properly licensed contractor for the project and the DFS must verify that the contractor performing the work is licensed;
- Revise the list of grant eligible improvements to specify the inclusion of windows and skylights;
- Require the DFS to prioritize the review and approval of inspection applications and grant applications in the following order:
 - First, applications from low-income homeowners who are at least 60 years old;
 - Second, applications from all other low-income homeowners;
 - Third, applications from moderate-income homeowners who are at least 60 years old;
 - Fourth, applications from all other moderate-income homeowners; and
 - Lastly, all other applications;

- Remove the provision authorizing matching grants to local governments and nonprofit entities;
- Remove the provision authorizing grants to a previously inspected existing structure or on a rebuild;
- Require homeowners to finalize construction and request a final inspection, or request an extension, within 1 year after grant approval;
- Authorize the DFS to request additional information from the applicant;
- Revise provisions regarding the distribution of the MSFH Program brochure which provides information on the benefits to homeowners of residential hurricane damage mitigation; and
- Reorganize and rephrase certain provisions within the statute to provide better clarity.

The bill appropriates, for the 2024-2025 fiscal year, \$100 million in nonrecurring funds from the General Revenue Fund to the Department of Financial Services to provide mitigation grants under the MSFH Program and \$7 million for administrative costs related to implementation.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

My Safe Florida Home Program

Background

Following the 2004 and 2005 hurricane seasons, where 2.8 million Florida homeowners suffered more than \$33 billion in insured property damage,¹ 86 percent of the 4.4 million homes in Florida were built prior to the adoption of stronger building codes in 2002, and the average age of a home was 26 years, Florida began to experience a decline in the availability of property insurance and an increase in its cost.² In 2006, the Legislature created the My Safe Florida Home (MSFH) Program³ within the Department of Financial Services (DFS).⁴ The original appropriation for the program was \$250 million for a period not to exceed three years with any unused appropriated funds reverting to the General Revenue Fund on June 30, 2009.⁵

The MSFH Program was created with the intent to provide trained and certified inspectors to perform mitigation inspections for owners of site-built, single-family, residential properties (mitigation inspections), and mitigation grants to eligible applicants, subject to the availability of funds.⁶ The Program was to “develop and implement a comprehensive and coordinated approach for hurricane damage mitigation...”⁷ The Program allowed the DFS to undertake a public outreach and advertising campaign to inform consumers of the availability and benefits of the

¹ Department of Financial Services, *My Safe Florida Home, 2008 Annual Report* (Feb. 2009) (on file with Senate Committee on Banking and Insurance).

² *Id.*

³ *Id.*

⁴ The Legislature initially established the program as the Florida Comprehensive Hurricane Damage Mitigation Program (ch. 2006-12, L.O.F.) however, the name was subsequently changed in 2007 (ch. 2007-126, L.O.F.).

⁵ Chapter 2006-12 L.O.F.

⁶ Section 215.5586, F.S.

⁷ *Id.*

mitigation inspections and grants.⁸ From its inception to January 30, 2009, the MSFH Program received approximately 425,193 applications, performed more than 391,000 inspections and awarded 39,000 grants. From July 2007 through January 2009, MSFH Program expenditures totaled approximately \$151.9 million.⁹ Funding for the program ceased on June 30, 2009.¹⁰

The DFS requested Risk Management Solutions (RMS) to conduct an impact analysis of the MSFH Program. RMS released a report of the impact analysis of the Program on May 14, 2009 (report).¹¹ In the report, RMS concluded program grants were beneficial to the State of Florida, individual homeowners, and the insurance industry.¹² RMS indicated the predicted reduction in loss as a result of the grant projects completed far exceeded the grant money spent.¹³ The MSFH Program was never repealed from law and additional funding was not provided until May 2022.

2022 Renewal and Funding of the MSFH Program

In May 2022, during Special Session 2022-D, and under a property insurance bill (SB 2-D), the Legislature reestablished the MSFH Program within the DFS to provide financial incentives for Florida residential property owners to obtain free home inspections which identify mitigation measures and provide mitigation grants to retrofit such properties, thereby reducing their vulnerability to hurricane damage and helping decrease the cost of residential property insurance.¹⁴

To implement the renewed MSFH Program, \$150 million in nonrecurring funds from the General Revenue Fund was appropriated to the DFS. The funds were designated for the following purposes:

- \$25 million for hurricane mitigation inspections;
- \$115 million for hurricane mitigation grants;
- Four million dollars for education and consumer awareness;
- One million dollars for public outreach to contractors, real estate brokers, and sales associates; and
- Five million dollars for administrative costs.¹⁵

2023 Legislation and Funding of the MSFH Program

During the 2023 Regular Legislative Session, HB 881 was passed making additional changes to the MSFH program. The bill:

- Provided the MSFH Program may select as a mitigation inspector a licensed home inspector who has completed certain training;

⁸ Section 215.5586(3), F.S.

⁹ Florida Auditor General, *Department of Financial Services, My Safe Florida Home Program, Operational Audit Report No. 2010-074* (Jan. 1010), available at <https://flauditor.gov> (last visited January 8, 2024).

¹⁰ Department of Financial Services, *My Safe Florida Home, 2008 Annual Report* (Feb. 2009) (on file with Senate Committee on Banking and Insurance).

¹¹ Risk Management Solutions, *Analyzing the Effects of the My Safe Florida Home Program on Florida Insurance Risk*, (May 14, 2009), available at <https://www.ipcc> (last visited January 8, 2024).

¹² *Id.*

¹³ *Id.*

¹⁴ Section 3, ch. 2022-268, L.O.F.

¹⁵ Section 4, ch. 2022-268, L.O.F.

- Provided an inspection under the MSFH Program may only be done on a property for which a homestead exemption has been granted;
- Revised eligibility requirements for mitigation inspections to include townhouses to determine if opening protection mitigation would provide improvements to mitigate hurricane damage;
- Revised eligibility requirements for mitigation grants to include dwellings with an insured value of \$700,000 or less (up from \$500,000 or less) and for opening protection for townhouses when recommended by a hurricane mitigation inspection;
- Deleted the requirement a property eligible for a mitigation grant must be located in the “wind-borne debris region;”
- Increased the amount, from \$5,000 to \$10,000, low-income homeowners may receive from a grant and not have to provide a matching amount;
- Added the Citizens Property Insurance Corporation to the list of entities that may receive Program brochures for redistribution;
- Deleted the requirement contracts valued at one million dollars or more entered into by the Program be reviewed and approved by the Legislative Budget Commission; and
- Required the DFS to develop a quality assurance and reinspection program.

Also, during the 2023 Regular Legislative Session, the Legislature appropriated an additional \$100 million for mitigation grants and \$2,065,000 for operations and administration costs.¹⁶

During Special Session 2023-C, HB 1-C¹⁷ was passed, which included provisions relating to the MSFH Program. The bill:

- Appropriated \$176,170,000 in nonrecurring general revenue for the backlog of 17,617 mitigation grant applications that had been submitted and awaiting funding;
- Appropriated \$5,285,100 in nonrecurring general revenue for administrative costs related to the processing of mitigation grants; and
- Prohibited the DFS from continuing to accept applications or to create a waiting list in anticipation of additional funding absent express authority from the Legislature.

Hurricane Mitigation Inspections

The MSFH Program provides licensed inspectors to perform inspections for owners of site-built, single-family, residential properties, for which a homestead exemption has been granted, to determine what mitigation measures are needed, what insurance premium discounts may be available, and what improvements to existing residential properties are needed to reduce the property’s vulnerability to hurricane damage. A townhouse as defined in s. 481.203, F.S.,¹⁸ for which a homestead exemption has been granted, may qualify to receive a mitigation inspection to determine if opening protection¹⁹ mitigation would provide improvements to mitigate hurricane damage. The mitigation inspections must include, at a minimum:

- A home inspection and report that summarizes the results and identifies recommended improvements a homeowner may take to mitigate hurricane damage;

¹⁶ SB 2500 (2023); Specific Appropriations 2368A & 2368B, ch. 2023-239, Laws of Fla.

¹⁷ Chapter 2023-349, L.O.F.

¹⁸ “Townhouse” generally means “a single-family dwelling unit not exceeding three stories in height which is constructed in a series or group of attached units with property lines separating such units.” Section 481.203(16), F.S.

¹⁹ Opening protection includes windows, exterior doors, and garage doors. See s. 215.5586(2)(e), F.S.

