

Agenda Order

Tab 1	CS/SB 56 by BI, Harrell; (Similar to CS/H 00241) Coverage for Skin Cancer Screenings					
Tab 2	CS/SB 656 by GO, DiCeglie; (Similar to CS/CS/CS/H 00149) Continuing Contracts					
881588	A	S	RCS	AEG, DiCeglie	Delete L.84:	02/13 10:57 AM
Tab 3	CS/SB 662 by BI, Burton; (Similar to H 00977) Virtual Currency Kiosk Businesses					
Tab 4	CS/SB 808 by CJ, DiCeglie (CO-INTRODUCERS) Stewart, Osgood, Powell, Polsky, Hooper; (Identical to CS/H 00637) Treatment by a Medical Specialist					
Tab 5	CS/SB 892 by BI, Harrell; (Similar to CS/H 01219) Dental Insurance Claims					
101858	A	S	L RCS	AEG, Harrell	Delete L.70 - 341:	02/13 03:41 PM
Tab 6	SB 932 by Berman (CO-INTRODUCERS) Davis, Stewart; (Compare to CS/H 00773) Coverage for Diagnostic and Supplemental Breast Examinations					
322264	A	S	WD	AEG, Berman	Delete L.61 - 74:	02/13 11:02 AM
520370	D	S	L RCS	AEG, Berman	Delete everything after	02/13 03:51 PM
Tab 7	CS/SB 1098 by BI, DiCeglie; (Similar to CS/CS/H 00989) Department of Financial Services					
203882	A	S	L RCS	AEG, DiCeglie	Delete L.308 - 2837:	02/13 03:46 PM
Tab 8	CS/SB 1106 by BI, Hooper; (Similar to H 00889) Coverage by Citizens Property Insurance Corporation					
Tab 9	CS/SB 1178 by RI, Bradley (CO-INTRODUCERS) Pizzo, Osgood; (Similar to CS/CS/H 01021) Community Associations					
633220	D	S	RCS	AEG, Bradley	Delete everything after	02/13 03:47 PM
Tab 10	CS/SB 1262 by MS, Collins; (Similar to CS/CS/H 01567) Qualifications for County Emergency Management Directors					
Tab 11	SB 1386 by Calatayud; (Similar to CS/CS/H 01557) Department of Environmental Protection					
306560	D	S	RCS	AEG, Calatayud	Delete everything after	02/13 03:48 PM
Tab 12	SB 1398 by Collins; (Identical to H 01265) Florida Crop Diversification Commission					
Tab 13	SB 1422 by Burgess (CO-INTRODUCERS) Rouson; (Similar to CS/CS/H 01159) Food Recovery					
770948	D	S	RCS	AEG, Burgess	Delete everything after	02/13 03:48 PM
Tab 14	SB 1436 by Burton; (Similar to H 01347) Consumer Finance Loans					
402814	A	S	RCS	AEG, Burton	btw L.233 - 234:	02/13 03:30 PM
Tab 15	CS/SB 1544 by RI, Hooper; (Similar to CS/CS/H 01335) Department of Business and Professional Regulation					
349802	A	S	WD	AEG, Boyd	Delete L.304 - 316.	02/12 04:45 PM

Agenda Order

Tab 16	CS/SB 1624 by RI, Collins; (Compare to CS/H 00683) Energy Resources					
565948	D	S	RCS	AEG, Collins	Delete everything after	02/20 01:36 PM
Tab 17	SB 7042 by GO (CO-INTRODUCERS) Rodriguez; (Similar to CS/CS/H 01331) Commodities Produced by Forced Labor					
917942	A	S	RCS	AEG, Avila	Delete L.183:	02/13 11:13 AM

COMMITTEE MEETING EXPANDED AGENDA**APPROPRIATIONS COMMITTEE ON AGRICULTURE,
ENVIRONMENT, AND GENERAL GOVERNMENT****Senator Brodeur, Chair**
Senator Berman, Vice Chair**MEETING DATE:** Tuesday, February 13, 2024**TIME:** 8:30 a.m.—12:30 p.m.**PLACE:** Toni Jennings Committee Room, 110 Senate Building**MEMBERS:** Senator Brodeur, Chair; Senator Berman, Vice Chair; Senators Boyd, Garcia, Grall, Mayfield, Osgood, Polsky, Rodriguez, and Trumbull

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 56 Banking and Insurance / Harrell (Similar CS/H 241)	Coverage for Skin Cancer Screenings; Requiring the Department of Management Services to provide coverage and payment through state employee group health insurance contracts for certain annual skin cancer screenings, without imposing a cost-sharing requirement; specifying a requirement for and a restriction on payments for such screenings, etc. BI 01/22/2024 Fav/CS AEG 02/13/2024 Favorable AP	Favorable Yeas 10 Nays 0
2	CS/SB 656 Governmental Oversight and Accountability / DiCeglie (Similar CS/CS/H 149)	Continuing Contracts; Revising the maximum estimated construction cost of construction projects for which a governmental entity may enter into a continuing contract; revising the definition of the term "continuing contract" to increase the maximum dollar value of such contract, to require the Department of Management Services, beginning on a specified date and annually thereafter, to adjust the maximum dollar value allowed under such contracts using a specified index, and to publish the new dollar value on its website, etc. GO 01/29/2024 Fav/CS AEG 02/13/2024 Fav/CS FP	Fav/CS Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Committee on Agriculture, Environment, and General Government
Tuesday, February 13, 2024, 8:30 a.m.—12:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/SB 662 Banking and Insurance / Burton (Similar H 977, Compare H 1059, Linked S 1182)	Virtual Currency Kiosk Businesses; Requiring the Office of Financial Regulation of the Financial Services Commission to supervise virtual currency kiosk businesses; prohibiting a virtual currency kiosk business from operating without registering or renewing its registration in accordance with certain provisions; providing criminal penalties for certain entities that operate or solicit business as a virtual currency kiosk business under certain circumstances; providing criminal penalties for persons who register or attempt to register as a virtual currency kiosk business by certain means; specifying application requirements for registering as a virtual currency kiosk business, etc. BI 01/22/2024 Fav/CS AEG 02/13/2024 Favorable FP	Favorable Yeas 10 Nays 0
4	CS/SB 808 Criminal Justice / DiCeglie (Identical CS/H 637)	Treatment by a Medical Specialist; Authorizing firefighters, law enforcement officers, correctional officers, and correctional probation officers to receive medical treatment by a medical specialist for certain conditions under certain circumstances; requiring firefighters, law enforcement officers, correctional officers, and correctional probation officers to notify certain entities of their selection of a medical specialist, etc. CJ 01/23/2024 Fav/CS AEG 02/13/2024 Favorable AP	Favorable Yeas 10 Nays 0
5	CS/SB 892 Banking and Insurance / Harrell (Similar CS/H 1219)	Dental Insurance Claims; Prohibiting a contract between a health insurer and a dentist from containing certain restrictions on payment methods; prohibiting a health insurer from charging a fee to transmit a payment to a dentist through ACH transfer unless the dentist has consented to such fee; prohibiting a contract between a prepaid limited health service organization and a dentist from containing certain restrictions on payment methods; prohibiting a prepaid limited health service organization from denying claims for procedures included in a prior authorization, etc. BI 02/06/2024 Fav/CS AEG 02/13/2024 Fav/CS FP	Fav/CS Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Committee on Agriculture, Environment, and General Government
Tuesday, February 13, 2024, 8:30 a.m.—12:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	SB 932 Berman (Similar S 132, Compare CS/H 773)	Coverage for Diagnostic and Supplemental Breast Examinations; Prohibiting the state group insurance program from imposing any enrollee cost-sharing liability with respect to coverage for diagnostic breast examinations and supplemental breast examinations; prohibiting the imposition of cost-sharing requirements for diagnostic and supplemental breast examinations by individual accident and health insurance policies; group, blanket, or franchise accident and health insurance policies; and health maintenance contracts, respectively, which provide such coverage, etc. BI 01/29/2024 Favorable AEG 02/13/2024 Fav/CS AP	Fav/CS Yeas 10 Nays 0
7	CS/SB 1098 Banking and Insurance / DiCeglie (Similar CS/CS/H 989, Compare H 991, CS/H 1263, CS/CS/S 1066, CS/S 7028)	Department of Financial Services; Creating the federal tax liaison position within the department; requiring the Chief Financial Officer to appoint the federal tax liaison; renaming the Division of Investigative and Forensic Services in the Department of Financial Services as the Division of Criminal Investigations; revising requirements for My Safe Florida Home Program mitigation inspections and mitigation grants; authorizing service of citations by e-mail under certain circumstances; specifying that licensed and appointed general lines agents, rather than general lines agents, may engage in certain activities while also licensed and appointed as surplus lines agents, etc. BI 01/22/2024 Fav/CS AEG 02/13/2024 Fav/CS FP	Fav/CS Yeas 10 Nays 0
8	CS/SB 1106 Banking and Insurance / Hooper (Similar H 889)	Coverage by Citizens Property Insurance Corporation; Revising certain minimum replacement costs as risk amounts ineligible for coverage by Citizens Property Insurance Corporation for personal lines residential structures; providing exceptions to rate increase limitations on single policies issued by the corporation; requiring surcharges for a specified purpose for policies covering certain personal lines residential structures, etc. BI 01/16/2024 Fav/CS AEG 02/13/2024 Favorable AP	Favorable Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Committee on Agriculture, Environment, and General Government
Tuesday, February 13, 2024, 8:30 a.m.—12:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	CS/SB 1178 Regulated Industries / Bradley (Similar CS/H 1021)	Community Associations; Requiring community associations or successor community association managers and management firms to return official records of an association within a specified period following termination of a contract; requiring community association managers and management firms to provide a written disclosure of certain conflicts of interest to the association's board; providing criminal penalties for any officer, director, or manager of an association who unlawfully solicits, offers to accept, or accepts any thing or service of value or kickback; authorizing, rather than requiring, certain hurricane protection specifications; specifying when the cost of installation of hurricane protection is not a common expense, etc. RI 01/22/2024 Fav/CS AEG 02/13/2024 Fav/CS FP	Fav/CS Yeas 10 Nays 0
10	CS/SB 1262 Military and Veterans Affairs, Space, and Domestic Security / Collins (Similar CS/H 1567)	Qualifications for County Emergency Management Directors; Requiring county emergency management directors to meet specified qualifications; requiring such directors to meet such qualifications by a specified date, etc. MS 01/29/2024 Fav/CS AEG 02/13/2024 Favorable RC	Favorable Yeas 10 Nays 0
11	SB 1386 Calatayud (Similar CS/CS/H 1557)	Department of Environmental Protection; Revising the aquatic preserves within which a person may not operate a vessel outside a lawfully marked channel under certain circumstances; defining the term "Florida Flood Hub"; requiring the Department of Environmental Protection to conduct enforcement activities for violations of certain onsite sewage treatment and disposal system regulations in accordance with specified provisions; requiring certain facilities and systems to include a domestic wastewater treatment plan as part of a basin management action plan for nutrient total maximum daily loads, etc. EN 01/17/2024 Favorable AEG 02/08/2024 Temporarily Postponed AEG 02/13/2024 Fav/CS FP	Fav/CS Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Committee on Agriculture, Environment, and General Government
Tuesday, February 13, 2024, 8:30 a.m.—12:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	SB 1398 Collins (Identical H 1265)	Florida Crop Diversification Commission; Creating the commission adjunct to the Department of Agriculture and Consumer Services; providing the membership and duties of the commission; requiring the commission to submit an annual report to the Governor and the Legislature by a specified date, etc. AG 01/16/2024 Favorable AEG 02/13/2024 Favorable FP	Favorable Yeas 10 Nays 0
13	SB 1422 Burgess (Similar CS/H 1159)	Food Recovery; Directing the Department of Agriculture and Consumer Services, subject to legislative appropriation, to implement a program to provide incentives to food producers to sell high-quality fresh food products to food recovery entities at a discounted price; providing a goal for the program; requiring food recovery entities to negotiate with food producers; providing shipping requirements; requiring the department to reimburse food recovery entities for certain costs, etc. AG 01/16/2024 Favorable AEG 02/13/2024 Fav/CS FP	Fav/CS Yeas 10 Nays 0
14	SB 1436 Burton (Similar H 1347)	Consumer Finance Loans; Defining the term “branch”; prohibiting a person from operating a branch of a business making consumer finance loans before obtaining a license from the Office of Financial Regulation; specifying application fees for branch licenses; requiring licensees offering an assistance program to borrowers after a federally declared disaster to send a specified notice to the office within a certain timeframe; requiring certain licensees to suspend specified actions for a certain timeframe after a federally declared disaster, etc. BI 01/22/2024 Favorable AEG 02/08/2024 Temporarily Postponed AEG 02/13/2024 Fav/CS FP	Fav/CS Yeas 8 Nays 2

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Committee on Agriculture, Environment, and General Government
Tuesday, February 13, 2024, 8:30 a.m.—12:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
15	CS/SB 1544 Regulated Industries / Hooper (Similar CS/H 1335)	Department of Business and Professional Regulation; Requiring persons or entities licensed or permitted by the department's Division of Alcoholic Beverages and Tobacco, or applying for such license or permit, to create and maintain an account with the division's online system and provide an e-mail address to the division; specifying application requirements; prohibiting the division from processing applications not submitted through the online system; creating the employee leasing companies licensing program under the department, etc. RI 02/05/2024 Fav/CS AEG 02/13/2024 Favorable FP	Favorable Yeas 10 Nays 0
16	CS/SB 1624 Regulated Industries / Collins (Similar CS/H 1645, Compare CS/H 683, S 1548)	Energy Resources; Allowing resiliency facilities in certain land use categories in local government comprehensive plans and specified districts if certain criteria are met; prohibiting amendments to a local government's comprehensive plan, land use map, zoning districts, or land development regulations in a manner that would conflict with resiliency facility classification after a specified date; requiring the Department of Management Services to develop a Florida Humane Preferred Energy Products List in consultation with the Department of Commerce and the Department of Agriculture and Consumer Services; including development districts as a type of political subdivision for purposes of preemption over utility service restrictions, etc. RI 01/29/2024 Fav/CS AEG 02/13/2024 Temporarily Postponed FP	Temporarily Postponed
17	SB 7042 Governmental Oversight and Accountability (Similar CS/H 1331)	Commodities Produced by Forced Labor; Prohibiting a company on the forced labor vendor list from taking certain procurement actions; requiring a company to provide a certain notification to the Department of Management Services within a certain timeframe; requiring the department to create and maintain a forced labor vendor list; providing a process for the department to place a company on such list, etc. AEG 02/13/2024 Fav/CS FP	Fav/CS Yeas 10 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/SB 56

INTRODUCER: Banking and Insurance Committee and Senator Harrell

SUBJECT: Coverage for Skin Cancer Screenings

DATE: February 12, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	Fav/CS
2.	Sanders	Betta	AEG	Favorable
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 56 requires all contracted state group health insurance plans and health maintenance organizations (HMO) to cover and pay for annual skin cancer screenings performed by a Florida licensed dermatologist. The bill prohibits a state group health insurance plan or HMO from imposing any cost-sharing requirement for the annual skin cancer screening, including a deductible, copayment, coinsurance, or any other type of cost-sharing. The provider conducting the screening must be a dermatologist licensed as a medical doctor under chapter 458, F.S., or an osteopathic physician licensed under chapter 459, F.S., or an advanced practice registered nurse licensed under chapter 464, F.S., who is under the supervision of a dermatologist licensed under chapters 458 F.S. or 459 F.S.

The bill requires payment for such annual skin cancer screenings to be consistent with the state group health insurance plans' or HMO's payments for other preventive screenings. Additionally, the bill prohibits all contracted state group health insurance plans or HMOs from bundling a payment for a skin cancer screening with any other procedure or service, including an evaluation or management visit, which is performed during the same office visit or subsequent office visit.

The bill has a negative impact to state revenues and expenditures. The Division of State Group Insurance within the Department of Management Services (DMS) estimates the bill will result in

an annual increase of \$416,503¹ to the state employee group health plan. See Section V., Fiscal Impact Statement.

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

II. Present Situation:

Background

Skin cancer is the most common cancer in the United States.² Approximately one in five Americans will develop skin cancer in their lifetime.³ It is estimated approximately 9,500 people in the U.S. are diagnosed with skin cancer every day.⁴ Nearly 20 Americans die from melanoma every day.⁵ Cancer is the second most common cause of death in the United States after heart disease and in 2023, a total of 1.9 million new cancer cases were diagnosed. Of the estimated new cancer cases in the United States, five percent were skin cancer cases.⁶ It is estimated 8,290 people will die of melanoma in 2024.⁷

Basal cell and squamous cell cancers are called nonmelanoma skin cancer, and are the most common of skin cancers. Melanoma accounts for about one percent of skin cancers but causes a large majority of skin cancer deaths.⁸ The long term survival rate of those diagnosed with skin cancer after five years is high at 93.5 percent⁹ and more than 1.4 million people were identified in the United States in 2020 as living with this cancer.¹⁰ The more localized the cancer is when it is found, meaning the cancer has been confined to a primary spot, the higher the survival rate is

¹ Telephone call from Jake Holmgren, Deputy Director of Legislative Affairs, Department of Management Services, to Niki Davis, Legislative Analyst, Senate Committee on Agriculture, Environment, and General Government (Feb. 1, 2024).

² Guy GP, Thomas CC, et al., *Vital signs: Melanoma incidence and mortality trends and projections – United States, 1982-2030*, MMWR Morb Mortal Wkly Rep. 2015; 64(21):591-596, National Library of Medicine, available at <https://pubmed.ncbi.nlm.nih.gov/26042651/> (last visited Jan. 29, 2024).

³ Sterns RS, *Prevalence of a history of skin cancer in 2007: results of an incidence-based model*, Arch Dermatol, 2010 Mar.; 146(3):279-282, National Library of Medicine, available at <https://pubmed.ncbi.nlm.nih.gov/26042651/> (last visited Jan. 29, 2024).

⁴ Rogers HW, Weinstock MA, et al., *Incidence estimate of nonmelanoma skin cancer (keratinocyte carcinomas) in the US population*, JAMA Dermatol, April 30, 2015, available at <https://pubmed.ncbi.nlm.nih.gov/25928283/> (last visited Jan. 29, 2024).

⁵ American Academy of Dermatology, *Don't let skin cancer sneak up on you*, <https://www.aad.org/public/diseases/skin-cancer/find/at-risk#:~:text=is%20highly%20curable,-,Melanoma,die%20from%20melanoma%20every%20day> (last visited Jan 29, 2024). “Melanoma is the most deadly form of skin cancer and may suddenly appear without warning, but can also develop from or near an existing mole. Melanoma is most common on the upper back, torso, lower legs, head and neck. If detected early and treated properly, melanoma is highly treatable.”

⁶ American Cancer Society, *Journals, CA: A Cancer Journal for Clinicians, Cancer statistics, 2023* (last visited Jan. 29, 2024).

⁷ Skin Cancer Foundation, *Skin Cancer Facts & Statistics, What You Need to Know: Melanoma*, <https://www.skincancer.org/skin-cancer-information/skin-cancer-facts/> (last visited Jan. 29, 2024).

⁸ American Cancer Society, *Key Statistics for Melanoma Skin Cancer*, available at [https://www.cancer.org/cancer/types/melanoma-skin-cancer/about/key-statistics.html#:~:text=Having%20lighter%20skin%20color%20is,in%20200\)%20for%20Hispanic%20people](https://www.cancer.org/cancer/types/melanoma-skin-cancer/about/key-statistics.html#:~:text=Having%20lighter%20skin%20color%20is,in%20200)%20for%20Hispanic%20people) (last visited Jan. 29, 2024).

⁹ National Cancer Institute, *Cancer Stat Facts: Melanoma of the Skin*, available at <https://seer.cancer.gov/statfacts/html/melan.html> (last visited Jan. 29, 2024).

¹⁰ National Cancer Institute, *Cancer Stat Facts: Melanoma of the Skin, Prevalence of Cancer*, available at <https://seer.cancer.gov/statfacts/html/melan.html> (last visited Jan. 29, 2024).

compared to a cancer that has spread to the regional lymph nodes or metastasized to another region of the body.¹¹

For Florida, the estimated new cases of melanoma skin cancer for 2024 is 9,880 with projected deaths of 790 individuals.¹² Of the top five cities in the U.S. for skin cancer prevalence rate in 2018, four were found in Florida – Sarasota-Bradenton (10 percent), Fort Pierce-Port St. Lucie (9.5 percent), West Palm Beach-Boca Raton (9.5 percent), and Melbourne-Titusville-Palm Bay (8.6 percent).¹³

Skin Cancer Screening

During a skin cancer screening test, a doctor or nurse checks a patient's skin for moles, birthmarks, or other pigmented areas that may be abnormal in color, size, shape, or texture.¹⁴ If an area looks abnormal, a biopsy of the area may be done where the health care provider may remove as much of the suspicious tissue as possible with a local excision.¹⁵ A pathologist reviews this tissue under a microscope to check for cancer cells.¹⁶

In Illinois, where preventative skin cancer screenings are covered by health insurance companies, a large dermatology practice reports a 99.15 percent (stage 0-2) early melanoma detection rate compared to the industry average early melanoma detection rate of 83.0 percent.¹⁷ This results in a 97.9 percent five-year melanoma survival rate compared to industry average 87.0 percent five-year melanoma survival rate.¹⁸

Regulation of Insurance in Florida

The Office of Insurance Regulation (OIR) regulates specified insurance products, insurers and other risk bearing entities in Florida.¹⁹ As part of their regulatory oversight, the OIR may suspend or revoke an insurer's certificate of authority under certain conditions.²⁰ The OIR is responsible for examining the affairs, transactions, accounts, records, and assets of each insurer

¹¹ National Cancer Institute, *Cancer Stat Facts: Melanoma of the Skin, Survival by State*, available at <https://seer.cancer.gov/statfacts/html/melan.html> (last visited Jan. 29, 2024).

¹² American Cancer Society, Cancer Statistics Center, *Explore Cancer Statistics, 2024 Estimated New Cancer Cases and Deaths By State: Melanoma of the skin (sexes combined, Florida)* (data run on Jan. 29, 2024) available at [Cancer Statistics Center - American Cancer Society](#) (last visited Jan. 29, 2024).

¹³ Blue Cross Blue Shield, National Labor Force, LABORMatters, *The Health of America Report*, July 2018, at 4, <https://www.bcbs.com/sites/default/files/file-attachments/page/Labor-Matters-July2018.pdf> (last visited Jan. 29, 2024).

¹⁴ National Cancer Institute, *Skin Cancer Screening (PDQ) – Patient Version*, available at [Skin Cancer Screening - NCI](#) (last visited Jan. 29, 2024).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Almutairi, et al., *Economic Evaluation Patients with Advanced Unresectable Melanoma versus Economic Evaluation Talimogene Laherparepvec Plus Ipilimumab Combination Therapy vs Ipilimumab Monotherapy in Patients With Advanced Unresectable Melanoma*, JAMA Dermatology, January 2019; 155(1):22-28, available at <https://pubmed.ncbi.nlm.nih.gov/30477000/> (last visited Jan. 29, 2024).

¹⁸ *Id.*

¹⁹ Section 20.121(3)(a), F.S. The Financial Services Commission, composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, serves as agency head of the Office of Insurance Regulation for purposes of rulemaking. Further, the Financial Services Commission appoints the commissioner of the Office of Insurance Regulation.

²⁰ Section 624.418, F.S.

that holds a certificate of authority to transact insurance business in Florida.²¹ As part of the examination process, all persons being examined must make available to the OIR the accounts, records, documents, files, information, assets, and matters in their possession or control that relate to the subject of the examination.²² The OIR is also authorized to conduct market conduct examinations to determine compliance with applicable provisions of the Insurance Code.²³

The Agency for Health Care Administration (AHCA) regulates the quality of care by health maintenance organizations (HMO) under part III of ch. 641, F.S. Before receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from AHCA.²⁴ As part of the certificate process used by the agency, an HMO must provide information to demonstrate that the HMO has the ability to provide quality of care consistent with the prevailing standards of care.²⁵

Patient Protection and Affordable Care Act

Essential Benefits

Under the Patient Protection and Affordable Care Act (PPACA),²⁶ all non-grandfathered health plans in the non-group and small-group private health insurance markets must offer a core package of health care services known as the essential health benefits (EHBs). While not specifying the benefits within the EHB, the PPACA provides 10 categories of benefits and services which must be covered and then required the Secretary of Health and Human Services to further define the EHB.²⁷

The 10 EHB categories are:

- Ambulatory patient services;
- Emergency services;
- Hospitalization;
- Maternity and newborn care;
- Mental health and substance use disorder services, including behavioral health treatment;
- Prescription drugs;
- Rehabilitation and habilitation services;
- Laboratory services;
- Preventive and wellness services and chronic disease management; and
- Pediatric services, including oral and vision care.

PPACA requires each state to select its own reference benchmark plan as its EHB benchmark plan which all other health plans in the state use as a model. Beginning in 2020, states could choose a new EHB plan using one of three options, including: selecting another's state benchmark plan; replacing one or more categories of EHB benefits; or selecting a set of benefits

²¹ Section 624.316(1)(a), F.S.

²² Section 624.318(2), F.S.

²³ Section 624.3161, F.S.

²⁴ Section 641.21(1)(1), F.S.

²⁵ Section 641.495, F.S.

²⁶ Affordable Care Act, (March 23, 2010), P.L. 111-141, as amended.

²⁷ 45 CFR 156.100. et seq.

that would become the State's EHB benchmark plan.²⁸ Florida selected its EHB plan before 2012 and has not modified that selection.²⁹

State Insurance Coverage Mandates

If a state elects to amend its benchmark plan later by imposing a statutory mandate to cover a new service, PPACA requires the state to pay for the additional costs of that mandate for the entire industry.³⁰ According to a recent study, only two states have chosen to enhance their EHB benchmark plans and have incurred the additional benefits penalty: Utah and Massachusetts.³¹ Utah, for example, added a coverage mandate for applied behavioral analysis therapy for individuals with autism in 2014 and subsequently implemented a state rule to allow the state to reimburse the estimated five affected carriers for the autism claims with state funds.³²

Annually, the federal Centers for Medicare and Medicaid Services issues a *Notice of Benefit and Payment Parameters* (NBPP) for the next plan year. The NBPP typically includes minor updates to coverage standards, clarifications to prior policy statements, and announcements relating to any major process changes. For the 2025 Plan Year which begins on January 1, 2025, the NBPP proposes to codify that any new, additional benefits included in a state's EHB plan would *not* be considered an addition to the state's EHB, and therefore not subject to the PPACA provision requiring the state to defray the cost for the industry.³³ This change is part of a proposed rule which has not yet been finalized, so it is unclear whether the PPACA state defrayal provision will apply in future.³⁴

State Employee Health Plan

For state employees who participate in the state employee benefit program, the Department of Management Services (DMS) through the Division of State Group Insurance (DSGI) administers

²⁸ Centers for Medicare and Medicaid Services, Marketplace & Private Insurance, *Information on Essential Health Benefits (EHB) Benchmark Plans*, available at <https://www.cms.gov/marketplace/resources/data/essential-health-benefits> (last visited Jan. 29, 2024).

²⁹ Centers for Medicare and Medicaid Services, *Information on Essential Health Benefits (EHB) Benchmark Plans*, Florida State Required Benefits, available at https://downloads.cms.gov/ccio/State%20Required%20Benefits_FL.pdf (last visited on Jan. 29, 2024).

³⁰ 42 U.S.C. section 1803; See U.S. Preventive Services Task Force, *Skin Cancer Prevention: Behavioral Counseling* (March 20, 2018) available at <https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/skin-cancer-counseling> (last visited Jan. 29, 2024).

³¹ California Health Benefits Program, (CHBRP) (August 2023), *Issue Brief: Essential Health Benefits: Exceeding EHBs and the Defrayal Requirement*, p.2. available at https://www.chbrp.org/sites/default/files/2023-08/EHB_Defrayal_FINAL.pdf (last visited Jan. 29, 2024).

³² Utah Admin. Code R590-283 – Notice of Proposed Rule (November 1, 2019), available at [DAR File No. 44181 \(Rule R590-283\), 2019-22 Utah Bull. \(11/15/2019\)](https://www.utah.gov/dar/44181) (last visited Jan. 24, 2024).

³³ Centers for Medicare and Medicaid Services, *HHS Notice of Benefit and Payment Parameters for 2025 Proposed Rule* (Nov. 15, 2023), available at <https://www.cms.gov/newsroom/fact-sheets/hhs-notice-benefit-and-payment-parameters-2025-proposed-rule> (last visited Jan. 29, 2024).

³⁴ Patient Protection and Affordable Care Act, *HHS Notice of Benefit and Payment Parameters for 2025; Updating Section 1332 Waiver Public Notice Procedures; Medicaid; Consumer Operated and Oriented Plan (CO-OP) Program, and Basic Health Program*, 88 Fed. Reg. 82510, 82553, 82630-82631, 82649, 82653-82654 (Nov. 24, 2023) (to be codified at section 45 CFR 155.170 and 156.11), available at <https://www.cms.gov/files/document/cms-9895-p-patient-protection-final.pdf> (last visited Jan. 29, 2024).

the state group health insurance program (Program).³⁵ The Program is a cafeteria plan managed consistent with section 125 of the Internal Revenue Service Code.³⁶ To administer the program, DSGI contracts with third party administrators for self-insured plans, a fully insured HMO, and a pharmacy benefits manager for the state employees' self-insured prescription drug program, pursuant to s. 110.12315, F.S.

The state employee health plan contracts currently cover dermatology visits and skin cancer screenings as a specialist office visit. Depending on the plan chosen by the employee, the appropriate out of pocket cost or costs then applies for the specialist office visit.³⁷

Legislative Proposals for Mandated Health Benefit Coverage

Any person or organization proposing legislation which would mandate health coverage or the offering of health coverage by an insurance carrier, health care service contractor, or health maintenance organization (HMO) as a component of individual or group policies, must submit to the Agency for Healthcare Administration (AHCA) and the legislative committees having jurisdiction, a report which assesses the social and financial impacts of the proposed coverage.³⁸ Guidelines for assessing the impact of a proposed mandated or mandatorily offered health coverage, to the extent that information is available, must include:

- To what extent is the treatment or service generally used by a significant portion of the population;
- To what extent is the insurance coverage generally available;
- If the insurance coverage is not generally available, to what extent does the lack of coverage result in persons avoiding necessary health care treatment;
- If the coverage is not generally available, to what extent does the lack of coverage result in unreasonable financial hardship;
- The level of public demand for the treatment or service;
- The level of public demand for insurance coverage of the treatment or service;
- The level of interest of collective bargaining agents in negotiating for the inclusion of this coverage in group contracts;
- To what extent will the coverage increase or decrease the cost of the treatment or service;
- To what extent will the coverage increase the appropriate uses of the treatment or service;
- To what extent will the mandated treatment or service be a substitute for a more expensive treatment or service;
- To what extent will the coverage increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders; and
- The impact of this coverage on the total cost of health care.³⁹

³⁵ Section 110.123, F.S.

³⁶ A section 125 cafeteria plan is a type of employer offered, flexible health insurance plan that provides employees a menu of pre-tax and taxable qualified benefits to choose from, but employees must be offered at least one taxable benefit such as cash, and one qualified benefit, such as a Health Savings Account.

³⁷ Department of Management Services, *Senate Bill 56 Agency Bill Analysis* (Jan. 12, 2024) (on file with the Senate Committee on Banking and Insurance).

³⁸ Section 624.215(2), F.S.

³⁹ Section 624.215(2)(a)-(l), F.S.

Proponents of the bill submitted a report to the Senate Committee on Banking and Insurance on March 7, 2023, to comply with s. 624.215, F.S., addressing the guidelines for assessing the impact of the proposed annual skin cancer screening mandated benefit, at no cost to the insured.⁴⁰

III. Effect of Proposed Changes:

The bill amends s. 110.12303, F.S., to require, effective January 1, 2025, all contracted state group health insurance plans and HMO's to cover and pay for annual skin cancer screenings performed by a Florida licensed dermatologist. The bill prohibits a contracted state group health insurance plan or HMO from imposing any cost-sharing requirement for the annual skin cancer screening, including a deductible, copayment, coinsurance, or any other type of cost-sharing. The provider conducting the screening must be a dermatologist licensed as a medical doctor under ch. 458, F.S., or an osteopathic physician licensed under ch. 459, F.S., or an advanced practice registered nurse licensed under chapter 464 F.S., who is under the supervision of a dermatologist licensed under ch. 458 or ch. 459, F.S.

The bill requires payment for such annual skin cancer screenings to be consistent with a state group health insurance plan's or HMO's payments for other preventive screenings as defined by the Current Procedural Terminology (CPT®) code set of the American Medical Association. Lastly, the bill prohibits such insurers and HMOs from bundling a payment for skin cancer screenings with any other procedure or service performed during the same or a subsequent office visit as the screening.

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.

⁴⁰ Florida Academy of Dermatology, *Coverage for Skin Cancer Screenings*, March 2023 (Report submitted pursuant to s. 624.215, F.S.) (on file with the Senate Committee on Banking and Insurance).

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The inclusion of coverage for skin cancer screenings with cost sharing restrictions may positively impact physicians who likely will see an increased demand for their services as well as collateral and ancillary medical supports such as laboratories and diagnostic offices which will be called upon to process additional lab slips, biopsies, and scans.

Contracted state group health insurance plans and HMOs may need to update information technology systems and processes to implement the provision of the bill.

C. Government Sector Impact:

The bill has a negative impact to state revenue and expenditures. The OIR has indicated it may need to update its form review checklists and procedures to incorporate this new requirement for the affected insurers;⁴¹ such changes can be absorbed within existing resources.

The DGS within the DMS administers the Program. For the state employee group health plan, the DMS has estimated an annual increase of \$416,503 for no cost sharing liability in the coverage of annual skin cancer screenings.⁴²

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the American Medical Association, CPT terminology is the most widely accepted nomenclature used across the country to report medical, surgical, radiology, laboratory, anesthesiology, genomic sequencing, evaluation and management services under public and private health insurance programs. CPT codes offer doctors and health care professionals a uniform language for coding medical services and procedures to streamline reporting, increase accuracy and efficiency. The CPT Editorial Panel, responsible for maintaining and updating the

⁴¹ Office of Insurance Regulation, *Senate Bill 56 Legislative Bill Analysis* (Nov. 21, 2023) (on file with the Senate Committee on Agriculture, Environment, and General Government).

⁴² Telephone call from Jake Holmgren, Deputy Director of Legislative Affairs, Department of Management Services, to Niki Davis, Legislative Analyst, Senate Committee on Agriculture, Environment, and General Government (Feb. 1, 2024).

CPT code set, meets three times a year to review applications for either new codes or revisions to existing codes.⁴³

The DMS has indicated state group health insurance companies currently bundle payments based on the primary codes and there is no CPT code for “skin cancer screenings.” As a result, manual review of clinical records to input these changes and to update several systems and processes may be required.⁴⁴

VIII. Statutes Affected:

This bill substantially amends section 110.12303 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 Banking and Insurance Committee on January 22, 2024:

The committee substitute removes the entire substance of the bill and amends s. 110.12303, F.S., to provide that the provisions of the bill as filed apply only to the contracted state group health insurance plans and HMOs.

B. Amendments:

None.

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

⁴³ American Medical Association, CPT® overview and code approval, <https://www.ama-assn.org/practice-management/cpt/cpt-overview-and-code-approval#:~:text=Code%20applications%20%26%20criteria-What%20is%20a%20CPT%C2%AE%20code%3F,reporting%2C%20increase%20accuracy%20and%20efficiency>. (last visited Jan. 29, 2024).

⁴⁴ *Id.*

By the Committee on Banking and Insurance; and Senator Harrell

597-02368-24

202456c1

A bill to be entitled

An act relating to coverage for skin cancer screenings; amending s. 110.12303, F.S.; requiring the Department of Management Services to provide coverage and payment through state employee group health insurance contracts for certain annual skin cancer screenings, without imposing a cost-sharing requirement; specifying a requirement for and a restriction on payments for such screenings; providing an effective date.

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

Section 1. Subsection (5) is added to section 110.12303, Florida Statutes, to read:

110.12303 State group insurance program; additional benefits; price transparency program; reporting.—

(5)(a) Effective January 1, 2025, the department shall require all contracted state group health insurance plans and HMOs to provide coverage and payment, without imposing a deductible, a copayment, coinsurance, or any other cost-sharing requirement on the covered individual, for annual skin cancer screenings performed by a dermatologist licensed under chapter 458 or chapter 459, or by a physician assistant licensed under chapter 458 or chapter 459 or an advanced practice registered nurse licensed under chapter 464 who is under the supervision of a dermatologist licensed under chapter 458 or chapter 459. Payment for such screenings must be consistent with the manner in which the state group health insurance plan or HMO pays for

Page 1 of 2

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

597-02368-24

202456c1

other preventive screenings as provided by the American Medical Association's Current Procedural Terminology code set.

(b) A state group health insurance plan or HMO participating under this section may not bundle a payment for skin cancer screenings performed under this subsection with any other procedure or service, including, but not limited to, an evaluation and management visit that is performed during the same office visit or a subsequent office visit.

Section 2. This act shall take effect July 1, 2024.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Committee on Health and Human Services, *Chair*
Environment and Natural Resources, *Vice Chair*
Appropriations
Appropriations Committee on Education
Education Postsecondary
Health Policy
Judiciary

SELECT COMMITTEE:

Select Committee on Resiliency

SENATOR GAYLE HARRELL

31st District

January 23, 2024

Senator Brodeur
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Chair Brodeur,

I respectfully request that SB 56 – Skin Cancer Screenings be placed on the next available agenda for the Appropriations Committee on Agriculture, Environment and General Government Committee Meeting.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in blue ink that reads "Gayle".

Senator Gayle Harrell
Senate District 25

Cc: Giovanni Betta, Staff Director
Julie Brass, Committee Administrative Assistant

REPLY TO:

- 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895
- 414 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5031

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

BACKGROUND OF MELANOMA

- Melanoma is a deadly form of skin cancer.
- Most melanomas are caused by ultraviolet radiation (UV) exposure from the sun.
- **Florida** ranks 2nd (behind Hawaii) for having the highest rate of new melanoma cases per capita.
- **Florida** has the highest diagnosed skin cancer prevalence rate in the US (7.1%). And, of the top 5 cities in the US for skin cancer prevalence rate, four are cities in Florida: Sarasota-Bradenton (10.0%), Fort Pierce-Port St. Lucie (9.5%), West Palm Beach-Boca Raton (9.5%), and Melbourne-Titusville-Palm Bay (8.6%)
- On average, a person's risk for melanoma doubles if they have had more than five sunburns, but just one blistering sunburn in childhood or adolescence more than doubles the chance of developing melanoma later in life.
- There are approximately 8,000 new melanomas reported in **Florida** annually.
- Late-stage melanoma diagnoses are more prevalent among Hispanic and Black people than non-Hispanic white people. The estimated five-year melanoma survival rate for Black patients is only 71% versus 93% for white patients. This means Black patients are 4 times more likely to die of melanoma due to late-stage diagnosis.
- Patients screened for skin cancer are more likely to have melanomas detected at an earlier stage than patients who do not have skin cancer screenings.
- Melanoma is less likely to metastasize if caught early.

SURVIVAL RATES AND COST

- When melanoma is detected early, patients have a 99% five-year survival rate. The cost of outpatient surgery to treat early stage melanomas is typically \$500-\$1000.
- When melanoma has metastasized (spread beyond the skin), the 5-year-survival rate for regional disease is 68% and 30% for distant disease. The cost of prescription immunotherapy to treat advanced melanomas can be more than \$500,000 per year for a single patient.
- Between 2014-2018, 13.4% of melanoma were found to be late stage (regional and distant) in **Florida**.
- Based on average 951 later stage melanomas discovered annually in **Florida** between 2014-2018, the drug costs could be over \$500,000,000 per year for these patients. This figure does not include the cost of hospitalizations, imaging, etc.

COVERAGE FOR SKIN CANCER SCREENINGS

- Preventative skin cancer screenings are not a covered benefit for most commercial insurance plans in **Florida**.
- Preventative screenings typically do not incur out-of-pocket costs (no co-pay, no deductible, no co-insurance) for patients.
 - The Affordable Care Act has listed 22 screenings that are considered “Essential Health Benefits” that must be covered at no cost to patients by insurance. These screenings are for colorectal cancer, lung cancer screening (in smokers), breast cancer screening, and cervical cancer screening.
 - Skin cancer screenings are not listed as an essential health benefit as defined by the ACA. However, **Floridians** are at a much higher risk of development of skin cancer compared to other states that do not have as much ultraviolet exposure.
 - Other states, such as Illinois, have passed legislation requiring certain commercial insurers to cover one whole body skin examination for the purpose of detecting skin cancer.

PROPOSAL

- We ask that the **Florida** legislature pass legislation that requires that non-ERISA commercial insurance carriers cover one total body skin examination for the purpose of detecting skin cancer annually with no out-of-pocket costs for patients.

02/13/2024

Meeting Date

Appr. Agricultura, Envirom & GG

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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SB 0056

Bill Number or Topic

Amendment Barcode (if applicable)

954-850-7262

Name **Edda " Ivonne" Fernandez**

Phone

Address **215 S. Monroe Street- Suite 603**

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 \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2/13/24

Meeting Date

SB 56

Bill Number or Topic

Appropriations, Agriculture, Environment & General Govt.

Committee

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Amendment Barcode (if applicable)

Name

JEFF SCOTT

Phone

850 224-6496

Address

1430 Piedmont Dr. E.

Email

j.scott@flmedical.org

Street

Tallahassee

FL

32309

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 Medical Association

☐

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)

02/13/2024

The Florida Senate
APPEARANCE RECORD

CS/SB/56

Meeting Date
APPROP ON AG, ENV. & GEN. GOVT

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Bill Number or Topic

Committee
Name **Marnie George**

Amendment Barcode (if applicable)
Phone **850 510-8866**

Address **537 E. Park Avenue**

Email **marnie@teamjb.com**

Street
Tallahassee **FL** **32303**
City State Zip

Reset Form

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Academy of Dermatology

☐ 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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13 Feb 2024

Meeting Date

0056

Bill Number or Topic

App. Comm. Ag. Env. & Gen. Gov.