- A range of cost estimates regarding the recommended mitigation improvements; and
- Information regarding estimated premium discounts, correlated to the current mitigation features and the recommended mitigation improvements identified by the inspection.²⁰

The DFS is authorized to contract with “wind certification entities” as vendors to provide such inspections. Each wind certification entity must, at a minimum, meet the following requirements:

- Use hurricane mitigation inspectors who are licensed or certified as:
 - A building inspector under s. 468.607, F.S.;
 - A general, building, or residential contractor under s. 489.111, F.S.;
 - A professional engineer under s. 471.015, F.S.;
 - A professional architect under s. 481.213, F.S.; or
 - A home inspector under s. 468.8314 and who have completed at least 3 hours of hurricane mitigation training approved by the Construction Industry Licensing Board, which training must include hurricane mitigation techniques, compliance with the uniform mitigation verification form, and completion of a proficiency exam.
- Use hurricane mitigation inspectors who have also undergone drug testing and a background screening.
- Provide a quality assurance program that includes a reinspection component.²¹

Hurricane Mitigation Grants

The homeowner eligibility requirements for the mitigation grants are:

- The homeowner must have been granted a homestead exemption on the home;
- The home must be a dwelling with an insured value of \$700,000 or less. Low-income homeowners are exempt from this requirement;
- The home must have undergone an acceptable hurricane mitigation inspection;
- The building permit for the initial construction of the home must have been made before January 1, 2008; and
- The homeowner must agree to make the home available for inspection upon completion of the mitigation project.²²

MSFH Program grants must be matched on the basis of one dollar provided by the applicant for two dollars provided by the state, up to a maximum state contribution of \$10,000 toward the actual cost of the mitigation project.²³ Low-income homeowners may receive up to \$10,000 in grant funds without providing matching dollars.²⁴

Program Transparency Requirements

The DFS must submit an annual report of MSFH Program activities to the President of the Senate and the Speaker of the House of Representatives by February 1 of each year. The report must indicate the number of inspections requested, the number of inspections performed, the number of grant applications received, the number and value of grants approved, the estimated

²⁰ Section 215.5586(1)(a), F.S.

²¹ Section 215.5586(1)(b), F.S.

²² Section 215.5586(2)(a), F.S.

²³ Section 215.5586(2)(b), F.S.

²⁴ Section 215.5586(2)(g), F.S.

average annual amount of insurance premium discounts and the total estimated amount of such discounts homeowners received from insurers resulting from the mitigation funded through the Program.²⁵

MSFH Program Implementation

Following the passage of SB 2-D in 2022, the DFS procured a vendor to administer the program. A second solicitation was issued for vendors who could conduct the required home inspections for the program. A third solicitation was issued to enlist contractors who would agree to participate in the program and be placed on a list for homeowners to choose from to complete mitigation work on their home.²⁶ The DFS compiled a list of approved vendors homeowners participating in the MSFH Program could choose for mitigation inspections and mitigation work.²⁷ On November 18, 2022, a web-based application for homeowners to request mitigation inspections and mitigation grant funds went live.²⁸

As of November 28, 2023, the MSFH Program has disbursed \$35,784,376, \$181,060,000 has been obligated but has not yet been disbursed, with \$174,320,000 remaining unobligated. The remaining \$174,320,000 is sufficient funding to eliminate the existing backlog of grant applications.²⁹

MSFH Program Statistics³⁰

Inspections:

- 91,627 home inspections have been completed.
- 9,268 home inspections are either scheduled or are in the process of being scheduled.

Grants:

- 21,540 grants have been approved.
- Over \$216.8 million has been obligated to homeowners who are in various stages of completing work on their homes
- 17,617 grant applications have been submitted and await funding.

Reimbursements:

- 3,897 Homeowners have been sent a check for their grant reimbursements.
- Average disbursement is \$9,183 per homeowner.
- Total disbursements: \$35,784,376

Insurance Premium Discounts Tracked:

- Of the 3,897 homeowners who have completed the process, 1,928 have reported an insurance premium discount.

²⁵ Section 215.5586(9), F.S.

²⁶ Florida Department of Financial Services, *Senate Bill 748 Agency Analysis* (Mar. 3, 2023) (on file with Senate Banking and Insurance Committee.)

²⁷ *Id.*

²⁸ *Id.*

²⁹ Email from Parker Powell, Deputy Director of Legislative Affairs, Department of Financial Services, RE: MSFH Program (Nov. 29, 2023).

³⁰ *Id.*

- Average discount of those reporting is \$981.³¹

III. Effect of Proposed Changes:

Section 1 amends s. 215.5586, F.S., relating to the My Safe Florida Home Program to generally reorganize and rephrase certain portions of s. 215.5586, F.S., to provide better clarity.

The bill revises the inspection and grant application process and the eligibility criteria for inspections, as it:

- Allows a subsequent application for a mitigation inspection or mitigation grant if:
 - The original application was denied or withdrawn because of errors or omissions;
 - The original application was denied or withdrawn because the home did not meet the eligibility criteria at the time of the prior application and the homeowner reasonably believes that home now is eligible for an inspection or grant; or
 - The program's eligibility requirements have changed since the original application date and the applicant reasonably believes that the home is eligible under the new eligibility requirements;
- Provides that an applicant meeting the requirements for a mitigation inspection may receive an inspection of a home even if the applicant is not eligible for a hurricane mitigation grant or the applicant does not apply for such grant;
- Authorizes the DFS to request additional information from the applicant; the application is to be considered withdrawn if the DFS does not receive a response to its request within 60 days; and
- Requires the homeowner to agree to provide information received from the homeowner's insurer identifying the premium discounts realized by the homeowner due to the mitigation improvements funded through the program.

The bill provides that the DFS is not required to maintain a list of participating contractors, but rather, each grant application must include a statement from the homeowner which contains the name and state license number of the intended contractor for the mitigation work. The DFS must electronically verify that the contractor's state license number is accurate and up to date before approving a grant.

The bill revises the criteria for eligible improvements to:

- Include within improvements to "opening protection," exterior doors, garage doors, windows, and skylights; and
- Clarify language authorizing projects for a "secondary water barrier" for a roof to instead refer to a secondary water "resistance" barrier for a roof.

The bill requires the DFS to prioritize the review and approval of inspection applications and grant applications in the following order:

³¹ The discount information typically comes in one of two forms:

1. The homeowner provides a declarations page with the cost of their insurance pre-construction and then an updated declarations page post construction. In this case, the Program will net the two numbers against each other to determine a savings.
2. The homeowner provides an email or other communication from their insurance agent/company stating exactly what the discount will be to their premium based on the work done on the home.

- First, applications from low-income homeowners, as defined in s. 420.0004(11), F.S.,³² who are at least 60 years old;
- Second, applications from all other low-income homeowners, as defined in s. 420.0004(11), F.S.;
- Third, applications from moderate-income homeowners, as defined in s. 420.0004(12), F.S.,³³ who are at least 60 years old and are not low-income homeowners;
- Fourth, applications from all other moderate-income homeowners, as defined in s. 420.0004(12), F.S., who are not low-income homeowners; and
- Lastly, all other applications.

Following an appropriation funding inspections and grants, the DFS must start accepting inspection applications and grant applications no earlier than the effective date of the legislative appropriation, as follows:

- Initially, from low-income applicants who are at least 60 years old;
- From all other low-income applicants beginning 15 days after the program initially starts accepting applications;
- From moderate-income applicants who are at least 60 years old beginning 30 days after the program initially starts accepting applications;
- From all other moderate-income applicants beginning 45 days after the program initially starts accepting applications; and
- From all other applicants, beginning 60 days after the program initially starts accepting applications.

The bill requires, rather than encourages, the Citizens Property Insurance Corporation to distribute to its policyholders the MSFH Program brochure which provides information on the benefits to homeowners of residential hurricane damage mitigation. The bill removes existing language that encourages contractors and real estate licensees to distribute the brochure.

The bill removes existing law authorizing matching grants to:

- Local governments and nonprofit entities; and
- A previously inspected existing structure or on a rebuild.

Section 2 appropriates to the Department of Financial Services, for the 2024-2025 fiscal year, \$100 million to provide mitigation grants under the MSFH Program and \$7 million for

³² Section 420.0004(11), F.S., defines “Low-income persons” to mean “one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.” Section 420.0004(2), F.S., defines “Adjusted gross income” to mean “all wages, assets, regular cash or noncash contributions or gifts from persons outside the household, and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under s. 62 of the Internal Revenue Code.”

³³ Section 420.0004(12), F.S., defines “Moderate-income persons” to mean “one or more natural persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.”

administrative costs related to implementation. The appropriated funds are nonrecurring funds from the General Revenue Fund.