Committee

Amendment Barcode (if applicable)

Name Matthew Holliday

Phone 239-826-7864

Address 350 7th St N

Street

Email matthew.holliday@nchmd.org

Naples

City

FL

State

34102

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:

NCH

☐ 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)

S110

2/13/2024 830

The Florida Senate
APPEARANCE RECORD

56 skin cancer

Meeting Date

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Bill Number or Topic

Senate Approp on Ag

Committee

Amendment Barcode (if applicable)

Name

Karen Mazzola

Phone

407-855-7604

Address

1747 Orlando Central Pkwy

Email

vp.educational@floridapta.org

Street

Orlando

FL

32809

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 PTA

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 Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/CS/SB 656

INTRODUCER: Appropriations Committee on Agriculture, Environment, and General Government and Governmental Oversight and Accountability Committee and Senator DiCeglie

SUBJECT: Continuing Contracts

DATE: February 15, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McVaney	GO	Fav/CS
2.	Davis	Betta	AEG	Fav/CS
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 656 amends the definition of “continuing contract” under the Consultants’ Competitive Negotiation Act (CCNA) to increase the maximum dollar amount for each individual project and each individual study under the contract for construction projects. The maximum dollar amount for each individual project is increased from \$4 million to \$7.5 million. Beginning July 1, 2025, and annually thereafter, the Department of Management Services (DMS) must adjust the maximum amount allowed on the preceding June 30 for each individual project in a continuing contract based on the June-to-June Consumer Price Index issued by the United States Department of Labor. The DMS must publish the adjusted amount on its website.

The bill makes similar revisions to s. 255.103(4), F.S., (authorizing local governmental entities to use the CCNA selection process), increasing the maximum dollar amount for continuing contracts of local governments from \$4 million to \$7.5 million. Beginning July 1, 2025, and annually thereafter, the DMS must adjust the maximum amount allowed on the preceding June 30 for each individual project in a continuing contract based on the June-to-June Consumer Price Index issued by the United States Department of Labor. The DMS must publish the adjusted amount on its website.

There is an indeterminate fiscal impact on state and local government expenditures relating to the administrative costs of competitive procurement and contract costs paid under a continuing contract. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

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.¹

Generally, state projects must be competitively procured. Part I of ch. 287, F.S., provides “a system of uniform procedures to be utilized by state agencies in managing and procuring commodities and contractual services” to protect the public by promoting “fair and open competition,” thereby reducing the appearance and opportunity for favoritism and misconduct.² These competitive procurement provisions apply to an agency, defined as “any of the various state officers, departments, board commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive boards of state government.”³ This definition does not include municipalities and local governments. Additionally, university and college boards of trustees, and the state universities and colleges are specifically excluded from this definition.⁴

State agencies may use a variety of procurement methods, depending on the cost and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors. These methods include the following:

- Single source contracts,⁵ used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- Invitations to bid,⁶ used when an agency determines that standard services or goods will meet needs, wide competition is available and the vendor’s experience will not greatly influence the agency’s results;
- Requests for proposals,⁷ used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- Invitations to negotiate,⁸ used when negotiations are determined to be necessary to obtain the best value and involve a request for highly complex, customized, mission-critical services, by an agency dealing with a limited number of vendors.

¹ DMS, *Building Construction*, https://www.dms.myflorida.com/business_operations/real_estate_development_and_management/building_construction (last visited Jan. 29, 2024).

² Section 287.001, F.S.

³ Section 287.012(1), F.S.

⁴ *Id.*

⁵ Section 287.057(3)(c), F.S.

⁶ Section 287.057(1)(a), F.S.

⁷ Section 287.057(1)(b), F.S.

⁸ Section 287.057(1)(c), F.S.

For procurement of commodities or contractual services in excess of \$35,000, agencies must use a competitive solicitation process.⁹ However, specified contractual services and commodities are not subject to competitive solicitation requirements.¹⁰

State contracts for construction projects that are projected to cost in excess of \$200,000 must be competitively bid.¹¹ 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 \$300,000.¹²

The Consultants' Competitive Negotiation Act

In 1973, the Florida Legislature enacted the Consultant's Competitive Negotiation Act (CCNA),¹³ s. 287.055, F.S., which requires state and local government agencies to procure the professional services of an architect, engineer, landscape architect, or registered surveyor and mapper using a qualifications-based selection process. The qualifications-based selection requires the selection of providers on the basis of their competency, qualifications, and experience, rather than lowest-price.¹⁴

The qualifications based selection process of the CCNA contemplates a three-step process:

- Public announcement of the project;
- Competitive selection of the professional firm based on its qualifications; and
- Arms-length competitive negotiations with the most qualified firm or firms.¹⁵

During the first phase, the public announcement, state and local agencies¹⁶ publicly announce and describe their need for professional services for one of the following:¹⁷

- A project when the basic construction cost of which is estimated by the agency to exceed \$325,000;¹⁸ or
- A planning or study activity for professional services that exceeds \$35,000.¹⁹

The public announcement must provide a general description of the project and describe how the interested consultant firms may apply for consideration.²⁰

⁹ Section 287.057(1), F.S.

¹⁰ Section 287.057(3)(e), F.S.

¹¹ Section 255.0525, F.S.

¹² Section 255.20, F.S.

¹³ Ch. 73-19, Laws of Fla., codified as s. 287.055, F.S.

¹⁴ Section 287.055(3)-(5), F.S.

¹⁵ *Id.*

¹⁶ An "agency" under the CCNA is defined as "the state, a state agency, a municipality, a political subdivision, a school district or a school board." Section 287.055(2)(b), F.S. See Section 1.01(8), F.S., defining "political subdivision" to include "counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in this state."

¹⁷ Section 287.055(3), F.S.

¹⁸ The amount provided in Category Five from the purchasing categories in s. 287.017, F.S.

¹⁹ The amount provide in Category Two from the purchasing categories in s. 287.017, F.S.

²⁰ Section 287.055(3)(a)1., F.S.

A firm that wishes to provide professional services to an agency must first be certified by the agency as qualified to provide the needed services pursuant to law and the agency's regulations.²¹ In determining a firm or individual to be qualified, the agency must consider its capabilities, adequacy of personnel, past record, experience, as well as whether the firm or individual is a certified minority business enterprise.²²

During the second phase, competitive selection, the agency must evaluate the bidders' current statements of qualifications and performance data.²³ The agency must select and rank at least three firms it deems to be the most highly qualified to perform the required services, based on the following:²⁴

- The ability of professional personnel;
- Whether a firm is a certified minority business enterprise;
- Past performance;
- Willingness to meet time and budget requirements;
- Location;
- Recent, current, and projected workloads of the firms; and
- The volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms.²⁵

During this qualifications phase, the agency cannot request, accept, or consider proposals for the firm's compensation.²⁶ Compensation is "the amount paid by the agency for professional services regardless of whether stated as compensation or stated as hourly rates, overhead rates, or other figures or formulas from which compensation can be calculated."²⁷

During the third phase, competitive negotiation, the agency negotiates compensation to be paid under the contract with the highest qualified of at least three selected firms.²⁸ Should the agency be unable to negotiate a satisfactory contract with the top firm at a price the agency determines to be fair, competitive, and reasonable, the agency may progress to negotiations with the second most qualified firm, and if this fails,²⁹ with the third.³⁰ If the agency cannot negotiate a satisfactory contract with any of the ranked firms, it must begin the qualifications-based selection process again and continue negotiations until an agreement is reached.³¹

²¹ Section 287.055(3)(c) F.S.

²² Section 287.055(3)(c)-(d), F.S.

²³ Section 287.055(4)(a), F.S.

²⁴ Section 287.055(4)(b), F.S.

²⁵ *Id.*

²⁶ *Id.* The CCNS did not prohibit discussion of compensation in the competitive selection phase until 1988, when the Legislature enacted a provision that allows consideration of compensation only during the competitive negotiation phase. Ch. 88-108, Laws of Fla.

²⁷ Section 287.055(2) (d), F.S.

²⁸ Section 287.055(5)(a), F.S.

²⁹ Section 287.055(5)(b), F.S.

³⁰ *Id.*

³¹ Section 287.055(5)(c), F.S.

Continuing Contracts Under the CCNA

The CCNA expressly allows agencies to use continuing contracts for professional services.³² A continuing contract is one for professional services entered into in accordance with the CCNA between an agency and a firm whereby the firm provides professional services to the agency for projects that do not exceed specific costs.³³

Current law allows an agency to use a continuing contract for: construction projects in which the estimated construction cost of each individual project under the contract does not exceed \$4 million; for study activity, if the fee for professional services for each individual study under the contract does not exceed \$500,000; or for work of a specified nature as outlined in the agency contract, if the contract is for a fixed term or with a termination clause.³⁴

The maximum per-project and per-study limits were implemented in 1988³⁵ at \$500,000 and \$25,000, respectively, and subsequently increased three times. In 2002, the limits were increased to \$1 million and \$50,000.³⁶ In 2009, the limits were increased to \$2 million and \$200,000;³⁷ and in 2020, the limits were increased to \$4 million and \$500,000.³⁸

Construction and Program Management Entities

A governmental entity³⁹ may choose to use a construction management entity or program management entity, which it must select using the CCNA's competitive solicitation process.⁴⁰ A construction management entity is responsible for construction project scheduling and coordination in both the preconstruction and construction phases, and is generally responsible for the successful, timely, and economical completion of a construction project.⁴¹ A program management entity is responsible for schedule and cost control, and coordination in the procurement of planning, design, and construction services.⁴²

The governmental entity may use a continuing contract⁴³ to procure the services of a construction management or program management entity for work on construction projects.⁴⁴ However, a "continuing contract" entered into subject to ch. 255, F.S., is distinct from that in ch. 287, F.S. Specifically, the governmental entity may only use a continuing contract under ch. 255, F.S., to

³² Section 287.055(4)(d), F.S.

³³ Section 287.055(2)(g), F.S.

³⁴ *Id.* An entity may not use a continuing contract for work of a specified nature to exceed the monetary limits placed on construction projects and study activities. Op. Fla. Att'y. Gen. 2013-28 (2013).

³⁵ Ch. 88-108, Laws of Fla.

³⁶ Ch. 2002-20, Laws of Fla.

³⁷ Ch. 2009-227, Laws of Fla.

³⁸ Ch. 2020-127, Laws of Fla.

³⁹ Section 255.103(1), F.S. defines the term "governmental entity" to mean "a county, municipality, school district, special district, special district as defined in chapter 189, or political subdivision of the state."

⁴⁰ Section 255.103, F.S.

⁴¹ Section 255.103(2), F.S.

⁴² Section 255.103(3), F.S.

⁴³ Section 255.103(4), F.S., defines a continuing contract as "a contract with a construction management or program management entity for work during a defined period on construction projects described by type which may or may not be identified at the time of entering into the contract."

⁴⁴ Section 255.103(4), F.S.

procure construction management or program management entity services. A continuing contract under ch. 255, F.S., must also be for a defined period of time (whereas ch. 287, F.S., allows continuing contracts without a time limitation in certain circumstances).

The governmental entity may also choose to require that the construction management or program management entity offer a guaranteed maximum price or a guaranteed completion date.⁴⁵ If a project includes a grouping of substantially similar construction, rehabilitation, or renovation activities, the governmental entity may require a separate guaranteed maximum price and a separate guaranteed completion date for each grouping of substantially similar construction, rehabilitation, or renovation activities.⁴⁶

Department of Transportation

Chapter 337, F.S., governs contracts entered into by the Florida Department of Transportation (FDOT). The 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.⁴⁷ The FDOT must certify as qualified any bidders for a construction contract, road, bridge, or public construction project that exceeds \$250,000 in cost.⁴⁸ 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."⁴⁹

Consumer Price Index and Producer Price Index

The Consumer Price Index for all Urban Consumers (CPI-U) is a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services, as measured by the U.S. Bureau of Labor Statistics.⁵⁰ The U.S. Bureau of Labor Statistics issues the CPI monthly, and develops the metric from surveys of businesses' and households' reporting of their costs for food, housing, clothing, medical care, and transportation.⁵¹ While the CPI-U is the most often-cited index, the BLS also publishes several other consumer price indexes, e.g., those based on geographic area, CPI for Urban Wage Earners and Clerical Workers (CPI-W), Chained CPI for all Urban Consumers (C-CPI-U), and an average prices index.⁵² The CPI is used as a measure of U.S. consumer inflation, and to escalate Social Security payments, adjust tax brackets, convert nominal dollars to real dollars, and to adjust wages or escalate rents and other payments.⁵³

⁴⁵ Section 255.103(2), F.S.

⁴⁶ *Id.*

⁴⁷ Section 337.11, F.S. *See also*, s. 334.044, F.S.

⁴⁸ Section 337.14(1), F.S.

⁴⁹ *Id.*

⁵⁰ U.S. Bureau of Labor Statistics, *Consumer Price Index: Overview* (Sep. 6, 2023), <https://www.bls.gov/opub/hom/cpi/home.htm> (last visited Jan. 26, 2024).

⁵¹ *Id.*

⁵² U.S. Bureau of Labor Statistics, *Consumer Price Index: Presentation* (Sep. 6, 2023), <https://www.bls.gov/opub/hom/cpi/presentation.htm> (last visited Jan. 29, 2024).

⁵³ U.S. Bureau of Labor Statistics, *Consumer Price Index: Concepts* (Sep. 6, 2023), <https://www.bls.gov/opub/hom/cpi/concepts.htm> (last visited Jan. 29, 2024).

The last five years of the CPI have varied, as reflect in the table below:⁵⁴

Year	Annual Average CPI(-U)	Annual Percent Change (Rate of Inflation)
2019	255.7	1.8%
2020	258.8	1.2%
2021	271.0	4.7%
2022	292.7	8.0%
2023	302.9	3.5%

The Producer Price Index (PPI) is a measurement of the average change in selling prices that are received by domestic producers of goods and services. PPI measures the price change from the seller's perspective, and can be used as a tool for the adjustment of purchase and sales contract prices, an indicator of overall price movement at the producer's level, or a comparison of industry-based price data.⁵⁵ The PPI includes indexes based on commodities, including consumer goods, energy, services, transportation and warehousing services, and construction.⁵⁶

The following chart shows the percent change to certain construction input and commodity prices as of October 2023:⁵⁷

⁵⁴ Federal Reserve Bank of Minneapolis, *Consumer Price Index, 1913-; Historical Data from the era of the Modern U.S. Consumer Price Index (CPI)* <https://www.minneapolisfed.org/about-us/monetary-policy/inflation-calculator/consumer-price-index-1913-> (last visited Jan. 29, 2024).

⁵⁵ U.S. Bureau of Labor Statistics, *Producer Price Index* (Mar. 16, 2023), <https://www.bls.gov/ppi/overview.htm> (last visited Jan. 29, 2024).

⁵⁶ See, e.g., U.S. Bureau of Labor Statistics, *PPI Detailed Report*, 11 (Nov. 2023), https://www.bls.gov/web/ppi/ppi_dr.pdf (last visited Jan. 29, 2024).

⁵⁷ See U.S. Bureau of Labor Statistics, *Producer Price Index Detailed Reports for February 2020 and October 2023*, <https://www.bls.gov/ppi/detailed-report/#2023> (last visited Jan. 29, 2023).

	1-month	12-month	Since Feb. 2020
Inputs to Industries			
Inputs to construction	-1.2%	-1.1%	33.1%
Inputs to multifamily construction	-0.9%	0.8%	32.4%
Inputs to nonresidential construction	-1.1%	-0.7%	33.6%
Inputs to commercial construction	-0.7%	-0.3%	33.6%
Inputs to healthcare construction	-0.7%	-0.2%	33.4%
Inputs to industrial construction	-0.9%	1.1%	30.7%
Inputs to other nonresidential construction	-1.2%	-0.9%	33.7%
Inputs to maintenance and repair construction	-1.3%	-2.0%	31.8%
Inputs to highway and street construction	-1.2%	0.0%	31.4%
Commodities			
Adhesives and sealants	0.1%	1.8%	28.9%
Concrete products	0.7%	9.7%	30.5%
Construction machinery and equipment	0.0%	6.0%	23.6%
Copper wire and cable	-1.3%	2.7%	24.2%
Crude petroleum	-2.9%	-3.0%	56.9%
Fabricated structural metal products	0.8%	-0.7%	42.3%
Insulation materials	-0.3%	1.6%	31.0%
Iron and Steel	-2.3%	-6.1%	40.79%
Lumber and wood products	-0.3%	-6.5%	22.3%
Natural gas	10.9%	-54.9%	40.8%
Plumbing fixtures and brass fittings	0.5%	1.4%	16.1%
Prepared asphalt, tar roofing, and siding products	0.7%	3.9%	34.4%
Steel mill products	-2.5%	-9.9%	47.0%
Switchgear, switchboard, industrial controls equipment	0.2%	6.3%	32.0%
Unprocessed energy materials	-0.3%	-16.2%	60.2%

III. Effect of Proposed Changes:

The bill revises the maximum dollar amount for continuing contracts for construction projects.

Section 1 amends s. 255.103, F.S., to increase the maximum dollar amount for a continuing contract for construction projects from \$4 million to \$7.5 million. Beginning July 1, 2025, and annually thereafter, the Department of Management Services (DMS) must adjust the maximum amount allowed on the preceding June 30 for each individual project in a continuing contract based on the June-to-June Consumer Price Index for all Urban Consumers (CPI-U) issued by the United States Department of Labor. The DMS must publish the adjusted amount on its website.

Section 2 amends s. 287.055, F.S., to increase the maximum dollar amount for a continuing contract for professional services from \$4 million to \$7.5 million. Beginning July 1, 2025, and annually thereafter, the DMS must adjust the maximum amount allowed on the preceding June 30 for each individual project in a continuing contract based on the June-to-June CPI-U issued by the United States Department of Labor. The DMS must publish the adjusted amount on its website.

Section 3 provides that the bill takes effect on July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, reduce the counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties or 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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an indeterminate, positive fiscal impact on the private sector, especially contractors with capacity for larger (up to \$7.5 million projects). The increased maximum dollar amount for continuing contracts for construction projects could allow more projects to be covered under a continuing contract, and would reduce the competitive solicitations a firm would undergo to become qualified under the Consultant's Competitive Negotiation Act (CCNA).

C. Government Sector Impact:

Governmental entities that use continuing contracts incur costs related to the competitive selection and negotiation process. The bill, by increasing the maximum dollar amount for continuing contracts, captures more related services and construction projects, and may reduce the need for solicitations and their related administrative costs. Thus, the bill may have an indeterminate positive fiscal impact on the government sector. However, the increase of the cap for projects grouped under a continuing contract may provide less

oversight on the total project cost, which may result in higher-than-necessary costs to the government.

The Department of Management Services may incur a cost related to the annual calculation of, and posting of the CPI-adjusted contract amount on its website.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The chart below illustrates the impact of a CPI growth factor on the maximum cost per project. Column 1 is the current consumer price index percentage change December over December.⁵⁸ Column 3 illustrates the maximum thresholds if the current law maximum (\$4 million) per project is grown annually by the CPI percentage increase. Column 4 illustrates the maximum thresholds if the maximum is set at \$7.5 million beginning July 1, 2024. Likewise, Column 5 illustrates the same assuming the \$10 million threshold set in this bill.

Column 1	Column 2	Column 3	Column 4	Column 5
CPI	Year Beginning July 1	Current Law adjusted annually by CPI	\$7.5 million adjusted annually by CPI	\$10 million adjusted annually by CPI
	2020	4,000,000		
1.3%	2021	4,052,000		
4.7%	2022	4,242,444		
8.0%	2023	4,581,840		
4.1%	2024	4,769,695	7,500,000	10,000,000
2.7%	2025	4,898,477	7,702,500	10,270,000
2.6%	2026	5,025,837	7,902,765	10,537,020
2.3%	2027	5,141,431	8,084,529	10,779,371
2.3%	2028	5,259,684	8,270,473	11,027,297
2.2%	2029	5,375,397	8,452,423	11,269,898
2.1%	2030	5,488,281	8,629,924	11,506,565

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 255.103 and 287.055.

⁵⁸ Florida EDR, *National Economic Estimating Conference Long Run Tables—FINAL*, at 11 (Dec. 18, 2023) <http://edr.state.fl.us/Content/conferences/useconomic/index.cfm> (last visited Jan. 29, 2024).

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

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

CS by Appropriations Committee on Agriculture, Environment, and General Government on February 13, 2024:

The committee substitute applies the annual CPI adjustment to local governmental entities under s. 255.103, F.S., to make the maximum dollar amount for a project consistent with that calculated for state projects under s. 287.055, F.S.