The effective date of the bill is July 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:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill increases the funds available for the MSFH Program, making it possible for more homes to be granted mitigation grants. Homeowners that complete mitigation projects funded by the MSFH Program will receive mitigation credits that reduce the cost of their property insurance.

C. Government Sector Impact:

The bill appropriates to the Department of Financial Services, for the 2024-2025 fiscal year, \$100 million to provide mitigation grants under the MSFH Program and \$7 million for administrative costs related to implementation. The appropriated funds are nonrecurring funds from the General Revenue Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following section of the Florida Statutes: 215.5586.

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 Fiscal Policy Committee on January 31, 2024:

The committee substitute reorganizes and rewords certain provisions and:

- Adds requirement that the subject property be "owner-occupied;"
- Requires verification that the contractor performing the work is licensed;
- Removes provision authorizing grants to local governments;
- Removes provision authorizing grants to a previously inspected existing structure or on a rebuild;
- Staggers the acceptance of prioritized applications;
- Requires homeowners to finalize construction and request a final inspection, or request an extension, within 1 year after grant approval; and
- Creates a separate provision authorizing the department to request additional information from an applicant.

- B. **Amendments:**

None.



332382

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/31/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Boyd) recommended the following:

Senate Amendment (with title amendment)

Delete lines 70 - 309
and insert:

(a) To be eligible for a hurricane mitigation inspection
under the program:

1. A home must be a single-family, detached residential
property or a townhouse as defined in s. 481.203;

2. A home must be site-built and owner-occupied; and

3. The homeowner must have been granted a homestead
exemption on the home under chapter 196.



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12 (b)1. An application for a hurricane mitigation inspection
13 must contain a signed or electronically verified statement made
14 under penalty of perjury that the applicant has submitted only
15 one inspection application on the home or that the application
16 is allowed under subparagraph 2., and the application must have
17 documents attached which demonstrate that the applicant meets
18 the requirements of paragraph (a).

19 2. An applicant may submit a subsequent hurricane
20 mitigation inspection application for the same home only if:

21 a. The original hurricane mitigation inspection application
22 has been denied or withdrawn because of errors or omissions in
23 the application;

24 b. The original hurricane mitigation inspection application
25 was denied or withdrawn because the home did not meet the
26 eligibility criteria for an inspection at the time of the
27 previous application, and the homeowner reasonably believes the
28 home now is eligible for an inspection; or

29 c. The program's eligibility requirements for an inspection
30 have changed since the original application date, and the
31 applicant reasonably believes the home is eligible under the new
32 requirements.

33 (c) An applicant meeting the requirements of paragraph (a)
34 may receive an inspection of a home under the program without
35 being eligible for a grant under subsection (2) or applying for
36 such grant.

37 (d) Licensed inspectors are to provide home inspections of
38 eligible homes ~~site-built, single-family, residential properties~~
39 ~~for which a homestead exemption has been granted,~~ to determine
40 what mitigation measures are needed, what insurance premium



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41 discounts may be available, and what improvements to existing
42 residential properties are needed to reduce the property's
43 vulnerability to hurricane damage. An inspector may inspect a
44 townhouse as defined in s. 481.203 to determine if opening
45 protection mitigation as listed in subparagraph (2) (e) 1.
46 ~~paragraph (2) (e)~~ would provide improvements to mitigate
47 hurricane damage.

48 (e) (b) The department ~~of Financial Services~~ shall contract
49 with wind certification entities to provide hurricane mitigation
50 inspections. The inspections provided to homeowners, at a
51 minimum, must include:

52 1. A home inspection and report that summarizes the results
53 and identifies recommended improvements a homeowner may take to
54 mitigate hurricane damage.

55 2. A range of cost estimates regarding the recommended
56 mitigation improvements.

57 3. Information regarding estimated premium discounts,
58 correlated to the current mitigation features and the
59 recommended mitigation improvements identified by the
60 inspection.

61 (f) (e) To qualify for selection by the department as a wind
62 certification entity to provide hurricane mitigation
63 inspections, the entity must, at a minimum, meet the following
64 requirements:

65 1. Use hurricane mitigation inspectors who are licensed or
66 certified as:

67 a. A building inspector under s. 468.607;

68 b. A general, building, or residential contractor under s.
69 489.111;



70 c. A professional engineer under s. 471.015;
71 d. A professional architect under s. 481.213; or
72 e. A home inspector under s. 468.8314 and who have
73 completed at least 3 hours of hurricane mitigation training
74 approved by the Construction Industry Licensing Board, which
75 training must include hurricane mitigation techniques,
76 compliance with the uniform mitigation verification form, and
77 completion of a proficiency exam.

78 2. Use hurricane mitigation inspectors who also have
79 undergone drug testing and a background screening. The
80 department may conduct criminal record checks of inspectors used
81 by wind certification entities. Inspectors must submit a set of
82 fingerprints to the department for state and national criminal
83 history checks and must pay the fingerprint processing fee set
84 forth in s. 624.501. The fingerprints must be sent by the
85 department to the Department of Law Enforcement and forwarded to
86 the Federal Bureau of Investigation for processing. The results
87 must be returned to the department for screening. The
88 fingerprints must be taken by a law enforcement agency,
89 designated examination center, or other department-approved
90 entity.

91 3. Provide a quality assurance program including a
92 reinspection component.

93 ~~(d) An application for an inspection must contain a signed~~
94 ~~or electronically verified statement made under penalty of~~
95 ~~perjury that the applicant has submitted only a single~~
96 ~~application for that home.~~

97 ~~(e) The owner of a site-built, single-family, residential~~
98 ~~property or townhouse as defined in s. 481.203, for which a~~



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99 ~~homestead exemption has been granted, may apply for and receive~~
100 ~~an inspection without also applying for a grant pursuant to~~
101 ~~subsection (2) and without meeting the requirements of paragraph~~
102 ~~(2)(a).~~

103 (2) HURRICANE MITIGATION GRANTS.—Financial grants shall be
104 used by homeowners ~~to encourage single-family, site-built,~~
105 ~~owner-occupied, residential property owners~~ to make improvements
106 recommended by an inspection which increase resistance ~~retrofit~~
107 ~~their properties to make them less vulnerable to hurricane~~
108 ~~damage.~~

109 (a) ~~For~~ A homeowner is ~~to be~~ eligible for a hurricane
110 mitigation grant if all of, the following criteria are ~~must be~~
111 met:

112 1. The home must be eligible for an inspection under
113 subsection (1) ~~The homeowner must have been granted a homestead~~
114 ~~exemption on the home under chapter 196.~~

115 2. The home must be a dwelling with an insured value of
116 \$700,000 or less. Homeowners who are low-income persons, as
117 defined in s. 420.0004(11), are exempt from this requirement.

118 3. The home must undergo an acceptable hurricane mitigation
119 inspection as provided in subsection (1).

120 4. The building permit application for initial construction
121 of the home must have been made before January 1, 2008.

122 5. The homeowner must agree to make his or her home
123 available for inspection once a mitigation project is completed.

124 6. The homeowner must agree to provide to the department
125 information received from the homeowner's insurer identifying
126 the discounts realized by the homeowner because of the
127 mitigation improvements funded through the program.



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128 (b)1. An application for a grant must contain a signed or
129 electronically verified statement made under penalty of perjury
130 that the applicant has submitted only one grant ~~a single~~
131 application or that the application is allowed under
132 subparagraph 2., and the application must have ~~attached~~
133 documents ~~attached~~ demonstrating that the applicant meets the
134 requirements of ~~this~~ paragraph (a).

135 2. An applicant may submit a subsequent grant application
136 if:

137 a. The original grant application was denied or withdrawn
138 because the application contained errors or omissions;

139 b. The original grant application was denied or withdrawn
140 because the home did not meet the eligibility criteria for a
141 grant at the time of the previous application, and the homeowner
142 reasonably believes that the home now is eligible for a grant;
143 or

144 c. The program's eligibility requirements for a grant have
145 changed since the original application date, and the applicant
146 reasonably believes that he or she is an eligible homeowner
147 under the new requirements.

148 3. A grant application must include a statement from the
149 homeowner which contains the name and state license number of
150 the contractor that the homeowner acknowledges as the intended
151 contractor for the mitigation work. The program must
152 electronically verify that the contractor's state license number
153 is accurate and up to date before grant approval.

154 (c) ~~(b)~~ All grants must be matched on the basis of \$1
155 provided by the applicant for \$2 provided by the state up to a
156 maximum state contribution of \$10,000 toward the actual cost of



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157 the mitigation project, except as provided in paragraph (h).

158 ~~(d)(e) The program shall create a process in which~~
159 ~~contractors agree to participate and homeowners select from a~~
160 ~~list of participating contractors. All hurricane mitigation~~
161 ~~performed under the program must be based upon the securing of~~
162 ~~all required local permits and inspections and must be performed~~
163 ~~by properly licensed contractors. Hurricane mitigation~~
164 ~~inspectors qualifying for the program may also participate as~~
165 ~~mitigation contractors as long as the inspectors meet the~~
166 ~~department's qualifications and certification requirements for~~
167 ~~mitigation contractors.~~

168 ~~(d) Matching fund grants shall also be made available to~~
169 ~~local governments and nonprofit entities for projects that will~~
170 ~~reduce hurricane damage to single-family, site-built, owner-~~
171 ~~occupied, residential property. The department shall liberally~~
172 ~~construe those requirements in favor of availing the state of~~
173 ~~the opportunity to leverage funding for the My Safe Florida Home~~
174 ~~Program with other sources of funding.~~

175 (e) When recommended by a hurricane mitigation inspection,
176 grants for eligible homes may be used for the following
177 improvements:

178 1. Opening protection, including exterior doors, garage
179 doors, windows, and skylights.

180 2. ~~Exterior doors, including garage doors.~~

181 3. ~~Reinforcing roof-to-wall connections.~~

182 3.4. ~~Improving the strength of roof-deck attachments.~~

183 4.5. ~~Secondary water resistance barrier for roof.~~

184 (f) When recommended by a hurricane mitigation inspection,
185 grants for townhouses, as defined in s. 481.203, may only be



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186 used for opening protection.

187 (g) The department may require that improvements be made to
188 all openings, including exterior doors, ~~and~~ garage doors,
189 windows, and skylights, as a condition of reimbursing a
190 homeowner approved for a grant. The department may adopt, by
191 rule, the maximum grant allowances for any improvement allowable
192 under paragraph (e) or paragraph (f) ~~(e) or this paragraph.~~

193 ~~(g) Grants may be used on a previously inspected existing~~
194 ~~structure or on a rebuild. A rebuild is defined as a site-built,~~
195 ~~single-family dwelling under construction to replace a home that~~
196 ~~was destroyed or significantly damaged by a hurricane and deemed~~
197 ~~unlivable by a regulatory authority. The homeowner must be a~~
198 ~~low-income homeowner as defined in paragraph (h), must have had~~
199 ~~a homestead exemption for that home before the hurricane, and~~
200 ~~must be intending to rebuild the home as that homeowner's~~
201 ~~homestead.~~

202 (h) Low-income homeowners, as defined in s. 420.0004(11),
203 who otherwise meet the applicable requirements of this
204 subsection ~~paragraphs (a), (c), (e), and (g)~~ are eligible for a
205 grant of up to \$10,000 and are not required to provide a
206 matching amount to receive the grant. ~~The program may accept a~~
207 ~~certification directly from a low-income homeowner that the~~
208 ~~homeowner meets the requirements of s. 420.0004(11) if the~~
209 ~~homeowner provides such certification in a signed or~~
210 ~~electronically verified statement made under penalty of perjury.~~

211 (i)1. The department shall develop a process that ensures
212 the most efficient means to collect and verify inspection
213 applications and grant applications to determine eligibility.
214 The department ~~and~~ may direct hurricane mitigation inspectors to



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215 collect and verify grant application information or use the
216 Internet or other electronic means to collect information and
217 determine eligibility.

218 2. The department shall prioritize the review and approval
219 of such inspection applications and grant applications in the
220 following order:

221 a. First, applications from low-income persons, as defined
222 in s. 420.0004, who are at least 60 years old;

223 b. Second, applications from all other low-income persons,
224 as defined in s. 420.0004;

225 c. Third, applications from moderate-income persons, as
226 defined in s. 420.0004, who are at least 60 years old;

227 d. Fourth, applications from all other moderate-income
228 persons, as defined in s. 420.0004; and

229 e. Last, all other applications.

230 3. The department shall start accepting inspection
231 applications and grant applications no earlier than the
232 effective date of a legislative appropriation funding
233 inspections and grants, as follows:

234 a. Initially, from applicants prioritized under sub-
235 paragraph 2.a.;

236 b. From applicants prioritized under sub-paragraph 2.b.,
237 beginning 15 days after the program initially starts accepting
238 applications;

239 c. From applicants prioritized under sub-paragraph 2.c.,
240 beginning 30 days after the program initially starts accepting
241 applications;

242 d. From applicants described in sub-paragraph 2.d.,
243 beginning 45 days after the program initially starts accepting



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244 applications; and

245 e. From all other applicants, beginning 60 days after the
246 program initially starts accepting applications.

247 4. The program may accept a certification directly from a
248 low-income homeowner or moderate-income homeowner who meets the
249 requirements of s. 420.0004(11) or (12), respectively, if the
250 homeowner provides such certification in a signed or
251 electronically verified statement made under penalty of perjury.

252 (j) A homeowner who receives a grant shall finalize
253 construction and request a final inspection, or request an
254 extension for an additional 6 months, within 1 year after grant
255 approval. If a homeowner fails to comply with this paragraph,
256 his or her application is deemed abandoned and the grant money
257 reverts to the department.

258 (3) REQUESTS FOR INFORMATION.—The department may request
259 that an applicant provide additional information. An application
260 is deemed withdrawn by the applicant if the department does not
261 receive a response to its request for additional information
262 within 60 days after the notification of any apparent error or
263 omission.

264
265 ===== T I T L E A M E N D M E N T =====

266 And the title is amended as follows:

267 Delete lines 9 - 32

268 and insert:

269 application under certain conditions; authorizing
270 applicants who meet specified requirements to receive
271 a home inspection under the program without being
272 eligible for, or applying for, a grant; specifying



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273 eligibility requirements for hurricane mitigation
274 grants; revising application requirements for
275 hurricane mitigation grants; authorizing an applicant
276 to submit a subsequent hurricane mitigation grant
277 application under certain conditions; requiring that a
278 grant application include certain information;
279 deleting and revising provisions relating to the
280 selection of hurricane mitigation inspectors and
281 contractors; deleting the requirement that matching
282 fund grants be made available to certain entities;
283 revising improvements that grants for eligible homes
284 may be used; deleting the authorization to use grants
285 on rebuilds; requiring the Department of Financial
286 Services to develop a process that ensures the most
287 efficient means to collect and verify inspection
288 applications; requiring the department to prioritize
289 the review and approval of inspection and grant
290 applications in a specified order; requiring the
291 department to start accepting inspection and grant
292 applications as specified in the act; requiring
293 homeowners to finalize construction and make certain
294 requests within a specified time; providing that an
295 application is deemed abandoned under certain
296 circumstances; authorizing the department to request
297 certain information; providing that an application is
298 considered withdrawn under certain circumstances;

By the Committee on Banking and Insurance

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1 A bill to be entitled
 2 An act relating to the My Safe Florida Home Program;
 3 amending s. 215.5586, F.S.; revising legislative
 4 intent; specifying eligibility requirements for
 5 hurricane mitigation inspections under the program;
 6 specifying requirements for a hurricane mitigation
 7 inspection application; authorizing an applicant to
 8 submit a subsequent hurricane mitigation inspection
 9 application under certain conditions; authorizing the
 10 Department of Financial Services to request certain
 11 information; providing that an application is
 12 considered withdrawn under certain circumstances;
 13 authorizing an applicant to receive a home inspection
 14 under the program without being eligible for a grant
 15 or applying for a grant; specifying eligibility
 16 requirements for hurricane mitigation grants; revising
 17 application requirements for hurricane mitigation
 18 grants; authorizing an applicant to submit a
 19 subsequent hurricane mitigation grant application
 20 under certain conditions; authorizing the department
 21 to request certain information; providing that an
 22 application is considered withdrawn under certain
 23 circumstances; deleting and revising provisions
 24 relating to the selection of hurricane mitigation
 25 inspectors and contractors; authorizing, rather than
 26 requiring, matching fund grants to be made available
 27 to certain entities; revising the improvements for
 28 which grants may be used; requiring the department to
 29 develop a process that ensures the most efficient