CS by Governmental Oversight and Accountability on January 29, 2024:

- Decreases the maximum cost of each individual agency project that may be conducted under a continuing contract from \$10 million (in the bill) to \$7.5 million.
- Clarifies the method used to calculate the CPI-adjusted maximum project cost, and requires the Department of Management Services to post that annually updated number on its website.
- Deletes language applicable to the Department of Transportation's use of continuing contracts for specific services.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (DiCeglie) recommended the following:

Senate Amendment (with title amendment)

Delete line 84
and insert:
million. Beginning July 1, 2025, and each July 1 thereafter, the Department of Management Services shall adjust the maximum amount allowed on the preceding June 30 for each individual project in a continuing contract by using the change in the June-to-June Consumer Price Index for All Urban Consumers issued by the Bureau of Labor Statistics of the United States



881588

Department of Labor. The Department of Management Services shall
publish the adjusted amount on its website. For purposes of this
subsection, the term "continuing

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

And the title is amended as follows:

Delete line 6

and insert:

contract; requiring the Department of Management
Services, beginning on a specified date, to adjust the
maximum amount allowed under specified contracts using
a specified index, and to publish the adjusted amount
on its website; amending s. 287.055, F.S.; revising
the

By the Committee on Governmental Oversight and Accountability;
and Senator DiCeglie

585-02587-24

2024656c1

A bill to be entitled

An act relating to continuing contracts; amending s. 255.103, F.S.; revising the maximum estimated construction cost of construction projects for which a governmental entity may enter into a continuing contract; amending s. 287.055, F.S.; revising the definition of the term "continuing contract" to increase the maximum dollar value of such contract, to require the Department of Management Services, beginning on a specified date and annually thereafter, to adjust the maximum dollar value allowed under such contracts using a specified index, and to publish the new dollar value on its website; making technical changes; providing an effective date.

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

Section 1. Subsection (4) of section 255.103, Florida Statutes, is amended, and subsections (2) and (3) of that section are republished, to read:

255.103 Construction management or program management entities.—

(2) A governmental entity may select a construction management entity, pursuant to the process provided by s. 287.055, which is to be responsible for construction project scheduling and coordination in both preconstruction and construction phases and generally responsible for the successful, timely, and economical completion of the construction project. The construction management entity must

Page 1 of 5

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

585-02587-24

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consist of or contract with licensed or registered professionals for the specific fields or areas of construction to be performed, as required by law. The construction management entity may retain necessary design professionals selected under the process provided in s. 287.055. At the option of the governmental entity, the construction management entity, after having been selected and after competitive negotiations, may be required to offer a guaranteed maximum price and a guaranteed completion date or a lump-sum price and a guaranteed completion date, in which case, the construction management entity must secure an appropriate surety bond pursuant to s. 255.05 and must hold construction subcontracts. If a project, as defined in s. 287.055(2)(f), solicited by a governmental entity under the process provided in s. 287.055 includes a grouping of substantially similar construction, rehabilitation, or renovation activities as permitted under s. 287.055(2)(f), the governmental entity, after competitive negotiations, may require the construction management entity to provide for a separate guaranteed maximum price or a separate lump-sum price and a separate guaranteed completion date for each grouping of substantially similar construction, rehabilitation, or renovation activities included within the project.

(3) A governmental entity may select a program management entity, pursuant to the process provided by s. 287.055, which is to be responsible for schedule control, cost control, and coordination in providing or procuring planning, design, and construction services. The program management entity must consist of or contract with licensed or registered professionals for the specific areas of design or construction to be performed

Page 2 of 5

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

585-02587-24

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as required by law. The program management entity may retain necessary design professionals selected under the process provided in s. 287.055. At the option of the governmental entity, the program management entity, after having been selected and after competitive negotiations, may be required to offer a guaranteed maximum price and a guaranteed completion date or a lump-sum price and guaranteed completion date, in which case the program management entity must secure an appropriate surety bond pursuant to s. 255.05 and must hold design and construction subcontracts. If a project, as defined in s. 287.055(2)(f), solicited by a governmental entity under the process provided in s. 287.055 includes a grouping of substantially similar construction, rehabilitation, or renovation activities as permitted under s. 287.055(2)(f), the governmental entity, after competitive negotiations, may require the program management entity to provide for a separate guaranteed maximum price or a lump-sum price and a separate guaranteed completion date for each grouping of substantially similar construction, rehabilitation, or renovation activities included within the project.

(4) A governmental entity's authority under subsections (2) and (3) includes entering into a continuing contract for construction projects, pursuant to the process provided in s. 287.055, in which the estimated construction cost of each individual project under the contract does not exceed \$7.5 \$4 million. For purposes of this subsection, the term "continuing contract" means a contract with a construction management or program management entity for work during a defined period on construction projects described by type which may or may not be

585-02587-24

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identified at the time of entering into the contract.

Section 2. Paragraph (g) of subsection (2) of section 287.055, Florida Statutes, is amended to read:

287.055 Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties.—

(2) DEFINITIONS.—For purposes of this section:

(g) 1. A "continuing contract" is a contract for any of the following:

a. Professional services entered into in accordance with all the procedures of this act between an agency and a firm whereby the firm provides professional services to the agency for projects in which the estimated construction cost of each individual project under the contract does not exceed \$7.5 \$4 million. Beginning July 1, 2025, and each July 1 thereafter, the department shall adjust the maximum amount allowed on the preceding June 30 for each individual project in a continuing contract by using the change in the June-to-June Consumer Price Index for All Urban Consumer issued by the Bureau of Labor Statistics of the United States Department of Labor. The department shall publish the adjusted amount on its website;

b. ~~for~~ Study activity if the fee for professional services for each individual study under the contract does not exceed \$500,000; ~~r~~ or

c. ~~for~~ Work of a specified nature as outlined in the contract required by the agency, with the contract being for a fixed term or with no time limitation except that the contract must provide a termination clause.

585-02587-24

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117 2. Firms providing professional services under continuing
118 contracts ~~may shall~~ not be required to bid against one another.
119 Section 3. This act shall take effect July 1, 2024.



THE FLORIDA SENATE
SENATOR NICK DICEGLIE
District 18

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

February 5, 2024

Dear Chair Brodeur,

I respectfully request that **SB 656: Continuing Contracts** be placed on the agenda of the Committee on Agriculture, Environment, and General Government at your earliest convenience. If my office can be of any assistance to the committee please do not hesitate to contact me at DiCeglie.Nick@flsenate.gov or (850) 487-5018. Thank you for your consideration.

Sincerely,

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

Nick DiCeglie

State Senator, District 18

Proudly Serving Pinellas County

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

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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2/13/24

Meeting Date

AE & Appropriations

Committee

656

Bill Number or Topic

Amendment Barcode (if applicable)

Name Edward Briggs

Phone 850 733 5994

Address

Street

Email

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

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

American Fire Sprinkler Assoc. - FL Chapter / FL Refrigeration & AC Contractors

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.

5-001 (08/10/2021)

2/13/24

Meeting Date

The Florida Senate
APPEARANCE RECORD

656

Bill Number or Topic

AEG

Committee

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Amendment Barcode (if applicable)

Name

JEFF SCALA

Phone

(850) 487-0697

Address

100 S Monroe

Email

jscala@fl-counties.com

Street

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:

☐

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

Florida Association of Counties

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/13/2024

Meeting Date

656

Bill Number or Topic

Approps AG & Em Gen Gov

Committee

Amendment Barcode (if applicable)

Name Carol BOWEN

Phone (954) 465-6811

Address PO Box 880448

Street

Email cbowen@abcflorida.com

Boca Raton FL

City

State

33488

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:

Associated Builders and Contractors

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)

February 13, 2024

Meeting Date

Appropriations - Agri, Envir, & Gen. Govt

Committee

The Florida Senate

APPEARANCE RECORD

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CS for SB 656

Bill Number or Topic

881588

Amendment Barcode (if applicable)

Name **George Levesque**

Phone **850-577-9090**

Address **GrayRobinson, PA, 301 S. Bronough St., Ste. 600**

Email **george.levesque@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:

**American Institute of Architects,
Florida Champter**

☐ 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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5-001 (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 Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/SB 662

INTRODUCER: Banking and Insurance Committee and Senator Burton

SUBJECT: Virtual Currency Kiosk Businesses

DATE: February 12, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Sanders</u>	<u>Betta</u>	<u>AEG</u>	<u>Favorable</u>
3.	<u> </u>	<u> </u>	<u>FP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

Senate Bill 662 establishes a regulatory framework for virtual currency kiosk businesses, and provides protections for users of the kiosks by requiring such businesses to register with the Office of Financial Regulation (OFR), requiring certain disclosures, restricting the name under which such business may transact, and providing penalties for specified violations of the part. The Legislative intent of the bill is, in summary, to reduce unlawful and fraudulent activities. The bill provides the OFR is responsible for supervising virtual currency kiosk businesses, and authorizes the Financial Services Commission (commission) to adopt rules to regulate them.

Registration requirement

The bill prohibits, effective March 1, 2025, a virtual currency kiosk business from operating in Florida without first registering, or renewing its registration, with the OFR. A money transmitter licensed as a money services business (MSB) is exempt from registering as a virtual currency kiosk business. An entity that acts as an intermediary in specified circumstances and or otherwise meets the definition of a money transmitter must be licensed as a money services business. For an applicant to register a virtual currency kiosk business, the applicant must submit specified information relating to the proposed applicant and business, attest to specified information relating to blockchain analytics, and within a specified time, any supplemental information required by the OFR. A virtual currency kiosk business operating in Florida on or before January 1, 2025, must submit a registration application to the OFR within 30 days after that date.

Disclosures, Attestations, and Confirmations

The bill requires that owner-operators:

- Display a disclosure warning consumers about potential dishonest schemes and requiring the customer to acknowledge that they have read the disclosure.
- Display a disclosure that funds lost due to user error or fraud may not be recoverable.
- With respect to virtual currency kiosk businesses, confirm whether the customer is using the kiosk to send virtual currency to a wallet owned by someone else and, if so, terminate the transaction unless the owner-operator is a licensed money transmitter.
- Display a disclosure of a toll-free telephone number the kiosk user may call to learn about the risks of the transaction; and
- Require an attestation to specified information, without which the transaction must be terminated.

The bill authorizes the commission to adopt rules to administer the section on disclosures, including to ensure the disclosures are responsive to consumer fraud and emerging technology.

Conduct of Business

An owner-operator may transact business only under the legal name by which it is registered, except a fictitious name may be used in specified circumstances. An owner-operator must maintain clearly documented policies, processes, and procedures regarding how blockchain analytics activity integrates into their compliance, and must apply such blockchain analytics to prevent transfers to wallet addresses linked to known criminal activity.

Penalties

The bill provides criminal penalties for violating the disclosure requirements, operating under any name other than that designated in the registration (unless written notification is given to the OFR), assigning or attempting to assign a registration, and operating a virtual currency kiosk without using the required blockchain analytics.

The bill has a minimal impact on state revenue and expenditures. See Section V. Fiscal Impact Statement.

Except as otherwise provided, the bill is effective January 1, 2025.

II. Present Situation:

A virtual currency kiosk, also known as a cryptocurrency kiosk or a Bitcoin automatic teller machine (ATM), is a physical machine that enables customers to exchange virtual currencies for fiat currency or other virtual currencies.¹ As of 2022, there were over 30,000 virtual currency

¹ National Association of Attorneys General, *Your Bitcoin on Every Block: An Introduction to Cryptocurrency Kiosks*, May 4, 2022, available at [Your Bitcoin on Every Block: An Introduction to Cryptocurrency Kiosks \(naag.org\)](https://naag.org/your-bitcoin-on-every-block-an-introduction-to-cryptocurrency-kiosks) (last visited Jan. 31, 2024) (hereinafter cited as “Attorneys General Article on Cryptocurrency Kiosks”).

kiosks in the United States.² Consumers are typically charged fees between nine percent and 12 percent of the value of the transaction but such fees may range from four percent to greater than 20 percent of the value of a transaction.³

A virtual currency kiosk may be unidirectional, only allowing the sale of virtual currency, or bidirectional, allowing for both the sale and purchase of virtual currency.⁴ To purchase virtual currency from a kiosk, a consumer may store the purchased virtual currency in their own wallet or send the currency to a third party's wallet if the purchaser has a quick response (QR) code to that person's wallet.⁵ To sell virtual currency from a kiosk, a user deposits virtual currency into the machine's wallet, which is usually done by use of a QR code displayed on the kiosk's screen, and the kiosk dispenses cash when the transaction is completed.⁶

Federal Regulation

Financial Crimes Enforcement Network ("FinCEN"), a bureau of the United States Department of Treasury⁷ is responsible for safeguarding the financial system from illegal use, combatting money laundering and related crimes, and promoting national security.⁸ Unless an exception applies, a money services business⁹ (MSB) must register with FinCEN.¹⁰ A MSB must registration period is a two-calendar-year period.¹¹ Any person who fails to comply with the registration requirements is liable for a civil penalty of \$5,000 for each violation.¹² A MSB must develop, implement, and maintain an anti-money laundering program, which includes, amongst other things, verifying customer identification.¹³ A MSB must also comply with anti-money laundering reporting requirements, such as reporting certain payment transactions by, though, or to the MSB which involves a transaction more than \$10,000.¹⁴

² McDonnell, S., *United States: US GAO Urges New Virtual Currency Regulations to Counter Human Trafficking and Drug Cartels*, Jan. 2022, available at [US GAO Urges New Virtual Currency Regulations To Counter Human Trafficking And Drug Cartels - Fin Tech - United States \(mondaq.com\)](https://www.mondaq.com/united-states/financial-crimes-enforcement-network/444444) (last visited Jan. 31, 2024) (hereinafter cited as "Article on US GAO Urges New Virtual Currency Regulations").

³ Attorneys General Article on Cryptocurrency Kiosks

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ 31 C.F.R. s. 1010.100(s).

⁸ The U.S. Treasury Financial Crimes Enforcement Network, *Financial Crimes Enforcement Network: Mission*, available at [Mission | FinCEN.gov](https://www.fincen.gov/mission) (last visited Jan. 24, 2024).

⁹ "Money services business" is defined as a person wherever located doing business, whether or not on a regular basis or as an organized or licensed business concern, wholly or in substantial part within the United States, in one or more of the capacities specified under federal law. 31 C.F.R. s. 1010.100(ff).

¹⁰ 31 C.F.R. s. 1022.380(a).

¹¹ 31 C.F.R. s. 1022.380(b).

¹² 31 C.F.R. s. 1022.380(e) (providing that each day a violation continues constitutes a separate violation).

¹³ 31 C.F.R. s. 1022.210.

¹⁴ 31 C.F.R. s. 1010.311.

FinCEN has issued guidance that, unless an exception applies, an administrator¹⁵ or exchanger¹⁶ that: (a) accepts or transmits, or (b) buys or sells, virtual currency¹⁷ is a money transmitter that are subject to money services business registration, reporting, and recordkeeping requirements.¹⁸ Therefore, FinCEN treats virtual currency kiosk operators as MSBs, subject to registration regulations.¹⁹ Notwithstanding this requirement, the United States Government Accountability Office (“GAO”) reports that only 164 of the estimated 297 kiosk operators in the United States were registered, which has contributed to federal agencies, such as FinCEN, facing challenges in identifying virtual currency kiosk locations.²⁰

Florida Regulation of Consumer Finance

The Florida Office of Financial Regulation (OFR) is responsible for all activities of the Financial Services Commission (commission) relating to the regulation of banks, credit unions, other financial institutions, finance companies, and the securities industry.²¹

Money Services Businesses

As part the OFR’s responsibilities, the OFR oversees MSBs. As of December 31, 2023, there were a total of 723 MSBs licensed by the OFR.²² A MSB includes any person located or doing business in Florida who acts as, amongst other things, a money transmitter.²³ “Money transmitter” means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in Florida which receives currency, monetary value, a payment instrument, or virtual currency²⁴ for the purpose of acting as an intermediary to transmit

¹⁵ “Administrator” is defined as a person engaged as a business in issuing (putting into circulation) a virtual currency, and who has the authority to redeem (to withdraw from circulation) such virtual currency. The U. S. Treasury FinCEN, *Application of FinCEN’s Regulations to Persons Administering, Exchanging, or Using Virtual Currencies*, Mar. 18, 2013, available at [Application of FinCEN's Regulations to Persons Administering, Exchanging, or Using Virtual Currencies | FinCEN.gov](https://www.fincen.gov/application-of-fincen-s-regulations-to-persons-administering-exchanging-or-using-virtual-currencies) (last visited Jan. 31, 2024) (hereinafter cited as “FinCEN Guidance on Persons Administering, Exchanging, or Using Virtual Currency”).

¹⁶ “Exchanger” is defined as a person engaged as a business in the exchange of virtual currency for real currency, funds, or other virtual currency. *Id.*

¹⁷ “Virtual Currency” is defined as a medium of exchange that operates like a currency in some environments, but does not have all of attributes of real currency. “Convertible” virtual currency has an equivalent value in real currency, or acts as a substitute for real currency. *Id.*

¹⁸ FinCEN Guidance on Persons Administering, Exchanging, or Using Virtual Currency. “Money transmitter” is defined as a person who provides money transmitter services, which means the acceptance of currency, funds, or other value that substitutes for currency from one person and the transmission of currency, funds, or other value that substitutes for currency to another location or person by any means. “Any means” includes, but is not limited to, a financial agency or institution, a Federal Reserve Bank, an electronic funds transfer network, or an informal value transfer system.

³¹ C.F.R. s. 1010.100(ff)(5)(A).

¹⁹ *Id.*; See also Article on US GAO Urges New Virtual Currency Regulations.

²⁰ The GAO, *Virtual Currencies Additional Information Could Improve Federal Agency Efforts to Counter Human and Drug Trafficking [Reissued with Revisions Feb. 7, 2022]*, GAO-22-105462, Published: Dec. 8, 2021, Publicly Released: Jan. 10, 2022, available at <https://www.gao.gov/products/gao-22-105462> (last visited Jan. 31, 2024).

²¹ Section 20.121(3)(a)2., F.S.

²² The OFR, *2024 Agency Legislative Bill Analysis Florida Office of Financial Regulation SB 662*, p. 2, Jan. 8, 2024 (on file with the Senate Committee on Banking and Insurance) (hereinafter cited as “2024 OFR Agency Analysis for SB 662”).

²³ Section 560.103(23), F.S.

²⁴ Section 560.103(36), F.S., defines “virtual currency” as a medium of exchange in electronic or digital format that is not currency. The term does not include a medium of exchange in electronic or digital format that is: (a) issued by or on behalf of a publisher or offered on the same game platform; or (b) used exclusively as part of a consumer affinity or rewards program

currency, monetary value, a payment instrument, or virtual currency from one person to another location or person by means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services or other businesses that facilitate such transfer within this country, or to or from this country. The term includes only an intermediary that has the ability to unilaterally execute or indefinitely prevent a transaction.²⁵ Money transmitters reported \$423,270,012,517 in transmissions during the Fiscal Year 2022-2023.²⁶

Licenses issued to MSBs are valid until April 30 of the second year following the date of issuance and are valid for two years.²⁷ A MSB that does not renew its license by April 30 of their expiration year are deemed inactive and, if the license is not reactivated within 60 days, the license will permanently expire.²⁸ An MSB need only pay the renewal or reactivation fee online via the Regulatory Enforcement and Licensing (REAL) System to renew or reactivate a license.²⁹

Once licensed, an MSB is required to report any change in control persons.^{30,31} If any person, directly or indirectly or acting by or through one or more persons, proposes to purchase or acquire a controlling interest in an MSB, such person or group must submit a new application for licensure at least 30 days before such purchase or acquisition.³² Such a change of control application is not required where the person or group of persons has previously complied with applicable licensing provisions, provided that they are currently affiliated with the MSB, or where the person or group of persons is currently licensed with the OFR as an MSB.³³ A change

and can be applied solely as payment for purchases with the issuer or other designated merchants but cannot be converted into or redeemed for currency or another medium of exchange.

²⁵ Section 560.103(24), F.S.

²⁶ 2024 OFR Agency Analysis for SB 662 at p. 3.

²⁷ Section 560.141(2), F.S.

²⁸ Section 560.142(4), F.S.

²⁹ 2024 OFR Agency Analysis for SB 662 at p. 3.

³⁰ Section 560.103(10), F.S., defines “Control person,” with respect to a money services business, as any of the following: (a) A person who holds the title of president, treasurer, chief executive officer, chief financial officer, chief operations officer, chief legal officer, or compliance officer for a money services business; (b) A person who holds any of the officer, general partner, manager, or managing member positions named in the money services business’s governing documents. As used in this paragraph, the term “governing documents” includes bylaws, articles of incorporation or organization, partnership agreements, shareholder agreements, and management or operating agreements; (c) A director of the money services business’s board of directors; (d) A shareholder in whose name shares are registered in the records of a corporation for profit, whether incorporated under the laws of this state or organized under the laws of any other jurisdiction and existing in that legal form, who owns 25 percent or more of a class of the company’s equity securities; (e) A general partner or a limited partner, as those terms are defined in s. 620.1102, F.S., who has a 25 percent or more transferable interest, as defined in s. 620.1102, F.S., of a limited partnership, limited liability limited partnership, foreign limited partnership, or foreign limited liability limited partnership, as those terms are defined in s. 620.1102, F.S. (f) A member, who is a person that owns a membership interest in a limited liability company or a foreign limited liability company, as those terms are defined in s. 605.0102(36) and (26), F.S., respectively, that holds a 25 percent or more membership interest in such company. As used in this subsection, the term “membership interest” means a member’s right to receive distributions or other rights, such as voting rights or management rights, under the articles of organization; (g) A natural person who indirectly owns 25 percent or more of the shares or stock interest, transferable interest as defined in s. 620.1102, F.S., or membership interest as defined in paragraph (f), of any legal entities referred to in paragraphs (d)-(f).