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

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30 means to collect and verify inspection applications;
 31 requiring the department, for a specified timeframe,
 32 to prioritize applications in a specified order;
 33 revising provisions regarding the development of
 34 brochures; requiring the Citizens Property Insurance
 35 Corporation to distribute such brochures to specified
 36 persons; providing appropriations; providing an
 37 effective date.
 38
 39 Be It Enacted by the Legislature of the State of Florida:
 40
 41 Section 1. Section 215.5586, Florida Statutes, as amended
 42 by section 5 of chapter 2023-349, Laws of Florida, is amended to
 43 read:
 44 215.5586 My Safe Florida Home Program.—There is established
 45 within the Department of Financial Services the My Safe Florida
 46 Home Program. The department shall provide fiscal
 47 accountability, contract management, and strategic leadership
 48 for the program, consistent with this section. This section does
 49 not create an entitlement for property owners or obligate the
 50 state in any way to fund the inspection or retrofitting of
 51 residential property in this state. Implementation of this
 52 program is subject to annual legislative appropriations. It is
 53 the intent of the Legislature that, subject to the availability
 54 of funds, the My Safe Florida Home Program provide licensed
 55 inspectors to perform hurricane mitigation inspections of
 56 eligible homes ~~for owners of site built, single family,~~
 57 ~~residential properties~~ and grants to eligible fund hurricane
 58 mitigation projects on those homes applicants. The department

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59 shall implement the program in such a manner that the total
 60 amount of funding requested by accepted applications, whether
 61 for inspections, grants, or other services or assistance, does
 62 not exceed the total amount of available funds. If, after
 63 applications are processed and approved, funds remain available,
 64 the department may accept applications up to the available
 65 amount. The program shall develop and implement a comprehensive
 66 and coordinated approach for hurricane damage mitigation
 67 pursuant to that may include the following requirements provided
 68 in this section.+

69 (1) HURRICANE MITIGATION INSPECTIONS.—

70 (a) To be eligible for an inspection under the program:

71 1. A home must be a single-family, site-built, detached
 72 residential property or a townhouse as defined in s. 481.203;
 73 and

74 2. The homeowner must have been granted a homestead
 75 exemption on the home under chapter 196.

76 (b)1. An application for an inspection must contain a
 77 signed or electronically verified statement made under penalty
 78 of perjury that the applicant has submitted only one inspection
 79 application on the home or that the application is allowed under
 80 subparagraph 2., and must have documents attached to the
 81 application which demonstrate that the applicant meets the
 82 requirements of paragraph (a).

83 2. An applicant may submit a subsequent hurricane
 84 mitigation inspection application for the same home only if:

85 a. The original hurricane mitigation inspection application
 86 has been denied or withdrawn because of errors or omissions in
 87 the application;

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88 b. The original hurricane mitigation inspection application
 89 was denied or withdrawn because the home did not meet the
 90 eligibility criteria for an inspection at the time of the
 91 previous application, and the homeowner reasonably believes the
 92 home now is eligible for an inspection; or

93 c. The program's eligibility requirements for an inspection
 94 have changed since the original application date, and the
 95 applicant reasonably believes the home is eligible under the new
 96 requirements.

97 3. The department may request that the applicant provide
 98 additional information if the application contains apparent
 99 errors or omissions. An application is considered withdrawn by
 100 the applicant if the department does not receive a response to
 101 its request for additional information within 60 days after the
 102 department notifies the applicant of any apparent errors or
 103 omissions.

104 (c) An applicant meeting the requirements of this
 105 subsection may receive an inspection of a home under the program
 106 without being eligible for a grant under subsection (2) or
 107 applying for such grant.

108 (d) Licensed inspectors are to provide home inspections of
 109 homes meeting the requirements of this subsection ~~site-built,~~
 110 ~~single-family, residential properties for which a homestead~~
 111 ~~exemption has been granted,~~ to determine what mitigation
 112 measures are needed, what insurance premium discounts may be
 113 available, and what improvements to existing residential
 114 properties are needed to reduce the property's vulnerability to
 115 hurricane damage. An inspector may inspect a townhouse as
 116 defined in s. 481.203 to determine if opening protection

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117 mitigation as listed in subparagraph (2)(f)1. ~~paragraph (2)(e)~~
 118 would provide improvements to mitigate hurricane damage.
 119 ~~(e)(b)~~ The department of ~~Financial Services~~ shall contract
 120 with wind certification entities to provide hurricane mitigation
 121 inspections. The inspections provided to homeowners, at a
 122 minimum, must include:

- 123 1. A home inspection and report that summarizes the results
 124 and identifies recommended improvements a homeowner may take to
 125 mitigate hurricane damage.
- 126 2. A range of cost estimates regarding the recommended
 127 mitigation improvements.
- 128 3. Information regarding estimated premium discounts,
 129 correlated to the current mitigation features and the
 130 recommended mitigation improvements identified by the
 131 inspection.

132 ~~(f)(e)~~ To qualify for selection by the department as a wind
 133 certification entity to provide hurricane mitigation
 134 inspections, the entity must, at a minimum, meet the following
 135 requirements:

- 136 1. Use hurricane mitigation inspectors who are licensed or
 137 certified as:
 - 138 a. A building inspector under s. 468.607;
 - 139 b. A general, building, or residential contractor under s.
 140 489.111;
 - 141 c. A professional engineer under s. 471.015;
 - 142 d. A professional architect under s. 481.213; or
 - 143 e. A home inspector under s. 468.8314 and who have
 144 completed at least 3 hours of hurricane mitigation training
 145 approved by the Construction Industry Licensing Board, which

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146 training must include hurricane mitigation techniques,
 147 compliance with the uniform mitigation verification form, and
 148 completion of a proficiency exam.

- 149 2. Use hurricane mitigation inspectors who also have
 150 undergone drug testing and a background screening. The
 151 department may conduct criminal record checks of inspectors used
 152 by wind certification entities. Inspectors must submit a set of
 153 fingerprints to the department for state and national criminal
 154 history checks and must pay the fingerprint processing fee set
 155 forth in s. 624.501. The fingerprints must be sent by the
 156 department to the Department of Law Enforcement and forwarded to
 157 the Federal Bureau of Investigation for processing. The results
 158 must be returned to the department for screening. The
 159 fingerprints must be taken by a law enforcement agency,
 160 designated examination center, or other department-approved
 161 entity.
- 162 3. Provide a quality assurance program including a
 163 reinspection component.

164 ~~(d) An application for an inspection must contain a signed
 165 or electronically verified statement made under penalty of
 166 perjury that the applicant has submitted only a single
 167 application for that home.~~

168 ~~(e) The owner of a site-built, single-family, residential
 169 property or townhouse as defined in s. 481.203, for which a
 170 homestead exemption has been granted, may apply for and receive
 171 an inspection without also applying for a grant pursuant to
 172 subsection (2) and without meeting the requirements of paragraph
 173 (2)(a).~~

174 (2) HURRICANE MITIGATION GRANTS.—Financial grants shall be

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175 used by homeowners to encourage single-family, site-built,
 176 owner-occupied, residential property owners to make improvements
 177 recommended by an inspection which increase resistance retrofit
 178 their properties to make them less vulnerable to hurricane
 179 damage.

180 (a) ~~For~~ A homeowner is to be eligible for a hurricane
 181 mitigation grant if all of, the following criteria are must be
 182 met:

183 1. The home must be eligible for an inspection under
 184 subsection (1) The homeowner must have been granted a homestead
 185 exemption on the home under chapter 196.

186 2. The home must be a dwelling with an insured value of
 187 \$700,000 or less. Homeowners who are low-income persons, as
 188 defined in s. 420.0004(11), are exempt from this requirement.

189 3. The home must undergo an acceptable hurricane mitigation
 190 inspection as provided in subsection (1).

191 4. The building permit application for initial construction
 192 of the home must have been made before January 1, 2008.

193 5. The homeowner must agree to make his or her home
 194 available for inspection once a mitigation project is completed.

195 6. The homeowner must agree to provide to the department
 196 information received from the homeowner's insurer identifying
 197 the discounts realized by the homeowner because of the
 198 mitigation improvements funded through the program.

199 (b)1. An application for a grant must contain a signed or
 200 electronically verified statement made under penalty of perjury
 201 that the applicant has submitted only one grant a single
 202 application or that the application is allowed under
 203 subparagraph 2., and must have attached documents attached

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204 demonstrating the applicant meets the requirements of ~~this~~
 205 paragraph (a).

206 2. An applicant may submit a subsequent grant application
 207 if:

208 a. The original grant application was denied or withdrawn
 209 because the application contained errors or omissions;

210 b. The original grant application was denied or withdrawn
 211 because the home did not meet the eligibility criteria for a
 212 grant at the time of the previous application, and the homeowner
 213 reasonably believes that the home now is eligible for a grant;
 214 or

215 c. The program's eligibility requirements for a grant have
 216 changed since the original application date, and the applicant
 217 reasonably believes that he or she is an eligible homeowner
 218 under the new requirements.

219 3. The department may request that the applicant provide
 220 additional information if the application contains apparent
 221 errors or omissions. An application is considered withdrawn by
 222 the applicant if the department does not receive a response to
 223 its request for additional information within 60 days after the
 224 department notifies the applicant of any apparent errors or
 225 omissions.

226 (c)(b) All grants must be matched on the basis of \$1
 227 provided by the applicant for \$2 provided by the state up to a
 228 maximum state contribution of \$10,000 toward the actual cost of
 229 the mitigation project, except as provided in paragraph (j).

230 (d)(c) ~~The program shall create a process in which~~
 231 ~~contractors agree to participate and homeowners select from a~~
 232 ~~list of participating contractors. All hurricane mitigation~~

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233 performed under the program must be based upon the securing of
 234 all required local permits and inspections and must be performed
 235 by properly licensed contractors. ~~Hurricane mitigation~~
 236 ~~inspectors qualifying for the program may also participate as~~
 237 ~~mitigation contractors as long as the inspectors meet the~~
 238 ~~department's qualifications and certification requirements for~~
 239 ~~mitigation contractors.~~

240 ~~(e)(d)~~ Matching fund grants may ~~shall~~ also be made
 241 available to local governments and nonprofit entities for
 242 projects that will reduce hurricane damage to eligible homes
 243 ~~single-family, site-built, owner-occupied, residential property.~~
 244 The department shall liberally construe those requirements in
 245 favor of availing the state of the opportunity to leverage
 246 funding for the My Safe Florida Home Program with other sources
 247 of funding.

248 (f)(e) When recommended by a hurricane mitigation
 249 inspection, grants for eligible homes may be used for the
 250 following improvements:

- 251 1. Opening protection, including exterior doors, garage
 252 doors, windows, and skylights.
- 253 2. ~~Exterior doors, including garage doors.~~
- 254 3. Reinforcing roof-to-wall connections.
- 255 3.4. Improving the strength of roof-deck attachments.
- 256 4.5. Secondary water resistance barrier for roof.

257 (g)(f) When recommended by a hurricane mitigation
 258 inspection, grants for townhouses, as defined in s. 481.203, may
 259 only be used for opening protection.

260 (h) The department may require that improvements be made to
 261 all openings, including exterior doors, ~~and~~ garage doors,

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262 windows, and skylights, as a condition of reimbursing a
 263 homeowner approved for a grant. The department may adopt, by
 264 rule, the maximum grant allowances for any improvement allowable
 265 under paragraph (f) or paragraph (g) ~~(e)~~ or this paragraph.

266 ~~(i)(g)~~ Grants may be used on a previously inspected
 267 existing structure or on a rebuild. A rebuild is defined as a
 268 site-built, single-family dwelling under construction to replace
 269 a home that was destroyed or significantly damaged by a
 270 hurricane and deemed unlivable by a regulatory authority. The
 271 homeowner must be a low-income homeowner as defined in paragraph
 272 (j) ~~(h)~~, must have had a homestead exemption for that home
 273 before the hurricane, and must be intending to rebuild the home
 274 as that homeowner's homestead.

275 ~~(j)(h)~~ Low-income homeowners, as defined in s.
 276 420.0004(11), who otherwise meet the applicable requirements of
 277 this subsection paragraphs (a), (e), (e), and (g) are eligible
 278 for a grant of up to \$10,000 and are not required to provide a
 279 matching amount to receive the grant. ~~The program may accept a~~
 280 ~~certification directly from a low-income homeowner that the~~
 281 ~~homeowner meets the requirements of s. 420.0004(11) if the~~
 282 ~~homeowner provides such certification in a signed or~~
 283 ~~electronically verified statement made under penalty of perjury.~~

284 ~~(k)1.(i)~~ The department shall develop a process that
 285 ensures the most efficient means to collect and verify
 286 inspection applications and grant applications to determine
 287 eligibility. ~~The department and~~ may direct hurricane mitigation
 288 inspectors to collect and verify grant application information
 289 or use the Internet or other electronic means to collect
 290 information and determine eligibility.

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291 2. The department, for the first 60 days it accepts
 292 inspection applications and grant applications after any
 293 legislative appropriation funding inspections and grants, must
 294 prioritize the review and approval of such applications in the
 295 following order:

296 a. First, applications from low-income persons, as defined
 297 in s. 420.0004, who are at least 60 years old;

298 b. Second, applications from all other low-income persons,
 299 as defined in s. 420.0004;

300 c. Third, applications from moderate-income persons, as
 301 defined in s. 420.0004, who are at least 60 years old;

302 d. Fourth, applications from all other moderate-income
 303 persons, as defined in s. 420.0004; and

304 e. Last, all other applications.

305 3. The program may accept a certification directly from a
 306 low-income homeowner or moderate-income homeowner who meets the
 307 requirements of s. 420.0004(11) or s. 420.0004(12) if the
 308 homeowner provides such certification in a signed or
 309 electronically verified statement made under penalty of perjury.

310 (3) EDUCATION, CONSUMER AWARENESS, AND OUTREACH.—

311 (a) The department may undertake a statewide multimedia
 312 public outreach and advertising campaign to inform consumers of
 313 the availability and benefits of hurricane inspections and of
 314 the safety and financial benefits of residential hurricane
 315 damage mitigation. The department may seek out and use local,
 316 state, federal, and private funds to support the campaign.

317 (b) The program may develop brochures for distribution to
 318 Citizens Property Insurance Corporation and other licensed
 319 entities or nonprofits that work with the department to educate

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

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320 ~~the public on the benefits of the program, general contractors,~~
 321 ~~roofing contractors, and real estate brokers and sales~~
 322 ~~associates who are licensed under part I of chapter 475 which~~
 323 ~~provide information on the benefits to homeowners of residential~~
 324 ~~hurricane damage mitigation. Citizens Property Insurance~~
 325 ~~Corporation must ~~is encouraged to~~ distribute the brochure to~~
 326 ~~policyholders of the corporation each year the program is~~
 327 ~~funded. Contractors are encouraged to distribute the brochures~~
 328 ~~to homeowners at the first meeting with a homeowner who is~~
 329 ~~considering contracting for home or roof repair or contracting~~
 330 ~~for the construction of a new home. Real estate brokers and~~
 331 ~~sales associates are encouraged to distribute the brochure to~~
 332 ~~clients before the purchase of a home. The brochures may be made~~
 333 ~~available electronically.~~

334 (4) FUNDING.—The department may seek out and leverage
 335 local, state, federal, or private funds to enhance the financial
 336 resources of the program.

337 (5) RULES.—The department ~~of Financial Services~~ shall adopt
 338 rules pursuant to ss. 120.536(1) and 120.54 to govern the
 339 program; implement the provisions of this section; including
 340 rules governing hurricane mitigation inspections and grants,
 341 mitigation contractors, and training of inspectors and
 342 contractors; and carry out the duties of the department under
 343 this section.

344 (6) HURRICANE MITIGATION INSPECTOR LIST.—The department
 345 shall develop and maintain as a public record a current list of
 346 hurricane mitigation inspectors authorized to conduct hurricane
 347 mitigation inspections pursuant to this section.

348 (7) CONTRACT MANAGEMENT.—

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349 (a) The department may contract with third parties for
 350 grants management, inspection services, contractor services for
 351 low-income homeowners, information technology, educational
 352 outreach, and auditing services. Such contracts are considered
 353 direct costs of the program and are not subject to
 354 administrative cost limits. The department shall contract with
 355 providers that have a demonstrated record of successful business
 356 operations in areas directly related to the services to be
 357 provided and shall ensure the highest accountability for use of
 358 state funds, consistent with this section.

359 (b) The department shall implement a quality assurance and
 360 reinspection program that determines whether initial inspections
 361 and home improvements are completed in a manner consistent with
 362 the intent of the program. The department may use valid random
 363 sampling in order to perform the quality assurance portion of
 364 the program.

365 (8) INTENT.—It is the intent of the Legislature that grants
 366 made to residential property owners under this section shall be
 367 considered disaster-relief assistance within the meaning of s.
 368 139 of the Internal Revenue Code of 1986, as amended.

369 (9) REPORTS.—The department shall make an annual report on
 370 the activities of the program that shall account for the use of
 371 state funds and indicate the number of inspections requested,
 372 the number of inspections performed, the number of grant
 373 applications received, the number and value of grants approved,
 374 and the estimated average annual amount of insurance premium
 375 discounts and total estimated annual amount of insurance premium
 376 discounts homeowners received from insurers as a result of
 377 mitigation funded through the program. The report must be

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378 delivered to the President of the Senate and the Speaker of the
 379 House of Representatives by February 1 of each year.