³¹ Section 560.126(3), F.S.

³² Section 560.126(3)(a), F.S.; r. 69v-560.201(4), F.A.C.

³³ Section 560.126(3)(c), F.S.; r. 69v-560.201(6), F.A.C.

of control application must be accompanied by the payment of an initial licensing fee³⁴ and a fee per branch or authorized vendor,³⁵ up to a maximum of \$20,000.³⁶

The OFR has enforcement authority against MSBs for violating any state law relating to the detection and prevention of money laundering.³⁷

Virtual Currency Kiosk Businesses

OFR reports that there are currently 26 operators and a total of 2,785 kiosks in Florida.³⁸ Under current Florida law, an operator of a virtual currency kiosk that falls within the definition of a money transmitter is required to be licensed as a MSB. Florida does not have a separate regulatory regime for virtual currency businesses or virtual currency kiosk businesses.³⁹

The OFR reports that the Federal Bureau of Investigation (FBI) and the Federal Trade Commission (FTC) have received complaints from Florida of alleged victim losses totaling between \$16 and \$21 million from January 2020 to present.⁴⁰ Since April 2023, the OFR has opened approximately 40 investigations relating to virtual currency kiosk losses.⁴¹

III. Effect of Proposed Changes:

Section 1 amends s. 560.103, F.S., relating to definitions, by creating the following definitions:

- “Blockchain analytics” refers to the process of examining, monitoring, and gathering insights from the data and transaction patterns on a blockchain network. The primary aim of blockchain analytics is to understand and monitor the network’s health, track money flows, and identify potential security threats, including illicit activity, to extract actionable insights;
- “Owner-operator” means a registrant or a licensed money services business;
- “Virtual currency kiosk” means an electronic terminal that acts as a mechanical agent of the owner-operator, enabling the owner-operator to facilitate the exchange of virtual currency for fiat currency or other virtual currency for a customer;
- “Virtual currency kiosk business” or “registrant” means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state

³⁴ Fees are determined by whether the MSB is licensed under Part II or Part III of Chapter 560. Initial licensing fees under Part II licenses require a \$375 license application fee per s. 560.143(1)(a), F.S. Part III licenses require a \$188 license application fee per s. 560.143(b), F.S.

³⁵ Section 560.143(1)(c) and (d), F.S., provides that both the per branch fee and the authorized vendor fee are \$38.

³⁶ Section 560.143(1)(g), F.S.

³⁷ Section 560.123, F.S.

³⁸ The OFR, *OFR – The Sunrise Act Responses to 11.62(4)(5), F.S. for SB 662/HB 977* (on file with the Senate Committee on Banking and Insurance) (hereinafter cited as “The OFR Sunrise Act Responses”).

³⁹ California and Connecticut are the only two states that have adopted legislation to expressly regulate virtual currency kiosks. See Cal. Fin. Code s. 3901; Conn. Gen. Stat. 36a-595 to 36a-612; Conn. P.A. 23-82 (Reg. Sess.), *An Act Concerning Digital Assets*.

⁴⁰ Email from Jason Holloway, Director of Fintech Policy, OFR, to Jacqueline Moody, Florida Senate Committee on Banking and Insurance, Senior Attorney, *Fwd: Kiosk Data*, (Jan. 17, 2024) (on file with Senate Committee on Banking and Insurance) (noting that, from January 2020 to the present, the FBI and the FTC reports for losses from Bitcoin and Crypto ATMs total approximately \$16 and \$5.8 million, respectively; if an alleged victim reported losses to both the FBI and the FTC then the data could be duplicative so the range of loss reported from both agencies is between \$16 and \$21 million).

⁴¹ *Id.*

which operates a virtual currency kiosk and which is not a money transmitter as defined in this section.

- “Virtual currency kiosk transaction” means the process in which a customer uses a virtual currency kiosk to exchange virtual currency for fiat currency or other virtual currency. A transaction begins at the point at which the customer is able to initiate a transaction, after the customer is given the option to select the type of transaction or account, and does not include any of the screens that display the required terms and conditions, disclaimers, or attestations.
- “Wallet” means hardware or software that enables customers to store and use virtual currency.

The bill also modifies the definition of “control person” to apply to virtual currency kiosk businesses.

Section 2 amends s. 560.105, F.S., relating to supervisory powers. The bill authorizes the Office of Financial Regulation’s (OFR) to supervise virtual currency kiosk businesses, have access to their books and records, and enforce ch. 560, F.S. The bill also authorizes the Financial Services Commission (commission) to adopt rules to regulate virtual currency kiosk businesses.

Section 3 creates Part V of ch. 560, F.S., and names it the “Virtual Currency Kiosk Businesses.” Establishes Part V of ch. 560, F.S., consists of ss. 560.501 – 560.506, F.S.

Section 4 creates s. 560.01, F.S., relating to legislative intent. As it relates to virtual currency kiosk businesses regulation, the bill specifically states:

The Legislature intends to reduce unlawful and fraudulent activities by requiring virtual currency kiosk businesses to register with the state and by requiring such businesses and money transmitter licensees to regularly and consistently disclose to all customers of virtual currency kiosks certain specified risks relating to virtual currency kiosk transactions.

Section 5 creates s. 560.02, F.S., relating to registration required; exemptions; penalties. The bill provides an effective date of March 1, 2025. The bill prohibits a virtual currency kiosk business from operating in Florida without first registering, or renewing its registration. The OFR is required to provide written notification, in person or by email, to each applicant that the agency has granted or denied the application for registration.

The bill exempts a money transmitter licensed as a money service business (MSB) from registering as a virtual currency kiosk business but makes such money transmitter subject to the disclosure (**Section 7**), conduct (**Section 8**), and enhanced due diligence (**Section 9**) requirements of the bill.

If an entity, in the course of its business, acts as an intermediary with the ability to unilaterally execute or indefinitely prevent a virtual currency kiosk transaction, or otherwise meets the definition of a money transmitter, the entity must be licensed as a MSB.

Unless licensed as a money services business, a money transmitter that operates or solicits business as a virtual currency kiosk business without first being issued a certificate of

registration by the OFR or without maintaining a certificate of registration commits a felony of the third degree.⁴² A person who registers or attempts to register as a virtual currency kiosk business by means of fraud, misrepresentation, or concealment commits a felony of the third degree.⁴³

A virtual currency kiosk business registration issued under this part is not transferable or assignable.

Section 6 creates s. 560.503, F.S., relating to registration applications. The bill provides virtual currency kiosk businesses' registration applicants must submit to the OFR a completed registration application form, as prescribed by rule of the commission, and which must include:

- The legal name, including any fictitious or trade names used by the applicant in the conduct of its business, and the physical and mailing address of the applicant;
- The date of the applicant's formation and the state in which the applicant was formed, if applicable;
- The name, social security number, alien identification or taxpayer identification number, business and residence address, and employment history for the past five years for each person who meets the definition of a control person;
- A description of the organizational structure of the applicant, including the identity of any parent or subsidiary of the applicant, and the disclosure of whether any parent or subsidiary is publicly traded;
- The name of the registered agent in this state for service of process;
- The physical address of the location of each virtual currency kiosk through which the applicant proposes to conduct or is conducting business in this state;
- An attestation that the application has developed documented policies, processes, and procedures regarding the use to blockchain analytics to prevent transfers to wallet addresses linked to known criminal activity and that the applicant will maintain and comply with such policies, processes, and procedures;
- Any other information as required ch. 560, F.S., or commission rule; and
- Any information needed to resolve any deficiencies found in the application, which must be submitted within a time period prescribed by rule.

A virtual currency kiosk business operating in Florida on or before January 1, 2025, must submit a registration application to the OFR within 30 days.

A registrant shall report, on a form prescribed by rule of the commission, any change in the information contained in an initial application form, or an amendment thereto, within 30 days after the change is effective. A registrant must renew its registration annually on or before December 31 each year, and submit a renewal application that provides:

⁴² A third degree felony is punishable by up to five years imprisonment and up to a \$5,000 fine. Sections 775.082, 775.083, and 775.084, F.S. Under s. 775.084, violent career criminals, habitual felony offenders, habitual violent felony offenders or three-time felony offenders, the court may sentence such third degree felony offenders to five to 10 years, not exceeding 15 years, imprisonment.

⁴³ *Id.*

- The information required by a virtual currency kiosk business for an initial registration application, if there are changes in the application information, or an affidavit signed by the registrant that the information remains the same as the prior year.
- Upon request by OFR, evidence that the registrant has been operating in compliance with the disclosure (**Section 7**) and conduct (**Section 8**) requirements of the bill. Such evidence may be prescribed by rule by the commission and may include, but is not limited to:
 - Current disclosures presented to customers during the transaction process; and
 - Current use of blockchain analytics to prevent transfers to wallet addresses linked to known criminal activity.

A renewal application becomes effective upon the date the OFR approves the application for registration, which must be determined within a time period prescribed by rule. A virtual currency kiosk business's renewal application that fails to provide any requested evidence of compliance must be denied by the OFR.

The registration of a virtual currency kiosk business that does not renew its registration by December 31 each year must be made inactive for 60 days. A virtual currency kiosk business may not conduct business while its registration is inactive.

Within 60 days after the registration becoming inactive, a virtual currency kiosk business must renew its registration by submitting all of the information required in the paragraph above, and the registration will become effective upon the date of any certificate of registration that is issued by the OFR. Failure to submit an application to renew the virtual currency kiosk business's registration within 60 days after the registration becoming inactive will result in the registration becoming null and void. If the registration is null and void, a new application to register the virtual currency kiosk business must be submitted to the OFR and a certification of registration must be issued by the OFR before the virtual currency kiosk business may resume conducting business in Florida.

If a control person of a prospective registrant has engaged in any unlawful business practices, or been convicted or found guilty, pled guilty or nolo contendere to, regardless of adjudication, of a crime involving dishonest dealing, fraud, acts of moral turpitude, or other acts that reflect an inability to engage lawfully in the business of a registered virtual currency kiosk business, the OFR may not accept the prospective registrant's initial or renewal registration application.

Any false statement made by a virtual currency kiosk business with respect to the name of the business or its business address or location in any application for registration renders the registration void. A void registration may not be construed as creating a defense to any prosecution for violation of this chapter.

The commission may adopt rules to administer the provisions of **Section 6** of the bill.

Section 7 creates s. 560.504, F.S., relating to disclosures. The bill sets out disclosure requirements with which virtual currency kiosk businesses must comply, including all of the following:

- Be full and complete;
- Contain no material misrepresentations;

- Be readily understandable and in the language in which the virtual currency kiosk transaction is conducted; and
- Be displayed in at least 14-point type.

Before authorizing a customer to initiate a virtual currency kiosk transaction, the owner-operator must ensure that the virtual currency kiosk displays the disclosures in this section on two separate screens:

The first disclosure must be in substantially the following form:

WARNING: CONSUMER FRAUD OFTEN STARTS WITH CONTACT FROM A STRANGER WHO IS INITIATING A DISHONEST SCHEME.

I UNDERSTAND THAT DISHONEST SCHEMES MAY APPEAR IN MANY FORMS, INCLUDING, BUT NOT LIMITED TO:

1. Claims of a frozen bank account or credit card.
2. Fraudulent bank transactions.
3. Claims of identity theft or job offerings in exchange for payments.
4. Requests for payments to government agencies or companies.
5. Requests for disaster relief donations or loans.
6. Offers to purchase tickets for lotteries, sweepstakes, or drawings for vehicles.
7. Prompts to click on desktop pop-ups, such as virus warnings or communication from alleged familiar merchants.
8. Communication from someone impersonating a representative of your bank or a law enforcement officer.
9. Requests from persons who are impersonating relatives or friends in need or promoting investment or romance scams.

PROTECT YOURSELF FROM FRAUD. NEVER SEND MONEY TO SOMEONE YOU DON'T KNOW.

The second disclosure must be in substantially the following form:

WARNING: FUNDS LOST DUE TO USER ERROR OR FRAUD MAY NOT BE RECOVERABLE. TRANSACTIONS CONDUCTED ON THIS VIRTUAL CURRENCY KIOSK ARE IRREVERSIBLE. I UNDERSTAND THESE RISKS AND WISH TO CONTINUE WITH CONDUCTING MY VIRTUAL CURRENCY KIOSK TRANSACTION.

PROTECT YOURSELF FROM FRAUD. NEVER SEND MONEY TO SOMEONE YOU DON'T KNOW.

In addition to these two disclosure requirements, the virtual currency kiosk business (not a money transmitter licensed as a MSB) must ensure that the virtual currency kiosk displays on a pop-up window the following question to the customer:

“ARE YOU USING THIS KIOSK TO SEND VIRTUAL CURRENCY
TO A WALLET OWNED BY SOMEONE ELSE?”

The virtual currency kiosk business must require the customer to respond to this question in the negative before the customer can proceed with the virtual currency kiosk transaction. The virtual currency kiosk business must ensure that the virtual currency kiosk terminates a customer’s virtual currency kiosk transaction if the customer has provided a “yes” response to this question.

After these required disclosures or affirmation, the owner-operator must ensure that the virtual currency kiosk provides the customer with a toll-free number to contact regarding the risks of engaging in virtual currency transactions and displays, on a screen by itself, the following attestation in substantially the following form:

I ATTEST THAT I HAVE BEEN GIVEN A TOLL-FREE NUMBER
AND THAT I HAVE HAD AN OPPORTUNITY TO CALL THE
NUMBER TO SPEAK WITH SOMEONE REGARDING THE RISKS
OF ENGAGING IN VIRTUAL CURRENCY KIOSK TRANSACTIONS.
I FURTHER ATTEST THAT I UNDERSTAND THAT I MAY BE
SOLELY RESPONSIBLE FOR LOSS OF FUNDS DUE TO USER
ERROR OR FRAUD.

If a customer makes this attestation, the owner-operator may allow the customer to proceed with the virtual currency kiosk transaction. If the customer does not make the attestation, the owner-operator must ensure that the virtual currency kiosk terminates the customer’s virtual currency kiosk transaction.

The bill authorizes the commission to adopt rules to administer this section and to ensure that virtual currency kiosk disclosures are responsive to consumer fraud and emerging technology.

Section 8 creates s. 560.505, F.S., relating to conduct of business. The bill requires an owner-operator to transact business only under the legal name under which it is registered. The use of a fictitious name is allowed if the fictitious name has been registered with the Department of State and disclosed to the OFR as part the owner-operator’s registration or application (including any supplemental information) before its use.

An owner operator must maintain clearly documented policies, processes, and procedures with regard to the manner in which the blockchain analytics activity integrates into their compliance controls, and must use blockchain analytics to prevent transfers to wallet addresses linked to known criminal activity.

Section 9 creates s. 560.506, F.S., relating to penalties. The bill provides an owner-operator that violates the disclosure requirements under **Section 7** of the bill commits a felony of the third

degree as punishable under ss. 775.082, 775.083, and 775.084, F.S.⁴⁴ The bill also provides each of the following violations constitutes a second degree misdemeanor:⁴⁵

- Operating under any name other than that designated in the registration, unless written notification is given to the OFR;
- Assigning or attempting to assign a virtual currency kiosk business registration issued; and
- Operating a virtual currency kiosk without the use of the required blockchain analytics.

In addition to the criminal penalties provided, a court may invalidate the registration of any registrant under this part who has been found guilty of such prohibited conduct.

Section 10 provides that except as otherwise provided, the bill is effective January 1, 2025.

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:

Article VII, section 19, of the Florida Constitution requires that a new state tax or fee, as well as an increased state tax or fee, must be approved by two-thirds of the membership of each house of the Legislature and must be contained in a separate bill that contains no other subject. Article VII, section 19(d)(1), of the Florida Constitution defines “fee” to

⁴⁴ A third degree felony is punishable by up to five years imprisonment and up to a \$5,000 fine. Under s. 775.084, violent career criminals, habitual felony offenders, habitual violent felony offenders or three-time felony offenders, the court may sentence such third degree felony offenders to five to 10 years, not exceeding 15 years, imprisonment.

⁴⁵ A second degree misdemeanor is punishable by up to 60 days imprisonment and up to a \$500 fine. Sections 775.082 and 775.083, F.S.

mean “any charge or payment required by law, including any fee for services, fee or cost for licenses, and charge for service.

The bill requires virtual currency kiosk businesses to be licensed as a money services business under Part II of ch. 560, F.S. An initial registration application, and subsequent renewal application, must be filed for those seeking to register as a virtual currency kiosk business. The underlying bill does not expressly state the cost for registration or renewing; however, it would appear a fee for registration is implied.

SB 1182 is the companion fee bill related to SB 662. SB 1182 establishes a nonrefundable fee for initial registration in accordance with s. 560.143(1)(b), F.S., but does not address registration renewal application costs. The fee for licensure under s. 560.143(1)(b), F.S., is \$188. Applicants for registration as virtual currency kiosk businesses could be subject to the fees proscribed under ch. 560, F.S.; therefore, the constitutional requirements related to new or increased taxes or fees could apply should SB 1182 be implemented.

B. Private Sector Impact:

The Office of Financial Regulation (OFR) reports there would be de minimis costs to businesses and consumers to implement the provisions of the bill. The bill requires virtual currency kiosk businesses to use blockchain analytics software to prohibit transactions to addresses that are linked to criminal activity, but there are free versions of the required software that can be utilized.⁴⁶ In addition, should an application fee be required for registration as a virtual currently kiosk business, applicants would be required to pay a nonrefundable registration and renewal fees.

C. Government Sector Impact:

The bill has a minimal impact to state revenues and expenditures. The OFR reports the fiscal cost for rulemaking, and the fiscal impact to update the OFR’s technology (e.g. the OFR’s Regulatory Enforcement and Licensing (REAL) system and website), would be minimal and can be absorbed within current resources.⁴⁷

The bill creates a new third degree felony for violation of s. 560.04, F.S., which is punishable by up to five years in prison. The Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any, of legislation, has met and determined that the bill has a positive indeterminate prison bed impact (an unquantifiable increase in prison beds) on the Department of Corrections.⁴⁸ The CJIC provides the following additional information regarding its estimate: There are currently 26 known owner-operators for virtual currency kiosks in Florida.⁴⁹ There is potentially a

⁴⁶ The OFR Sunrise Act Responses.

⁴⁷ 2024 OFR Agency Analysis for SB 662 at p. 8.

⁴⁸ Office of Economic and Demographic Research, *Criminal Justice Impact Conference Preliminary Estimate Narrative Analysis for SB 662* (Feb. 5, 2024).

⁴⁹ *Id.*

larger unknown quantity. In Fiscal Year 2022-2023, the incarceration rate for a Level 1, third degree felony was 9.5 percent.⁵⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

The underlying bill does not address costs associated with a virtual currency kiosk business registration application or renewal application. Section 560.143, F.S., outlines, in part, application and renewal fees associated with Part II and Part III of ch. 560, F.S., Money Services Businesses. SB 1182, the companion fee bill related to SB 662, requires applicants for a virtual currency kiosk business to submit a nonrefundable application fee in accordance with s. 560.143(1)(b), F.S.

If it is the intent of the bill to require a fee associated with registration and renewal, s. 560.143, F.S., relating to fees, may need to be amended to include registration and renewal fees related to the new Part V, Virtual Currency Kiosk Businesses, or contemplated in the companion fee bill.

VIII. Statutes Affected:

This bill substantially amends sections 560.103 and 560.105 of the Florida Statutes.

This bill creates the following sections of the Florida Statutes: 560.501, 560.502, 560.503, 560.504, 560.505, and 560.506.

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 22, 2024:

The committee substitute:

- Provides the Office of Financial Regulation (OFR) supervisory powers and rulemaking authority over virtual currency kiosk businesses;
- Provides an effective date of March 1, 2025 for registration requirements, and amends the method with which the OFR must notify an applicant whether its registration has been approved or denied;
- Deletes the provision that requires virtual currency kiosk businesses who are currently operating in Florida to register within 30 days of the bill's effective date;
- Amends the registration application requirements to:
 - Require an attestation with respect to blockchain analytics;
 - Remove the application fee;

⁵⁰ *Id.*

- Modify the timeframe to provide supplemental information from 30 days to within a time prescribed by rule;
- Require virtual currency kiosk businesses operating in Florida on or before January 1, 2025 to submit a registration application within 30 days; and
- Requires the OFR to determine whether an application for a renewal registration will be approved or denied within a time period prescribed by rule.
- Expands the grounds for which the OFR must deny an application to include when a control person has pled guilty or nolo contendere to specified crimes;
- Clarifies that the disclosure and attestation requirements, conduct of business, and penalties apply to owner-operators, which includes money services businesses rather than only virtual currency kiosk businesses, except for limited provisions with respect to an attestation requirement;
- Removes the requirement to attest whether the customer is younger than 60 years of age;
- Requires an owner-operator to develop and use policies, processes, and procedures to prevent transfers to wallet addresses that are linked to criminal activity, and makes the failure to do so a second degree misdemeanor; and
- Amends and creates a new definition; makes technical changes.

B. Amendments:

None.

By the Committee on Banking and Insurance; and Senator Burton

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1 A bill to be entitled
 2 An act relating to virtual currency kiosk businesses;
 3 amending s. 560.103, F.S.; defining terms and revising
 4 the definition of the term "control person"; amending
 5 s. 560.105, F.S.; requiring the Office of Financial
 6 Regulation of the Financial Services Commission to
 7 supervise virtual currency kiosk businesses;
 8 authorizing the commission to adopt rules; creating
 9 part V of ch. 560, F.S., entitled "Virtual Currency
 10 Kiosk Businesses"; creating s. 560.501, F.S.;
 11 providing legislative intent; creating s. 560.502,
 12 F.S.; prohibiting a virtual currency kiosk business
 13 from operating without registering or renewing its
 14 registration in accordance with certain provisions;
 15 requiring the office to make certain notifications;
 16 requiring certain entities to be licensed as money
 17 services businesses; providing criminal penalties for
 18 certain entities that operate or solicit business as a
 19 virtual currency kiosk business under certain
 20 circumstances; providing criminal penalties for
 21 persons who register or attempt to register as a
 22 virtual currency kiosk business by certain means;
 23 providing that a virtual currency kiosk business
 24 registration is not transferable or assignable;
 25 creating s. 560.503, F.S.; specifying application
 26 requirements for registering as a virtual currency
 27 kiosk business; requiring certain virtual currency
 28 kiosk businesses to submit an application within a
 29 specified timeframe; requiring a registrant to report

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

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30 certain changes in information within a specified
 31 timeframe; requiring a registrant to renew its
 32 registration at a specified timeframe; specifying
 33 requirements for a registrant to renew its
 34 registration; requiring that the registration of a
 35 virtual currency kiosk business be made inactive if
 36 such business does not renew its registration by a
 37 certain date; specifying requirements for a virtual
 38 currency kiosk business to renew its registration
 39 after becoming inactive; providing that a registration
 40 becomes null and void under certain circumstances;
 41 providing requirements if a registration becomes null
 42 and void; requiring the office to deny certain
 43 applications under certain circumstances; requiring
 44 that certain applications be denied under certain
 45 circumstances; providing that certain false statements
 46 made by the virtual currency kiosk business render its
 47 registration void; authorizing the commission to adopt
 48 rules; creating s. 560.504, F.S.; specifying
 49 requirements for specified disclosures and
 50 attestations displayed by the virtual currency kiosk;
 51 authorizing the commission to adopt rules; creating s.
 52 560.505, F.S.; requiring an owner-operator to transact
 53 business under its legal name; providing exceptions;
 54 requiring an owner-operator to maintain certain
 55 policies, processes, and procedures; creating s.
 56 506.506, F.S.; providing criminal penalties for
 57 violations of certain provisions or performing certain
 58 acts; authorizing a court to invalidate the

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registration of a registrant under certain
circumstances; providing effective dates.

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

Section 1. Present subsections (4) through (28) and (29)
through (36) of section 560.103, Florida Statutes, are
redesignated as subsections (5) through (29) and (31) through
(38), respectively, new subsections (4) and (30) and subsections
(39) through (42) are added to that section, and present
subsection (10) of that section is amended, to read:

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

(4) “Blockchain analytics” refers to the process of
examining, monitoring, and gathering insights from the data and
transaction patterns on a blockchain network. The primary aim of
blockchain analytics is to understand and monitor the network’s
health, track transaction flows, and identify potential security
threats, including illicit activity, to extract actionable
insights.

~~(11)-(10)~~ “Control person” means, with respect to a money
services business or virtual currency kiosk business, any of the
following:

(a) A person who holds the title of president, treasurer,
chief executive officer, chief financial officer, chief
operations officer, chief legal officer, or compliance officer
for a money services business or virtual currency kiosk
business.

(b) A person who holds any of the officer, general partner,
manager, or managing member positions named in the money

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services business’s or virtual currency kiosk business’s
governing documents. As used in this paragraph, the term
“governing documents” includes bylaws, articles of incorporation
or organization, partnership agreements, shareholder agreements,
and management or operating agreements.

(c) A director of the money services business’s or virtual
currency kiosk business’s board of directors.

(d) A shareholder in whose name shares are registered in
the records of a corporation for profit, whether incorporated
under the laws of this state or organized under the laws of any
other jurisdiction and existing in that legal form, who owns 25
percent or more of a class of the company’s equity securities.

(e) A general partner or a limited partner, as those terms
are defined in s. 620.1102, who has a 25 percent or more
transferable interest, as defined in s. 620.1102, of a limited
partnership, limited liability limited partnership, foreign
limited partnership, or foreign limited liability limited
partnership, as those terms are defined in s. 620.1102.

(f) A member, who is a person that owns a membership
interest in a limited liability company or a foreign limited
liability company, as those terms are defined in s. 605.0102(36)
and (26), respectively, that holds a 25 percent or more
membership interest in such company. As used in this subsection,
the term “membership interest” means a member’s right to receive
distributions or other rights, such as voting rights or
management rights, under the articles of organization.

(g) A natural person who indirectly owns 25 percent or more
of the shares or stock interest, transferable interest as
defined in s. 620.1102, or membership interest as defined in

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paragraph (f), of any legal entities referred to in paragraphs (d)-(f).

(30) "Owner-operator" means a registrant or a licensed money services business.

(39) "Virtual currency kiosk" means an electronic terminal that acts as a mechanical agent of the owner-operator, enabling the owner-operator to facilitate the exchange of virtual currency for fiat currency or other virtual currency for a customer.

(40) "Virtual currency kiosk business" or "registrant" means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which operates a virtual currency kiosk and which is not a money transmitter as defined in this section.

(41) "Virtual currency kiosk transaction" means the process in which a customer uses a virtual currency kiosk to exchange virtual currency for fiat currency or other virtual currency. A transaction begins at the point at which the customer is able to initiate a transaction after the customer is given the option to select the type of transaction or account, and does not include any of the screens that display the required terms and conditions, disclaimers, or attestations.

(42) "Wallet" means hardware or software that enables customers to store and use virtual currency.

Section 2. Paragraph (a) of subsection (1) and paragraph (b) of subsection (2) of section 560.105, Florida Statutes, are amended to read:

560.105 Supervisory powers; rulemaking.—

(1) The office shall:

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(a) Supervise all money services businesses and their authorized vendors and virtual currency kiosk businesses.

(2) The commission may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this chapter.

(b) Rules adopted to regulate money services businesses, including deferred presentment providers and virtual currency kiosk businesses, must be responsive to changes in economic conditions, technology, and industry practices.

Section 3. Part V of chapter 560, Florida Statutes, consisting of ss. 560.501-560.506, Florida Statutes, is created and entitled "Virtual Currency Kiosk Businesses."

Section 4. Section 560.501, Florida Statutes, is created to read:

560.501 Legislative intent.—The Legislature intends to reduce unlawful and fraudulent activities by requiring virtual currency kiosk businesses to register with the state and by requiring such businesses and money transmitter licensees to regularly and consistently disclose to all customers of virtual currency kiosks certain specified risks relating to virtual currency kiosk transactions.

Section 5. Effective March 1, 2025, section 560.502, Florida Statutes, is created to read:

560.502 Registration required; exemptions; penalties.—

(1) A virtual currency kiosk business in this state may not operate without first registering, or renewing its registration, in accordance with s. 560.503. The office shall give written notice, in person or by mail, to each applicant that the agency has granted or denied the application for registration.

(2) A money transmitter licensed as a money services

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business pursuant to s. 560.141 is exempt from registration as a virtual currency kiosk business but is subject to ss. 560.504, 560.505, and 560.506.

(3) An entity, in the course of its business, may not act as an intermediary with the ability to unilaterally execute or indefinitely prevent a virtual currency kiosk transaction, or otherwise meet the definition of a money transmitter as defined in s. 560.103, without being licensed as a money services business pursuant to part II of this chapter.

(4) Unless licensed as a money services business pursuant to part II of this chapter, an entity that operates or solicits business as a virtual currency kiosk business without first being registered with the office or without maintaining its registration commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) A person who registers or attempts to register as a virtual currency kiosk business by means of fraud, misrepresentation, or concealment commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) A virtual currency kiosk business registration issued under this part is not transferable or assignable.

Section 6. Section 560.503, Florida Statutes, is created to read:

560.503 Registration applications.—

(1) To apply to be registered as a virtual currency kiosk business under this part, the applicant must submit all of the following to the office:

(a) A completed registration application on forms

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prescribed by rule of the commission, which must include the following information:

1. The legal name, including any fictitious or trade names used by the applicant in the conduct of its business, and the physical and mailing address of the applicant.

2. The date of the applicant's formation and the state in which the applicant was formed, if applicable.

3. The name, social security number, alien identification or taxpayer identification number, business and residence addresses, and employment history for the past 5 years for each person who meets the definition of a control person.

4. A description of the organizational structure of the applicant, including the identity of any parent or subsidiary of the applicant, and the disclosure of whether any parent or subsidiary is publicly traded.

5. The name of the registered agent in this state for service of process.

6. The physical address of the location of each virtual currency kiosk through which the applicant proposes to conduct or is conducting business in this state.

7. An attestation that the applicant has developed clearly documented policies, processes, and procedures regarding the use of blockchain analytics to prevent transfers to wallet addresses linked to known criminal activity, including the manner in which such blockchain analytics activity will integrate into its compliance controls, and that the applicant will maintain and comply with such blockchain analytics policies, processes, and procedures.

8. Any other information as required by this chapter or

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233 commission rule.

234 (b) Any information needed to resolve any deficiencies
 235 found in the application within a time period prescribed by
 236 rule.

237 (2) A virtual currency kiosk business operating in this
 238 state on or before January 1, 2025, must submit a registration
 239 application to the office within 30 days after that date.

240 (3) A registrant shall report, on a form prescribed by rule
 241 of the commission, any change in the information contained in an
 242 initial application form or an amendment thereto within 30 days
 243 after the change is effective.

244 (4) A registrant must renew its registration annually on or
 245 before December 31 of the year preceding the expiration date of
 246 the registration. To renew such registration, the registrant
 247 must submit a renewal application that provides:

248 (a) The information required in paragraph (1)(a) if there
 249 are changes in the application information, or an affidavit
 250 signed by the registrant that the information remains the same
 251 as the prior year.

252 (b) Upon request by the office, evidence that the
 253 registrant has been operating in compliance with ss. 560.504 and
 254 560.505. Such evidence may be prescribed by rule by the
 255 commission and may include, but is not limited to, all of the
 256 following:

257 1. Current disclosures presented to customers during the
 258 transaction process.

259 2. Current use of blockchain analytics to prevent transfers
 260 to wallet addresses linked to known criminal activity.

261 (5) The registration of a virtual currency kiosk business

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262 that does not renew its registration by December 31 of the year
 263 of expiration must be made inactive for 60 days. A virtual
 264 currency kiosk business may not conduct business while its
 265 registration is inactive.

266 (6) Within 60 days after the registration becomes inactive
 267 pursuant to subsection (5), a virtual currency kiosk business
 268 must renew its registration by submitting all of the following:

269 (a) The information required in paragraph (1)(a) if there
 270 are changes in the application information, or an affidavit
 271 signed by the registrant that the information remains the same
 272 as the prior year.

273 (b) Evidence that the registrant was operating in
 274 compliance with ss. 560.504 and 560.505. Such evidence may be
 275 prescribed by rule by the commission and may include, but is not
 276 limited to, all of the following:

277 1. Current disclosures presented to customers during the
 278 transaction process.

279 2. Current use of blockchain analytics to prevent transfers
 280 to wallet addresses linked to known criminal activity.

281
 282 Any renewal registration made pursuant to this subsection
 283 becomes effective upon the date the office approves the
 284 application for registration. The office shall approve the
 285 renewal registration within a time period prescribed by rule.

286 (7) Failure to submit an application to renew the virtual
 287 currency kiosk business's registration within 60 days after the
 288 registration becomes inactive pursuant to subsection (5) shall
 289 result in the registration becoming null and void. If the
 290 registration is null and void, a new application to register the

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virtual currency kiosk business pursuant to subsection (1) must be submitted to the office and a certification of registration must be issued by the office before the virtual currency kiosk business may conduct business in this state.

(8) If a control person of a registrant or prospective registrant has engaged in any unlawful business practice, or been convicted or found guilty of, or pled guilty or nolo contendere to, regardless of adjudication, a crime involving dishonest dealing, fraud, acts of moral turpitude, or other acts that reflect an inability to engage lawfully in the business of a registered virtual currency kiosk business, the office must deny the prospective registrant's initial registration application or the registrant's renewal application.

(9) A virtual currency kiosk business that submits a renewal application and fails to provide evidence of compliance upon request pursuant to paragraph (4)(b) or as required in paragraph (6)(b) shall have its application denied by the office.

(10) Any false statement made by a virtual currency kiosk business with respect to the name of the business or its business address or location in any application for registration under this section renders the registration void. A void registration may not be construed as creating a defense to any prosecution for violation of this chapter.

(11) The commission may adopt rules to administer this section.

Section 7. Section 560.504, Florida Statutes, is created to read:

560.504 Disclosures.—

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(1) Disclosures or attestations required by this section and displayed by a virtual currency kiosk must meet all of the following requirements:

(a) Be full and complete.

(b) Contain no material misrepresentations.

(c) Be readily understandable and in the language in which the virtual currency kiosk transaction is conducted.

(d) Be displayed in at least 14-point type.

(2) Before authorizing a customer to initiate a virtual currency kiosk transaction, the owner-operator shall ensure that the virtual currency kiosk displays the disclosures in this section on two separate screens:

(a) The first disclosure must be in substantially the following form:

WARNING: CONSUMER FRAUD OFTEN STARTS WITH CONTACT FROM A STRANGER WHO IS INITIATING A DISHONEST SCHEME.

I UNDERSTAND THAT DISHONEST SCHEMES MAY APPEAR IN MANY FORMS, INCLUDING, BUT NOT LIMITED TO:

1. Claims of a frozen bank account or credit card.

2. Fraudulent bank transactions.

3. Claims of identity theft or job offerings in exchange for payments.

4. Requests for payments to government agencies or companies.

5. Requests for disaster relief donations or loans.

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349 6. Offers to purchase tickets for lotteries,
 350 sweepstakes, or drawings for vehicles.

351 7. Prompts to click on desktop pop-ups, such as
 352 virus warnings or communication from alleged familiar
 353 merchants.

354 8. Communication from someone impersonating a
 355 representative of your bank or a law enforcement
 356 officer.

357 9. Requests from persons who are impersonating
 358 relatives or friends in need or promoting investment
 359 or romance scams.

360
 361 PROTECT YOURSELF FROM FRAUD. NEVER SEND MONEY TO
 362 SOMEONE YOU DON'T KNOW.

363
 364 (b) The second disclosure must be in substantially the
 365 following form:

366
 367 WARNING: FUNDS LOST DUE TO USER ERROR OR FRAUD MAY NOT
 368 BE RECOVERABLE. TRANSACTIONS CONDUCTED ON THIS VIRTUAL
 369 CURRENCY KIOSK ARE IRREVERSIBLE. I UNDERSTAND THESE
 370 RISKS AND WISH TO CONTINUE WITH CONDUCTING MY VIRTUAL
 371 CURRENCY KIOSK TRANSACTION.

372
 373 PROTECT YOURSELF FROM FRAUD. NEVER SEND MONEY TO
 374 SOMEONE YOU DON'T KNOW.

375
 376 (3) (a) After the disclosures provided in subsection (2) are
 377 acknowledged by the customer, the virtual currency kiosk

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378 business shall ensure that the virtual currency kiosk displays
 379 on a pop-up window the following question to the customer: "ARE
 380 YOU USING THIS KIOSK TO SEND VIRTUAL CURRENCY TO A WALLET OWNED
 381 BY SOMEONE ELSE?"

382 (b) The virtual currency kiosk business shall require the
 383 customer to respond to the question in paragraph (a) with a "no"
 384 response before the customer can proceed to the attestation
 385 required in subsection (4).

386 (c) The virtual currency kiosk business shall ensure that
 387 the virtual currency kiosk terminates a customer's virtual
 388 currency kiosk transaction if the customer provides a "yes"
 389 response to the question in paragraph (a).

390 (4) After the disclosure provided in subsection (2) and,
 391 with respect to virtual currency kiosk businesses, an answer of
 392 "no" to the question provided in paragraph (3) (a), the owner-
 393 operator must ensure that the virtual currency kiosk displays,
 394 on a screen by itself, a toll-free number for the customer to
 395 contact regarding the risk of engaging in virtual currency
 396 transactions and the following attestation in substantially the
 397 following form:

398
 399 I ATTEST THAT I HAVE BEEN GIVEN A TOLL-FREE NUMBER AND
 400 THAT I HAVE HAD AN OPPORTUNITY TO CALL THE NUMBER TO
 401 SPEAK WITH SOMEONE REGARDING THE RISKS OF ENGAGING IN
 402 VIRTUAL CURRENCY KIOSK TRANSACTIONS. I FURTHER ATTEST
 403 THAT I UNDERSTAND THAT I MAY BE SOLELY RESPONSIBLE FOR
 404 LOSS OF FUNDS DUE TO USER ERROR OR FRAUD.

405
 406 (a) If a customer makes the attestation in this subsection,

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the virtual currency kiosk may allow the customer to proceed with the virtual currency kiosk transaction.

(b) If the customer does not make the attestation in this subsection, the owner-operator must ensure that the virtual currency kiosk terminates the customer's virtual currency kiosk transaction.

(5) The commission may adopt rules to administer this section and to ensure that virtual currency kiosk disclosures are responsive to consumer fraud and emerging technology.

Section 8. Section 560.505, Florida Statutes, is created to read:

560.505 Conduct of business.-

(1) An owner-operator may transact business under this part only under the legal name by which such business is registered. The use of a fictitious name is allowed if the fictitious name has been registered with the Department of State and disclosed to the office as part of an initial registration or license application, or subsequent amendment to the application, before its use.

(2) An owner-operator must maintain clearly documented policies, processes, and procedures with regard to the manner in which the blockchain analytics activity integrates into their compliance controls. An owner-operator must use blockchain analytics to prevent transfers to wallet addresses linked to known criminal activity.

Section 9. Section 560.506, Florida Statutes, is created to read:

560.506 Penalties.-

(1) An owner-operator of a virtual currency kiosk which

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violates s. 560.504 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Each of the following violations constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083:

(a) Operating a virtual currency kiosk under any name other than that designated in the registration, unless written notification is given to the office.

(b) Assigning or attempting to assign a virtual currency kiosk business registration issued under this part.

(c) Operating a virtual currency kiosk without the use of blockchain analytics as required under s. 560.505.

(3) In addition to the criminal penalties provided for under this section, a court may invalidate the registration of any registrant under this part who has been found guilty of conduct prohibited in subsection (1) or subsection (2).

Section 10. Except as otherwise expressly provided in this act, this act shall take effect January 1, 2025.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

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

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR COLLEEN BURTON

12th District

January 22, 2024

The Honorable Jason Brodeur
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Chair Brodeur,

I respectfully request SB 662 – Virtual Currency Kiosk Businesses be placed on your Appropriations Committee on Agriculture, Environment, and General Government agenda at your earliest convenience.

Thank you for your consideration.

Regards,

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

Colleen Burton
State Senator, District 12

CC: Giovanni Betta, Staff Director
Julie Brass, Committee Administrative Assistant

REPLY TO:

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

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

CS/SB 662 – Virtual Currency Kiosk Businesses

This bill creates multiple statutes. It creates s. 560.03, F.S., stating the requirements “to apply to be registered as a virtual currency kiosk business...” and also creates s. 560.02, F.S., stating that “a virtual currency kiosk business in this state may not operate without first registering, or renewing its registration, in accordance with s. 560.503, F.S.” Furthermore, an **unranked, 3rd degree felony (Level 1 by default)** is added for when, “unless licensed as a money services business pursuant to part II of this chapter, an entity...operates or solicits business as a virtual currency kiosk business without first being registered with the office or without maintaining its registration.” An additional **unranked, 3rd degree felony (Level 1 by default)** is created for “a person who registers or attempts to register as a virtual currency kiosk business by means of fraud, misrepresentation, or concealment.”

This bill also creates s. 560.04, F.S., stating the “disclosures or attestations required...” to be “displayed by a virtual currency kiosk.” It also creates s. 560.06, F.S., adding an **unranked, 3rd degree felony (Level 1 by default)** for when “an owner-operator of a virtual currency kiosk...violates s. 560.504, F.S.” It also adds a **2nd degree misdemeanor** for other violations, including “operating a virtual currency kiosk under any name other than that designated in the registration, unless written notification is given to the office...assigning or attempting to assign a virtual currency kiosk business registration issued...” and “...operating a virtual currency kiosk without using the required blockchain analytics.”