380 Section 2. (1) For the 2024-2025 fiscal year, the sum of
 381 \$100 million in nonrecurring funds is appropriated from the
 382 General Revenue Fund to the Department of Financial Services to
 383 provide mitigation grants pursuant to s. 215.5586(2), Florida
 384 Statutes, under the My Safe Florida Home Program. The department
 385 may not continue to accept applications or to create a waiting
 386 list in anticipation of additional funding unless the
 387 Legislature provides express authority to implement such
 388 actions.

389 (2) For the 2024-2025 fiscal year, the sum of \$7 million in
 390 nonrecurring funds is appropriated from the General Revenue Fund
 391 to the Department of Financial Services for administrative costs
 392 related to implementation of mitigation grants pursuant to s.
 393 215.5586(2), Florida Statutes, under the My Safe Florida Home
 394 Program.

395 Section 3. This act shall take effect July 1, 2024.

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The Florida Senate

APPEARANCE RECORD

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

SB 7028

01/31/24

Meeting Date

Bill Number or Topic

FISCAL POLICY

Committee

Amendment Barcode (if applicable)

Name CHASE MITCHELL

Phone (850) 413-4738

Address 400 S MONROE ST

Email

Street

TALLAHASSEE

City

FL

State

32399

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:

CFO JIMMY PATRONIS

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.

The Florida Senate

APPEARANCE RECORD

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01/31/24

Meeting Date

7028

Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Jennifer Ashton

Phone 941-773-2112

Address

Email Jennifer@Ashton-Advocacy.com

Street

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:

Florida Association of Building Inspectors

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

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JANUARY 31, 2024

Meeting Date

SB 7028

Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name TASHA CARTER, INSURANCE CONSUMER ADVOCATE Phone 850-413-2868

Address 200 E. GAINES STREET Email TASHA.CARTER@MYFLORIDA.GOV.COM

Tallahassee FL 32399

City

State

Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing: OFFICE OF THE INSURANCE CONSUMER ADVOCATE

[] 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.

01-31-2024

Meeting Date

Fiscal Policy

Committee

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

SB 7028

Bill Number or Topic

Amendment Barcode (if applicable)

Name E. Ivonne Fernandez

Phone 954-850-7262

Address 215 S Monroe Street - 601

Email ifernandez@aarp.org

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:

AARP

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)

CourtSmart Tag Report

Room: SB 110

Case No.:

Type:

Caption: Senate Committee on Fiscal Policy

Judge:

Started: 1/31/2024 9:01:29 AM

Ends: 1/31/2024 2:31:41 PM

Length: 05:30:13

9:01:31 AM Chair Hutson calls meeting to order
9:01:39 AM Roll call
9:01:41 AM Quorum is present
9:02:17 AM Pledge of Allegiance
9:02:48 AM Tab 2, SB 174, Veterans' Long Term Care Facilities Admissions by Senator Burgess
9:03:17 AM Senator Burgess explains the bill
9:03:51 AM Senator Hutson recognizes public appearance
9:04:07 AM Debate:
9:04:10 AM Senator Wright
9:04:28 AM Senator Collins
9:06:18 AM Senator Thompson
9:06:23 AM Senator Torres
9:06:48 AM Senator Burgess closes on the bill
9:07:21 AM Roll call
9:08:02 AM Tab 10, SB 694, Florida Seal of Fine Arts Program by Senator Perry, presented by Senator Burgess
9:08:20 AM Chair Hutson recognizes public appearance
9:08:32 AM Senator Burgess explains the bill
9:08:40 AM Senator Burgess closes on the bill
9:08:46 AM Roll call
9:09:19 AM Tab 11, CS/SB 770 Improvements to Real Property by Senator Martin
9:09:58 AM Amendment #692964
9:10:13 AM Senator Martin explains the bill and amendment
9:12:11 AM Questions on the amendment:
9:12:20 AM Senator Berman
9:12:47 AM Senator Martin
9:13:03 AM Senator Berman
9:13:52 AM Chair Hutson recognizes public appearances:
9:14:11 AM Leah Wiggs, Renew Financial
9:14:55 AM Mark Scheffel
9:16:54 AM Senator Rodriguez
9:17:24 AM Mark Scheffel
9:18:55 AM Chair Hutson reports amendment
9:19:14 AM Back on the bill as amended
9:19:22 AM Senator Martin closes on the bill
9:19:38 AM Roll call
9:20:23 AM Tab 4, SB 302 on Dental Services by Senator Boyd
9:20:40 AM Senator Boyd explains the bill
9:21:53 AM Chair Hutson recognizes public appearances
9:22:07 AM Senator Boyd waives close
9:22:15 AM Roll call
9:22:46 AM Tab 7, CS/SB 514 on Mortgage Brokering by Senator Boyd
9:23:13 AM Senator Boyd explains the bill
9:23:27 AM Chair Hutson recognizes public appearances
9:23:38 AM Senator Boyd waives close
9:23:44 AM Roll call
9:24:11 AM Tab 9, SB 674 on United States-produced Iron and Steel in Public Works Projects by Senator Boyd
9:24:36 AM Senator Boyd explains the bill
9:25:23 AM Chair Hutson recognizes public appearance
9:26:13 AM Debate:
9:26:15 AM Senator Torres
9:27:24 AM Senator Boyd waives close
9:27:33 AM Roll call

9:27:46 AM Tab 15, SB 7028, My Safe Florida Home Program by Senator Boyd
9:28:08 AM Senator Boyd explains the bill
9:29:22 AM Amendment #332382 by Boyd
9:29:39 AM Senator Boyd explains the amendment
9:29:53 AM Chair Hutson reports amendment
9:30:08 AM Back on the bill as amended
9:30:14 AM Chair Hutson recognizes public appearances
9:30:30 AM Senator Boyd closes on the bill
9:30:57 AM Roll call
9:31:32 AM Tab 6, CS/SB 328 on Affordable Housing by Senator Calatayud
9:32:08 AM Senator Calatayud explains the bill
9:34:53 AM CS/SB 328 Temporarily Postponed
9:35:13 AM Tab 1, SB 92 Yacht and Ship Brokers' Act by Senator Hooper
9:35:32 AM Senator Hooper explains the bill
9:36:49 AM Questions:
9:36:53 AM Senator Thompson
9:37:37 AM Senator Hooper
9:38:00 AM Chair Hutson recognizes public appearance
9:38:12 AM Senator Hooper waives close
9:38:18 AM Roll call
9:38:47 AM Tab 5, SB 304 Household Moving Services by Senator Hooper
9:39:07 AM Senator Hooper explains the bill
9:40:55 AM Chair Hutson recognizes public appearance
9:41:11 AM Senator Hooper closes on the bill
9:41:24 AM Roll call
9:42:05 AM Back on Tab 6, CS/SB 328 by Senator Calatayud
9:42:23 AM Questions:
9:42:29 AM Senator Berman
9:42:39 AM Chair Hutson
9:42:43 AM Amendment #720816 by Calatayud
9:42:54 AM Substitute Amendment #143920 by Calatayud
9:43:08 AM Senator Calatayud explains the substitute amendment
9:44:13 AM Questions:
9:44:17 AM Senator Berman
9:44:23 AM Senator Calatayud
9:44:50 AM Senator Berman
9:45:41 AM Senator Calatayud
9:46:03 AM Senator Berman
9:46:23 AM Senator Calatayud
9:48:25 AM Senator Berman
9:48:41 AM Senator Calatayud
9:48:48 AM Senator Garcia
9:49:19 AM Senator Calatayud
9:50:13 AM Senator Thompson
9:50:32 AM Senator Calatayud
9:51:08 AM Senator Thompson
9:51:27 AM Senator Calatayud
9:51:33 AM Senator Jones
9:51:46 AM Senator Calatayud
9:52:22 AM Senator Jones
9:52:28 AM Senator Calatayud
9:52:45 AM Senator Jones
9:53:00 AM Senator Calatayud
9:53:29 AM Senator Osgood
9:53:56 AM Senator Calatayud
9:54:29 AM Chair Hutson recognizes public appearance
9:54:44 AM Debate:
9:54:46 AM Senator Stewart
9:55:17 AM Senator Rodriguez
9:55:48 AM Chair Hutson reports amendment
9:55:55 AM Back on the bill as amended
9:56:00 AM Questions:

9:56:06 AM Senator Torres
9:56:19 AM Senator Rodriguez
9:58:05 AM Chair Hutson recognizes public appearance
9:58:36 AM Bryan Easton
10:01:21 AM Debate:
10:01:23 AM Senator Jones
10:02:17 AM Senator Torres
10:04:10 AM Senator Wright
10:05:00 AM Senator Thompson
10:05:58 AM Senator Osgood
10:06:33 AM Senator Calatayud closes on the bill
10:06:53 AM Roll call
10:08:26 AM Tab 14, SB 7020 on Delivery of Notices by Senator Yarborough
10:08:58 AM Senator Yarborough explains the bill
10:09:19 AM Chair Hutson recognizes public appearance
10:09:29 AM Senator Yarborough waives close
10:09:36 AM Roll call
10:10:04 AM Chair Hutson passes the gavel to Vice Chair Stewart
10:10:27 AM Tab 8, CS/SB 544 Swimming Lesson Voucher Program by Senator Hutson
10:10:59 AM Senator Hutson explains the bill
10:11:15 AM Vice Chair Stewart recognizes public appearance:
10:11:26 AM Jessica Cimijotti, Florida Tax Watch
10:12:36 AM Debate:
10:12:39 AM Senator Boyd
10:13:01 AM Senator Berman
10:13:41 AM Senator Rodriguez
10:14:05 AM Senator Hutson closes on the bill
10:14:41 AM Roll call
10:15:15 AM Vice Chair Stewart passes the gavel back to Chair Hutson
10:15:27 AM Tab 3, CS/SB 186 on Neurodegenerative Diseases by Senator Brodeur
10:15:58 AM Senator Brodeur explains the bill
10:16:45 AM Chair Hutson recognizes public appearances
10:17:00 AM Representative Bob Cortes
10:19:02 AM Senator Brodeur closes on the bill
10:19:48 AM Roll call
10:20:18 AM Tab 13, CS/SB 1758 on Individuals with Disabilities by Senator Brodeur
10:20:47 AM Senator Brodeur explains the amendment
10:22:41 AM Amendment #890114 by Brodeur
10:22:53 AM Senator Brodeur explains the amendment
10:23:15 AM Chair Hutson recognizes public appearances
10:23:25 AM Chair Hutson reports amendment
10:23:39 AM Back on the bill as amended
10:23:45 AM Questions:
10:23:48 AM Senator Torres
10:23:58 AM Senator Brodeur
10:24:06 AM Senator Torres
10:24:15 AM Senator Brodeur
10:24:47 AM Chair Hutson recognizes public appearances:
10:25:05 AM Melissa Mazaeda
10:29:26 AM Senator Brodeur closes on the bill
10:30:05 AM Roll call
10:30:49 AM Tab 12, CS/SB 1698 on Food and Hemp products by Senator Burton
10:31:10 AM Senator Burton explains the bill
10:34:39 AM Questions:
10:34:52 AM Senator Jones
10:35:07 AM Senator Burton
10:35:30 AM Senator Jones
10:36:13 AM Senator Burton
10:36:51 AM Senator Jones
10:37:18 AM Senator Burton
10:38:48 AM Senator Jones
10:39:48 AM Senator Burton

10:40:43 AM Senator Jones
10:41:15 AM Senator Burton
10:41:48 AM Senator Jones
10:42:23 AM Senator Burton
10:42:44 AM Senator Garcia
10:42:59 AM Senator Burton
10:44:01 AM Senator Thompson
10:44:20 AM Senator Burton
10:45:05 AM Senator Thompson
10:45:12 AM Senator Burton
10:45:29 AM Senator Thompson
10:45:55 AM Senator Burton
10:46:00 AM Chair Hutson recognizes public appearance
10:46:50 AM Jammie Treadwell, Treadwell Farms
10:52:37 AM Senator Jones
10:53:40 AM Jammie Treadwill
10:53:50 AM Yomira Pinelro, CureALife Tampa
10:56:06 AM Senator Osgood
10:57:18 AM Yomie Pinelro
10:59:35 AM Senator Osgood
11:01:24 AM Yomira Pinelro
11:03:12 AM Senator Osgood
11:04:04 AM Senator Simon
11:05:10 AM Yomira Pinelro
11:06:22 AM Senator Simon
11:07:07 AM Yomira Pinelro
11:08:31 AM Senator Simon
11:08:49 AM Yomira Pinelro
11:10:18 AM Senator Mayfield
11:11:09 AM Yomira Pinelro
11:11:18 AM Senator Mayfield
11:11:34 AM Yomira Pinelro
11:12:11 AM Ellen Snelling
11:16:48 AM Kassie Stuart
11:17:52 AM Michele Tolan
11:21:01 AM Senator Boyd
11:21:44 AM Michele Tolan
11:22:45 AM Senator Osgood
11:23:41 AM Michele Tolan
11:24:09 AM Senator Osgood
11:24:20 AM Michele Tolan
11:25:13 AM Senator Osgood
11:25:27 AM Senator Garcia
11:26:13 AM Michele Tolan
11:27:29 AM Senator Garcia
11:28:04 AM Senator Yarborough
11:28:33 AM Michele Tolan
11:29:31 AM Dr. Mark Mestre, Nicholas Children's Hospital
11:32:02 AM Senator Boyd
11:32:15 AM Dr. Mestre
11:32:24 AM Senator Boyd
11:32:27 AM Dr. Mestre
11:32:42 AM Jodi James, Florida Cannabis Action Network
11:39:08 AM Dr. Dan Polberesky, Nemous Children's Health
11:40:57 AM Martha Bueno
11:48:28 AM Senator Garcia
11:49:58 AM Martha Bueno
11:51:10 AM Senator Garcia
11:51:54 AM Martha Bueno
11:52:42 AM Senator Garcia
11:53:18 AM Senator Thompson
11:53:32 AM Martha Bueno

11:55:00 AM Senator Thompson
11:55:14 AM Martha Bueno
11:55:22 AM Chair Hutson
11:55:25 AM Martha Bueno
11:56:48 AM Chair Hutson
11:56:52 AM Senator Jones
11:57:28 AM Martha Bueno
11:57:33 AM Senator Jones
11:57:35 AM Martha Bueno
11:57:41 AM Senator Jones
11:58:08 AM Martha Bueno
12:00:02 PM Senator Jones
12:00:42 PM Martha Bueno
12:01:43 PM Senator Torres
12:02:17 PM Martha Bueno
12:03:39 PM Senator Osgood
12:06:39 PM Martha Bueno
12:08:35 PM Senator Osgood
12:09:14 PM Martha Bueno
12:09:25 PM Leigh Karns, Tallulah Regional Manager
12:15:21 PM Senator Simon
12:15:45 PM Leigh Karns
12:15:50 PM Senator Simon
12:15:56 PM Leigh Karns
12:16:25 PM Senator Simon
12:16:39 PM Leigh Karns
12:17:25 PM Carlos Hermida, Suncoast Normal
12:22:48 PM Hannah Porter
12:30:19 PM Melissa Viller, Normal Tallahassee
12:44:28 PM Vin Seudath, KushyPies
12:50:53 PM Dr. Robert Miller, Chief Science Officer, ActLab Industries
12:55:22 PM J.D. McCormick, President of Florida Healthy Alternatives Association
12:59:58 PM Randy Rembert
1:03:43 PM Pat O'Brien, POB Ventures
1:06:08 PM Brandon Gomes
1:08:47 PM Christopher Lindsay, ATACH
1:11:27 PM Shai Ortiz
1:24:34 PM Devin Alvarez
1:33:06 PM Ashley Guy, Tallulah
1:40:47 PM Senator Torres
1:40:57 PM Ashley Guy
1:42:49 PM Bill Helmich
1:42:59 PM Debate:
1:43:04 PM Senator Boyd
1:44:43 PM Senator Jones
1:49:18 PM Senator Torres
1:53:28 PM Senator Collins
1:57:06 PM Senator Thompson
1:58:39 PM Senator Osgood
2:05:51 PM Senator Berman
2:07:53 PM Senator Stewart
2:09:33 PM Senator Simon
2:13:27 PM Senator Garcia
2:16:43 PM Chair Hutson
2:17:21 PM Senator Burton closes on the bill
2:29:48 PM Roll call on CS/SB1698
2:30:30 PM Chair Hutson reports the bill
2:30:38 PM Senator Garcia moves to record a missed vote
2:30:53 PM Senator Mayfield moves to record a missed vote
2:31:07 PM Senator DiCeglie moves to record a missed vote
2:31:15 PM Senator Yarborough moves to record a missed vote
2:31:25 PM Senator Collins move to adjourn

2:31:32 PM Meeting adjourned