Per Office of Financial Regulation, there are currently 26 known owner-operators for kiosks in the state of Florida, but there is potentially a larger number not known to them, which this bill is seeking to resolve. With that understanding, it is not known what the pool of potential offenders will be once this statutory language goes into effect.

In FY 22-23, the incarceration rate for a Level 1, 3rd degree felony was 9.5%.

EDR PROPOSED ESTIMATE: Positive Indeterminate

Requested by: Senate

02/13/2024

Meeting Date

Appr. Agricultura, Envirom & GG

Committee

The Florida Senate

APPEARANCE RECORD

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SB 0662

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Edda " Ivonne" Fernandez**

Phone **954-850-7262**

Address **215 S. Monroe Street- Suite 603**
Street

Email **ifernandez@aarp.org**

Tallahassee **FL** **32301**
City State Zip

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

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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 Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/SB 808

INTRODUCER: Criminal Justice Committee and Senator DiCeglie and others

SUBJECT: Treatment by a Medical Specialist

DATE: February 12, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wyant	Stokes	CJ	Fav/CS
2.	Sanders	Betta	AEG	Favorable
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 808 amends s. 112.18, F.S., to authorize firefighters, law enforcement officers, correctional officers, and correctional probation officers to receive medical treatment for a compensable presumptive condition by his or her selected medical specialist.

The bill requires written notice of the selection of a medical specialist to be given to his or her workers' compensation carrier, self-insured employer, or third-party administrator before he or she begins treatment, except in emergency situations. The bill creates an exception applicable to the usual provider selection process provided under the workers' compensation law.

The bill requires the workers' compensation carrier, self-insured employer, or third-party administrator to authorize the selected medical specialist or authorize an alternative medical specialist with the same or greater qualifications within five business days after receipt of written notice and schedule the appointment for treatment to be held within 30 days after receipt of written notice. If after five business days, the carrier has not authorized an alternative medical specialist, the selected medical specialist is authorized. The continuing care and treatment must be reasonable, necessary, and related to tuberculosis, heart disease, or hypertension.

Treatment by a medical specialist must be reimbursed at no more than 200 percent of the Medicare rate; and be authorized by the firefighter's or office workers' compensation carrier, self-insured employer, or third-party administrator.

The bill defines “medical specialist” to mean a physician licensed under chs. 458 or 459, F.S., who has board certification in a medical specialty inclusive of care and treatment of tuberculosis, heart disease, or hypertension.

The bill has an indeterminate fiscal impact to local and state government. *See* Section V. Fiscal Impact Statement.

The bill is effective October 1, 2024.

II. Present Situation:

Medical Treatment for Compensable Presumptive Conditions

Section 112.18, F.S., provides that for any condition or impairment of any Florida state, municipal, county, port authority, special tax district, or fire control district firefighter,¹ or any law enforcement officer,² correctional officer,³ or correctional probation officer,⁴ caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death is to be presumed to have been accidental and to have been suffered in the line of duty unless the contrary can be shown by competent evidence. Any such firefighter or officer must have successfully passed a pre-employment physical exam, which failed to reveal any evidence of any such condition.

Employing fire service providers are required to maintain pre-employment physical examinations for at least five years after the employee’s separation from the employing provider. If the employing fire service provider fails to maintain the records, it is presumed the employee has met the requirements.⁵

¹ “Firefighter” means an individual employed as a full-time firefighter or full-time, Florida-certified fire investigator within the fire department or public safety department of an employer whose primary responsibilities are the prevention and extinguishing of fires; the protection of life and property; and the enforcement of municipal, county, and state fire prevention codes and laws pertaining to the prevention and control of fires; or the investigation of fires and explosives.

Section 112.1816(1)(c), F.S.

² “Law enforcement officer” means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The term includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. The term also includes a special officer employed by a Class I, Class II, or Class III railroad pursuant to s. 354.01, F.S. Section 943.10(1), F.S.

³ “Correctional officer” means any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution, not including any secretarial, clerical, or professionally trained personnel. Section 943.10(2), F.S.

⁴ “Correctional probation officer” means a person who is employed full time by the state whose primary responsibility is the supervised custody, surveillance, and control of assigned inmates, probationers, parolees, or community controlees within institutions of the Department of Corrections or within the community. Section 943.10(3), F.S.

⁵ Section 112.18(1)(b)2., F.S.

Pre-employment Physical Examinations

A person applying for certification as a firefighter must be in good physical condition as determined by a medical examination.⁶ Section 943.13(6), F.S., states a law enforcement officer, correctional officer, or correctional probation officer must have passed a physical examination by a licensed physician, physician assistant, or licensed advanced practice registered nurse. In order to be eligible for the presumption applied in s. 112.18, F.S., the officer must have successfully passed the physical examination which failed to reveal any evidence of tuberculosis, heart disease, or hypertension.

Eligibility for Workers' Compensation Presumption

In a disputed workers' compensation determination, the legal presumption does not apply if a law enforcement, correctional, or correctional probation officer:

- Departed from the course of treatment prescribed by his or her physician, resulting in a significant aggravation of the disease or disability or need for medical treatment; or
- Was previously compensated for the disabling disease and departed from the treatment prescribed by his or her physician, resulting in disability or increasing the disability or need for medical treatment.⁷

To be eligible for workers' compensation benefits, a law enforcement officer, correctional officer, or correctional probation officer must make a claim for benefits prior to or within 180 days of leaving the employment or the employing agency.⁸

Firefighters are not subject to the exclusion for prior treatment or compensation and they are not covered by the claim-filing deadline that allows a law enforcement officer, correctional officer, or correctional probation officer to file a claim up to 180 days after leaving the employment.

Thus, a firefighter suffering from tuberculosis, heart disease, or hypertension must advise his or her employer of the injury within 90 days of the initial manifestation of the disease or 90 days after the firefighter obtains a medical opinion that the injury (occupational disease) is due to the nature of the firefighter's employment.⁹

Workers' Compensation

Florida's Workers' Compensation laws¹⁰ require employers to provide injured employees all medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery may require.¹¹ The Department of Financial Services (DFS) provides regulatory oversight of Florida's workers' compensation system, including the workers' compensation health care delivery system. The law specifies certain reimbursement formulas and

⁶ Section 633.412(5), F.S.

⁷ Section 112.18(1)(b)1., F.S.

⁸ Section 112.18(1)(b)4., F.S.

⁹ Sections 440.151(6) and 440.185(1), F.S.

¹⁰ Chapter 440, F.S.

¹¹ Section 440.13(2)(a), F.S.

methodologies to compensate workers' compensation health care providers¹² that provide medical services to injured employees. Where a reimbursement amount or methodology is not specifically included in statute, the Three-Member Panel is authorized to annually adopt statewide schedules of maximum reimbursement allowances (MRAs) to provide uniform fee schedules for the reimbursement of various medical services.¹³

In 2023, ch. 2023-144, Laws of Florida, eliminated the authority of the Three-Member Panel (panel) to adopt MRA's for individually licensed health care providers, work-hardening programs, pain programs, and durable medical equipment providers.¹⁴ Instead, it mandates the DFS to annually publish the maximum reimbursement allowance for physician and non-hospital reimbursements on its website by July 1st, effective the following January 1st.¹⁵ The DFS incorporates the statewide schedules of the MRAs through rulemaking.

Reimbursement for Healthcare Providers

In establishing the MRA manuals, the panel considers the usual and customary levels of reimbursement for similar treatment, services, and care;¹⁶ the cost impact to employers for providing reimbursement that ensures that injured workers have access to necessary medical care; and the financial impact of the MRAs on healthcare providers and facilities.¹⁷ Florida law requires the panel to develop MRA manuals that are reasonable, promote the workers' compensation system's healthcare cost containment and efficiency, and are sufficient to ensure that medically necessary treatment is available for injured workers.¹⁸ Annually the panel must adopt schedules of MRAs for hospital inpatient care, hospital outpatient care, and ambulatory surgical centers which are reimbursed either the agreed-upon contract price or the MRA in the appropriate schedule.¹⁹ Maximum reimbursement allowances are as follows:

- Inpatient hospital care is limited based on a schedule of per diem rates approved by the panel.²⁰
- Hospital outpatient care is reimbursed at 75 percent of usual and customary charges with exceptions provided in this section.²¹
- Outpatient reimbursement for scheduled surgeries is reimbursed at 60 percent of usual and customary charges.²²
- For physicians listed under chs. 458 or 459, F.S., the maximum reimbursement must be 110 percent of the reimbursement allowed by Medicare or at the level adopted by the panel, whichever is greater.²³

¹² The term "health care provider" includes a physician or any recognized practitioner licensed to provide skilled services pursuant to a prescription or under the supervision or direction of a physician. It also includes any hospital licensed under ch. 395, F.S., and any health care institution licensed under chs. 400 or 429, F.S. Section 440.13(1)(g), F.S.

¹³ Section 440.13(12), F.S.

¹⁴ Chapter 2023-144, L.O.F.

¹⁵ *Id.*

¹⁶ Section 440.13(12)(i)1., F.S.

¹⁷ Section 440.13(12)(i)2., F.S.

¹⁸ Section 440.13(12)(i)3., F.S.

¹⁹ Section 440.13(12)(a), F.S.

²⁰ *Id.*

²¹ *Id.*

²² Section 440.13(12)(d), F.S.

²³ Section 440.13(12)(f), F.S.

- For surgical procedures, the maximum reimbursement must be 140 percent of the reimbursement allowed by Medicare or the level adopted by the panel, whichever is greater.²⁴
- For prescription medication, the reimbursement must be the average wholesale price plus a \$4.18 dispensing fee.²⁵ Repackaged or relabeled prescription medication dispensed by a dispensing practitioner has a maximum reimbursement of 112.5 percent of the average wholesale price plus an \$8.00 dispensing fee.²⁶

Reimbursement for all fees and other charges for such treatment, care, and attendance, including treatment, care, and attendance provided by any hospital or other health care provider, ambulatory surgical center, work-hardening program, or pain program, must not exceed the amounts provided by the schedule of MRAs as determined by the panel or as otherwise provided.²⁷

III. Effect of Proposed Changes:

The bill amends s. 112.18, F.S., to authorize firefighters, law enforcement officers, correctional officers, and correctional probation officers to receive medical treatment for a compensable presumptive condition by his or her selected medical specialist.

The bill defines “medical specialist” as a physician licensed under chs. 458²⁸ or 459, F.S.,²⁹ who has board certification in a medical specialty inclusive of care and treatment of tuberculosis, heart disease, or hypertension.

The bill requires written notice of the selection of a medical specialist to be given to his or her workers’ compensation carrier, self-insured employer, or third-party administrator before he or she begins treatment, except in emergency situations. The bill creates an exception applicable to the usual provider selection process provided under the workers’ compensation law.

The bill requires the workers’ compensation carrier, self-insured employer, or third-party administrator to authorize the selected medical specialist or authorize an alternative medical specialist with the same or greater qualifications within five business days after receipt of written notice and schedule the appointment for treatment to be held within 30 days after receipt of written notice. The continuing care and treatment must be reasonable, necessary, and related to tuberculosis, heart disease, or hypertension.

Treatment by a medical specialist must be reimbursed at no more than 200 percent of the Medicare rate.

²⁴ Section 440.13(12)(g), F.S.

²⁵ Section 440.13(12)(h), F.S.

²⁶ *Id.*

²⁷ Section 440.13(12)(i), F.S.

²⁸ Section 458.305(4), F.S., defines “physician” as someone who is licensed to diagnose, treat, operate, or prescribe for any human disease, pain, injury, deformity, or other physical or mental condition.

²⁹ Section 459.003(4), F.S., defines “osteopathic physician” as a person who is licensed to diagnose, treat, operate, or prescribe for any human disease, pain, injury, deformity, or other physical or mental condition, which practice is based in part upon educational standards and requirements which emphasize the importance of the musculoskeletal structure and manipulative therapy in the maintenance and restoration of health.

The bill is effective October 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because the bill requires county/municipality governments that employ firefighters, law enforcement officers, correctional officers, or correctional probation officers to fund additional expenses related to such employees accessing specialist care for presumed conditions at a rate higher than currently applicable workers' compensation rates; however, an exception may apply. The bill applies to all similarly situated persons, i.e., every county/municipality government that employs such individuals, in addition to the state, which also employs such individuals.

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:

While providers may have less incentive to offer substantial discounts to carriers, possibly resulting in higher costs to the carriers and which may be passed through to local and state governments, authorized medical specialist providers may receive increased fees for treatment of presumed conditions as provided in the bill.

C. Government Sector Impact:

The bill has an indeterminate yet potentially negative impact on state revenues and expenses, specifically the Department of Financial Services' State Risk Management Trust Fund.

The state, as well as local governments, may experience an increase in workers' compensation claims costs related to a firefighter, law enforcement officer, correctional officer or correctional probation officer's ability to seek specialist treatment of presumed conditions. In addition, state and local governments may experience escalated expenses due to the increase in the maximum reimbursement rate of no more than 200 percent of the Medicare rate.

The number of firefighters, law enforcement officers, correctional officers or correctional probation officers who may seek specialist treatment for presumed conditions is unknown; however, should such workers' compensation claims be higher than anticipated, it may adversely impact state and local government workload, necessitating the need for additional staff.

The bill does not impact the state employee group health plan managed by the Division of State Group Health Insurance within the Department of Management Services.³⁰

VI. Technical Deficiencies:

Lines 53-55 of the bill requires the treatment by a medical specialist "be reasonable, necessary, and related to tuberculosis, heart disease, or hypertension..." However, the standard in the Workers' Compensation Law, in s. 440.13(2)(a), F.S., requires the following:

Subject to the limitations specified elsewhere in this chapter, the employer shall furnish to the employee such medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery may require, which is in accordance with established practice parameters and protocols of treatment as provided for in this chapter, including medicines, medical supplies, durable medical equipment, orthoses, prostheses, and other medically necessary apparatus. Remedial treatment, care, and attendance, including work-hardening programs or pain-management programs accredited by an accrediting organization whose standards incorporate comparable regulations required by this state or pain-management program affiliated with medical schools, shall be considered covered treatment only when such care is given based on a referral by a physician as defined in this chapter.

For consistency, a reference to this section as to the standard of care, rather than creating a different standard, would clarify the medical's specialist's duty.

³⁰ Telephone call from Jake Holmgreen, Deputy Director of Legislative Affairs, Department of Management Services, to Niki Davis, Legislative Analyst, Senate Committee on Agriculture, Environment, and General Government (Feb. 1, 2024).

Lines 55-56 relates to specialists providing specified care to a firefighter or officer and provides for compensation at 200 percent of the Medicare rate. The bill does not specifically address whether compensation is specifically applicable to only specialists utilized under authorization by the workers' compensation carrier, self-insured employer, or third party administrator or is applicable to all specialists providing care, including non-authorized specialists.

Lines 59-63 define the term, "medical specialist," and reference a requirement that the specialist have board certification inclusive of care and treatment of specified conditions. However, it does not specify what entity would issue such a certification to a physician licensed under ch. 458 or ch. 459, F.S. A reference to s. 458.33212 and s. 459.0152, F.S., respectively, relating to specialties, would clarify this issue.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 112.18 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 Criminal Justice on January 23, 2024:

The committee substitute:

- Requires notice of the selected medical specialist to be written.
- Allows a carrier to authorize an alternative medical specialist with the same or greater qualifications as the selected medical specialist.
- Requires the specialist to be authorized within five business days after receipt of written notice.
- Requires an appointment to be held within 30 days after receipt of written notice.
- Authorizes a selected medical specialist within five days if the carrier fails to authorize an alternative medical specialist.
- Allows for continuing care and treatment.
- Clarifies that the bill creates an exception applicable to the usual provider selection process provided under the workers' compensation law.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senators DiCeglie,
Stewart, Osgood, Powell, and Polsky

591-02395-24

2024808c1

A bill to be entitled

An act relating to treatment by a medical specialist;
amending s. 112.18, F.S.; authorizing firefighters,
law enforcement officers, correctional officers, and
correctional probation officers to receive medical
treatment by a medical specialist for certain
conditions under certain circumstances; requiring
firefighters, law enforcement officers, correctional
officers, and correctional probation officers to
notify certain entities of their selection of a
medical specialist; providing requirements for the
firefighter's or officer's workers' compensation
carrier, self-insured employer, or third-party
administrator; requiring that the continuing care and
treatment by a medical specialist be reasonable,
necessary, and related to the firefighter's or
officer's condition and authorized by the workers'
compensation carrier, self-insured employer, or third-
party administrator; specifying a reimbursement
percentage for such treatment; defining the term
"medical specialist"; providing an effective date.

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

Section 1. Subsection (3) is added to section 112.18,
Florida Statutes, to read:

112.18 Firefighters and law enforcement or correctional
officers; special provisions relative to disability.-

(3)(a) Notwithstanding s. 440.13(2)(c), a firefighter, law

Page 1 of 3

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

591-02395-24

2024808c1

enforcement officer, correctional officer, or correctional
probation officer requiring medical treatment for a compensable
presumptive condition listed in subsection (1) may be treated by
a medical specialist. Except in emergency situations, a
firefighter, law enforcement officer, correctional officer, or
correctional probation officer entitled to access a medical
specialist under this subsection must provide written notice of
his or her selection of a medical specialist to the
firefighter's or officer's workers' compensation carrier, self-
insured employer, or third-party administrator, and the carrier,
self-insured employer, or third-party administrator must
authorize the selected medical specialist or authorize an
alternative medical specialist with the same or greater
qualifications. Within 5 business days after receipt of the
written notice, the workers' compensation carrier, self-insured
employer, or third-party administrator must authorize treatment
and schedule an appointment, which must be held within 30 days
after receipt of the written notice, with the selected medical
specialist or the alternative medical specialist. If the
workers' compensation carrier, self-insured employer, or third-
party administrator fails to authorize an alternative medical
specialist within 5 business days after receipt of the written
notice, the medical specialist selected by the firefighter or
officer is authorized. The continuing care and treatment by a
medical specialist must be reasonable, necessary, and related to
tuberculosis, heart disease, or hypertension; be reimbursed at
no more than 200 percent of the Medicare rate; and be authorized
by the firefighter's or officer's workers' compensation carrier,
self-insured employer, or third-party administrator.

Page 2 of 3

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

591-02395-24

2024808c1

59 (b) For purposes of this subsection, the term "medical
60 specialist" means a physician licensed under chapter 458 or
61 chapter 459 who has board certification in a medical specialty
62 inclusive of care and treatment of tuberculosis, heart disease,
63 or hypertension.

64 Section 2. This act shall take effect October 1, 2024.



THE FLORIDA SENATE
SENATOR NICK DICEGLIE
District 18

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

February 7, 2024

Dear Chair Brodeur,

I respectfully request that **SB 808: Treatment by a Medical Specialist** be placed on the agenda of the Committee on Appropriations Committee on Agriculture, Environment, and General Government at your earliest convenience. If my office can be of any assistance to the committee please do not hesitate to contact me at DiCeglie.Nick@flsenate.gov or (850) 487-5018. Thank you for your consideration.

Sincerely,

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

Nick DiCeglie

State Senator, District 18

Proudly Serving Pinellas County

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

The Florida Senate

APPEARANCE RECORD

2/13/24

Meeting Date

808

Bill Number or Topic

Approps Ag, Enviro, Gen Gov
Committee

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Amendment Barcode (if applicable)

Name Rocco Salvatori

Phone 850-224-7333

Address 343 W Madison St
Street

Email rocco@fpfp.org

Tallahassee
City

FL
State

32301
Zip

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

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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 Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/CS/SB 892

INTRODUCER: Appropriations Committee on Agriculture, Environment, and General Government and Banking and Insurance Committee and Senator Harrell

SUBJECT: Dental Insurance Claims

DATE: February 15, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Fav/CS
2.	Sanders	Betta	AEG	Fav/CS
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 892 revises provisions within the Florida Insurance Code relating to covered dental services, contractual agreements, and dental claims payments by an insurer, prepaid limited health service organization (PLHSO), or a health maintenance organization (HMO). The bill provides the following changes:

- Revises the definition of covered services, and as a result, if an insurer, HMO, or PLHSO denies service due to a contractual limitation (maximum benefits paid prior to the end of the plan year), then the procedure would be considered a non-covered service and the dentist would not be subject to the negotiated rate, and may charge patient a higher rate;
- Prohibits a contract between a dentist and a health insurer, HMO or PLHSO from limiting the method of claim payments for dental services to credit card payments only;
- Requires a health insurer, PLHSO, or HMO to disclose in writing to a dentist any fees associated with an electronic funds transfer (EFT) and alternative payment methods before the insurer, HMO or PLHSO pays a dentist via EFT;
- Requires a health insurer, PLHSO, or HMO to receive written consent from a dentist prior to employing claim payment through EFT. Clarifies the EFT includes, but is not limited to virtual credit card payment;
- Prohibits an insurer, HMO or PLHSO that pays a claim to a dentist through Automatic Clearing House (ACH) from charging a fee solely to transmit the payment unless the dentist has consented to the fee; and

- Limits circumstances in which an insurer, HMO, or PLHSO may deny the payment of a claim if the procedure was previously authorized by an insurer, HMO, or PLHSO prior to the dentist rendering the service. These circumstances include:
 - Benefit limitations being reached subsequent to the issuance of the prior authorization;
 - Inadequate documentation submitted by a dentist to support the originally authorized procedures and claim;
 - Changes in the insured's condition or new procedures are provided to the insured subsequent to the issuance of the prior authorization;
 - The denial of the dental service claim was due another payor being responsible for payment or the dentist has already been paid for the procedures identified in the claim; and
 - The person receiving the procedure was not eligible to receive the procedure on the date of service and the insurer, HMO, or PLHSO did not know of the ineligibility.

The bill has an indeterminate, likely insignificant impact to state revenues and expenditures. *See* Section V., Fiscal Impact Statement.

II. Present Situation:

State Regulation of Insurance

The Office of Insurance Regulation (OIR),¹ is responsible for all activities concerning insurers and other risk bearing entities, including licensing, rates, policy forms, market conduct, claims, issuance of certificates of authority, solvency, viatical settlements, premium financing, and administrative supervision, as provided under the Florida Insurance Code.² To transact business in Florida, a health insurer or health maintenance organization (HMO) must obtain a certificate of authority from the OIR.³ The Agency for Health Care Administration (AHCA) regulates the quality of care provided by HMOs under part III of ch. 641, F.S. Prior to receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from the Agency.⁴ As part of the certification process used by the Agency, an HMO must provide information to demonstrate that the HMO has the ability to provide quality of care consistent with the prevailing standards of care.⁵

Dental insurance in Florida operates within a regulatory framework overseen by state agencies such as the OIR and the Florida Department of Financial Services (DFS). These agencies ensure that dental insurance plans comply with state laws and regulations to protect consumers and ensure fair practices within the industry.

¹ The OIR is a unit under the Financial Services Commission, which is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. Commission members serve as the agency head for purposes of rulemaking under ch. 120, F.S. *See* s. 20.121(3), F.S.

² Section 20.121(3)(a), F.S.

³ Sections 624.401 and 641.49, F.S.

⁴ Section 641.495, F.S.

⁵ *Id.*

The Agency for Healthcare Administration (AHCA)

The AHCA is the chief health policy and planning entity for the state.⁶ The AHCA is responsible for health facilities licensure, inspection, and regulatory enforcement; investigation of consumer complaints related to health care facilities and managed care plans; the implementation of the Certificate of Need program; the operation of the Florida Center for Health Information and Policy Analysis; the administration of the Medicaid program; the administration of the contracts with the Florida Healthy Kids Corporation; the certification of health maintenance organizations and prepaid health clinics; and other duties prescribed by statute or agreement.⁷ The head of AHCA is the Secretary, who is appointed by the Governor, subject to confirmation by the Senate.⁸

Dentists and the Oversight of Dental Practices in Florida

A dentist is licensed to examine, diagnose, treat, and care for conditions within the human oral cavity and its adjacent tissues and structures.⁹ Dentists may delegate certain tasks¹⁰ to dental hygienists and dental assistants, but a patient's "dentist of record" retains primary responsibility for all dental treatment on the patient.¹¹

The Board of Dentistry within the Department of Health (DOH) is the state's regulatory board for the practice of dentistry, dental hygienists, and dental assistants under the Dental Practice Act.¹² A dentist is licensed to examine, diagnose, treat, and care for conditions within the human oral cavity and its adjacent tissues and structures.¹³

Any person wishing to practice dentistry in this state must meet specified requirements and apply to the DOH for licensure. Applicants must sit for and pass three examinations prior to licensure:¹⁴

- The National Board of Dental Examiners dental examination (NBDE);
- A practical examination, which is the American Dental Licensing Examination developed by the American Board of Dental Examiners, Inc.;¹⁵ and
- A written examination on Florida laws and rules regulating the practice of dentistry and dental hygiene.

To qualify to take the Florida dental licensure examination, an applicant must be 18 years of age or older, be a graduate of a dental school accredited by the American Dental Association (ADA)

⁶ Agency for Healthcare Administration (AHCA), *About the Agency for Health Care Administration*, <https://ahca.myflorida.com/about-the-agency-for-health-care-administration> (last visited Feb. 8, 2024)

⁷ *Id.*

⁸ *Id.*

⁹ Section 466.003(2)-(3), F.S.

¹⁰ Section 466.024, F.S.

¹¹ Section 466.018, F.S.

¹² Section 466.004, F.S.

¹³ Section 466.003(3), F.S.

¹⁴ Section 466.006, F.S.

¹⁵ Rule 64B5-2.013, F.A.C.

or be a student in the final year of a program at an accredited institution, and have successfully completed the NBDE dental examination.¹⁶

Dentists must maintain professional liability insurance or provide proof of professional responsibility. If the dentist obtains professional liability insurance, the coverage must be at least \$100,000 per claim, with a minimum annual aggregate of at least \$300,000.¹⁷ Alternatively, a dentist may maintain an unexpired, irrevocable letter of credit in the amount of \$100,000 per claim, with a minimum aggregate availability of credit of at least \$300,000.¹⁸ The professional liability insurance must provide coverage for the actions of any dental hygienist supervised by the dentist.¹⁹ However, a dentist may be exempt from maintaining professional liability insurance if he or she:²⁰

- Practices exclusively for the federal government or the State of Florida or its agencies or subdivisions;
- Is not practicing in this state;
- Practices only in conjunction with his or her teaching duties at an accredited school of dentistry or in its main teaching hospitals; or
- Demonstrates to the Board that he or she has no malpractice exposure in this state.

There are currently 17,161 dentists with active licenses to practice in Florida.²¹ There are 40 out-of-state registered telehealth dentists²² and 43 dentists who hold temporary certificates to practice dentistry in a state or government facility in Florida.²³

Health and Dental Insurance

Section 624.603, F.S., defines health insurance, also known as disability insurance, as the “insurance of human beings against bodily injury, disablement, or death by accident or accidental means, or the expense thereof, or against disablement or expense resulting from sickness, and every insurance appertaining thereto. Florida law expressly excludes workers’ compensation coverage, except as provided in s. 624.406(4), F.S., from the definition of health insurance.²⁴ Health insurance can protect consumers’ assets and pays medical expenses.²⁵ When selecting health insurance, consumers can choose between a:

- Traditional health insurance policy, where he or she select a health care provider, pay for services when rendered, and submit the bill to the insurance provider for reimbursement of the portion agreed to pay under the policy terms. In some instances, the health care provider will submit the bill directly to the insurer and await payment; or

¹⁶ Section 466.006(2), F.S.

¹⁷ Rule 64B5-17.011(1), F.A.C.

¹⁸ Rule 64B5-17.011(2), F.A.C.

¹⁹ Rule 64B5-17.011(4), F.A.C.

²⁰ Rule 64B5-17.011(3), F.A.C.

²¹ Department of Health, *License Verification*, available at <https://mqa-internet.doh.state.fl.us/MQASearchServices/HealthCareProviders> (last visited Feb. 9, 2024).

²² *Id.*

²³ *Id.*

²⁴ Section 624.603, F.S.

²⁵ Florida Department of Financial Services, *Health Insurance and Health Maintenance Organizations, A Guide for Consumers*, https://www.myfloridacfo.com/docs-sf/consumer-services-libraries/consumerservices-documents/understanding-coverage/consumer-guides/health-insurance-guide.pdf?sfvrsn=5546b2b_2 (last visited Feb. 8, 2024).

- Managed care system, which combines the delivery and financing of health care services. Under a managed care system, a consumer's choice of doctors and hospitals are often limited; out of pocket payments for medical care and services are often less; and health care services are controlled by the managed care network.²⁶

Health maintenance organizations (HMOs), preferred provider organizations (PPOs), Exclusive Provider Organizations (EPOs), and point-of-service plans (POS) are types of managed care.²⁷ In Florida, health care services programs are governed by ch. 641, F.S.²⁸

Dental insurance is a contract with an insurance company which provides benefits that can help lower the cost of dental treatment.²⁹ Similar to health insurance, dental insurance, in exchange for a premium paid, generally lowers the out of pocket expense associated with dental visits. Dental insurance generally covers preventive, basic and major categories. Preventive care is often covered 100 percent by dental insurance; basic care is generally covered at 80 percent; and major care is often covered at 50 percent.³⁰ In some instances, dental insurance does not cover cosmetic procedures, orthodontic treatments, or pre-existing conditions.³¹ Under a dental insurance plan, HMOs and PPOs work much like their health insurance counterparts.³² Dental HMO plans typically cost less than other dental insurance plans; offer lower monthly premiums; less out of pocket costs; and limit providers to dentists and specialists in the HMO network.³³ Dental PPO plans generally are more expensive than a HMO; offer a higher monthly premium; out of pocket expenses are higher; and, the consumer is able to choose dentist and specialists in and out of network.³⁴

Health Maintenance Organizations

Health Maintenance Organizations (HMOs) in Florida operate within a regulatory framework overseen by OIR. To offer health insurance plans in Florida, HMOs must obtain a license from the OIR.³⁵ Managed care plans are the primary offerings of HMOs in Florida. These plans provide comprehensive healthcare services to members for a fixed monthly premium.³⁶ Members typically select a primary care physician from within the HMO's network, who serves as the main point of contact for all healthcare needs and referrals to specialists.³⁷

²⁶ *Id.*

²⁷ *Id.*

²⁸ Section 641.18, F.S., provides legislative intent with regards to health care coverage in Florida: "Faced with the continuation of mounting costs of health care, coupled with the state's interest in high-quality care, the Legislature has determined that there is a need to explore alternative methods for the delivery of health care services, with a view toward achieving greater efficiency and economy in providing these services."

²⁹ Humana, Dental Insurance, Dental FAQs, *How does dental insurance work*, <https://www.humana.com/dental-insurance/dental-resources/how-does-dental-insurance-work> (last visited Feb. 8, 2024).

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ Section 641.21(1), F.S.

³⁶ Medicare, Medicare Health Plans, Your Health Plan Options, Health Maintenance Organizations (HMOs), *What's an HMO?* <https://www.medicare.gov/health-drug-plans/health-plans/your-coverage-options/HMO> (last visited Feb. 8, 2024).

³⁷ *Id.*

Oversight of HMO Contracts with Dentists

A contract between an HMO and a dentist licensed under chapter 466, F.S., for the provision of services to a subscriber of the HMO may not contain a provision that requires the dentist to provide services to the subscriber of the health maintenance organization at a fee set by the health maintenance organization unless such services are covered services under the applicable contract.³⁸ The term “covered services” means dental care services for which a reimbursement is available under the subscriber's contract, or for which a reimbursement would be available but for the application of contractual limitations such as deductibles, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation.³⁹

Prepaid Limited Health Service Organizations

Pursuant to Part I of ch. 636, F.S., the OIR regulates PLHSOs. A PLHSO is any entity which, in return for a prepayment, provides limited health services to enrollees through an exclusive panel of providers.⁴⁰ Prepaid limited health service organization does not include:

- An entity otherwise authorized pursuant to the laws of this state to indemnify for any limited health service;
- A provider or entity when providing limited health services pursuant to a contract with a prepaid limited health service organization, an HMO, a health insurer, or a self-insurance plan; or
- Any person who is licensed pursuant to part II of ch. 636, F.S., as a discount plan organization.⁴¹

A PLHSO provides the following limited health services:

- Ambulance services;
- Dental care services;
- Vision care services;
- Mental health services;
- Substance abuse services;
- Chiropractic services;
- Podiatric care services; and pharmaceutical services.⁴²

Oversight of Prepaid Limited Health Service Organizations

The PLHSO arrangements or contracts with providers PLHSOs are governed by s. 636.035, F.S. A contract between a PLHSO and a dentist licensed under ch. 466, F.S., for the provision of services to a subscriber of the PHLSO, may not contain a provision that requires the dentist to provide services to the subscriber of the prepaid limited health service organization at a fee set by the PLHSO unless such services are covered services under the applicable contract. As used in subsection (7), the term “covered services” means dental care services for which a reimbursement is available under the subscriber's contract, or for which a reimbursement would

³⁸ Section 641.315(11), F.S.

³⁹ *Id.*

⁴⁰ Section 636.003(7), F.S.

⁴¹ *Id.*

⁴² Section 636.003(5), F.S.

be available but for the application of contractual limitations such as deductibles, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation.

Statutory Cost Containment Requirements

Insurers or HMOs use many cost containment and utilization review strategies to manage medical and drug spending and patient safety. For example, insurers or HMOs may place utilization management requirements on the use of certain medical treatments or drugs on their formulary.

Section 627.4234, F.S., requires a health insurance policy or health care services plan, which provides medical, hospital, or surgical expense coverage delivered or issued for delivery in this state to contain one or more of the following procedures or provisions to contain health insurance costs or mitigate cost increases:

- Coinsurance;
- Deductible amounts;
- Utilization review;
- Audits of provider bills to verify that services and supplies billed were furnished and that proper charges were made;
- Scheduled benefits;
- Benefits for preadmission testing; and
- Any lawful measure or combination of measures for which the insurer provides to the office information demonstrating that the measure or combination of measures is reasonably expected to have an effect toward containing health insurance costs or cost increases.

Denial of Claims

Coverage for medical services can be denied before or after the service has been provided, through denial of preauthorization requests, through denial of claims for payment, or a retroactive denial of payment. As a condition for coverage of some services, providers or insureds are required to request authorization prior to the provision of the procedure. The full claim or certain lines of the claim may be denied, such as a surgery with charges for multiple procedures and supplies.

There are many possible reasons for claim denials.⁴³ Claims may be denied due to an incorrect diagnosis code, incomplete claim submission, or the submission of a duplicate claim. Eligibility issues can cause claims to be denied. For example, a claim may be submitted for a service provided prior to an individual's effective date of coverage or after it has been terminated. Finally, claim denials can occur when a determination is made that the service provided was not covered or it was not medically necessary. Denied claims⁴⁴ may be appealed.

⁴³ KFF (a/k/a Kaiser Family Foundation), Private Insurance, *Claims Denials and Appeals in ACA Marketplace Plans in 2021* (Feb. 9, 2023), <https://www.kff.org/private-insurance/issue-brief/claims-denials-and-appeals-in-aca-marketplace-plans/> (last visited Feb. 8, 2024).

⁴⁴ U.S. Department of Health and Human Services, HealthCare.gov, Health Insurance Marketplace, *Appealing a health plan decision*, <https://www.healthcare.gov/appeal-insurance-company-decision/> (last visited Feb. 8, 2024).

After an insurer or HMO pays a claim, the insurer or HMO may conduct a claims audit to verify claims were paid appropriately and accurately. Such an audit can be triggered by a variety of reasons.⁴⁵ Some of these situations include new billing guidelines have been established by regulators; the provider has made significant changes to the original bill, such as the diagnosis of the patient; the plan is notified that the enrollee's coverage is terminated due to non-payment of premiums; or the plan is notified that the enrollee has other health insurance coverage. After the audit, an insurer or HMO may retrospectively deny a claim for a preauthorized service and try to recoup the payment from the provider. Reasons for the retroactive denial may include fraud, submission of incomplete or inaccurate information; nonpayment of premiums; exhaustion of benefits; coordination of benefits; or if the individual was not enrolled or eligible for coverage at the time services were rendered.⁴⁶ As a result, an insurer or HMO may try to recoup payment from a provider by retroactively denying a previously paid claim.

Group Health Plans Retroactive Termination of Coverage

Retroactive termination of insurance coverage to an earlier date due to an employee's discharge is an increasing problem for some providers and consumers. Some plans may allow an employer to cancel coverage of an employee retroactively more than 90 days post termination. Other plans will accept retroactive terminations for up to the preceding three months, if the plan has not paid any claims for the insurer or HMO during that period. If claims have been paid within the previous 60 days, the coverage termination date may be established as of the end of the month in which services were rendered.

When a provider is notified of a retroactive termination, the provider may have already verified that the insured or subscriber was covered, rendered services in reliance and expectation of payment, and even received payment. Retroactive terminations often result in the provider or the consumer bearing the loss, despite the verified eligibility.

Federal Subsidized Individual Policies or Contracts and Grace Periods

The federal Patient Protection and Affordable Care Act (PPACA)⁴⁷ guarantees access to coverage and mandates certain essential health benefits, including pediatric dental coverage,⁴⁸ and other requirements. To address affordability issues, federal premium tax credits and cost-sharing subsidies are available to assist eligible low and moderate-income individuals to purchase qualified health plans (QHPs) on a state or federal exchange (exchange).⁴⁹ For plan

⁴⁵ LW Consulting, Inc., *10 Factors that Could Trigger an Audit of Your Medical Records*, <https://lw-consult.com/10-factors-that-could-trigger-an-audit-of-your-medical-records/> (last visited Feb. 8, 2024).

⁴⁶ Health First Health Plans, *Provider Directory* (July 19, 2022), https://hf.org/sites/default/files/2022-09/hfhp_indiv_directory.pdf (last visited Feb. 8, 2024).

⁴⁷ *The Patient Protection and Affordable Care Act* (PPACA) (Pub. Law No. 111–148) was enacted on March 23, 2010, available at <https://www.govinfo.gov/content/pkg/PLAW-111publ148/pdf/PLAW-111publ148.pdf> (last visited Feb. 8, 2024). The Health Care and Education Reconciliation Act of 2010 (Pub. Law No. 111–152), which amended several provisions of the PPACA, was enacted on March 30, 2010, available at <https://www.govinfo.gov/content/pkg/PLAW-111publ152/pdf/PLAW-111publ152.pdf> (last visited Feb. 8, 2024).

⁴⁸ Dental coverage is an essential health benefit for children under age 18, and must be available for a child either as part of a health plan or as a separate dental plan. See U.S. Department of Health and Human Services, HealthCare.gov, *Health benefits & coverage, Dental Coverage in the Marketplace*, <https://www.healthcare.gov/coverage/dental-coverage/> (last visited Feb. 8, 2024).

⁴⁹ In general, individuals and families may be eligible for the premium tax credit if their household income for the year is at least 100 percent but no more than 400 percent of the federal poverty line for their family size. See Internal Revenue Service,

year 2024, Florida enrollees accounted for about 20 percent (4,211,902 individuals) of the 21.2 million total individuals) enrolled through the state and federal exchanges.⁵⁰ For plan year 2023, approximately 3,108,149 Floridians enrolled, and about 97 percent received tax credits.⁵¹

Under PPACA, insurers and HMOs must provide a grace period⁵² of at least three consecutive months⁵³ before cancelling the policy or contract of a federally subsidized enrollee who is delinquent if the enrollee previously paid one-month's premium. During the grace period, the insurer or HMO must pay all appropriate claims for services provided during the first month of the grace period. For the second and third months, an insurer may pend claims. Insurers or HMOs must notify providers that may be affected that an enrollee has lapsed in his or her payment of premiums and there is a possibility the insurer or HMO may deny the payment of claims incurred during the second and third months.⁵⁴

If the insured or subscriber resolves all outstanding premium payments by the end of the grace period, then the pended claims would be paid as appropriate. If not, the claims for the second and third month would be denied. If coverage is terminated, the termination date is the last day of the first month of the grace period and the insurer may not recoup any payment for claims made during the first month of the grace period. At the end of grace period, the provider may seek payment for the medical services the insurer denied for months two and three. According to a 2014 survey, 48 percent of the providers not participating with any PPACA exchange products cited concerns about assuming financial liability during the grace period as a reason for their decision.⁵⁵

According to the OIR, there are plans on the exchange that offer dental coverage for either an adult or child or both embedded in a policy or contract. There are plans on the exchange that offer standalone dental coverage, and such coverage may vary by county. Typically, insurers and HMOs submit rate filings for policies or contracts in June and finalize such filings by August for the following calendar plan year.⁵⁶

Questions and Answers on the Premium Tax Credit, <https://www.irs.gov/affordable-care-act/individuals-and-families/questions-and-answers-on-the-premium-tax-credit> (last visited Feb. 8, 2024).

⁵⁰ U.S. Centers for Medicare and Medicaid Services, *Marketplace 2024 Open Enrollment Period Report: Final National Snapshot* (Jan. 24, 2024), <https://www.cms.gov/newsroom/fact-sheets/marketplace-2024-open-enrollment-period-report-final-national-snapshot> (last visited Feb. 8, 2024).

⁵¹ U.S. Centers for Medicare and Medicaid Services, *Effectuated Enrollment: Early 2023 Snapshot and Full Year 2022 Average* (March 2023), <https://www.cms.gov/files/document/early-2023-and-full-year-2022-effectuated-enrollment-report.pdf> (last visited Feb. 8, 2024).

⁵² Example of grace period: Premium is not paid in May. Premium payments are made in June and July. Grace period would end July 31. Coverage would be cancelled retroactively to the last day of May. See U.S. Centers for Medicare and Medicaid Services, *How to apply & enroll, Premium payments, grace periods, & losing coverage*, <https://www.healthcare.gov/apply-and-enroll/health-insurance-grace-period/> (last visited Feb. 8, 2024).

⁵³ 45 C.F.R. s. 155.430.

⁵⁴ 45 C.F.R. s. 156.270.

⁵⁵ Tracy Gnadinger, Health Affairs, *Health Policy Brief: The Ninety-Day Grace Period*, (Oct. 16, 2014) available at <http://healthaffairs.org/blog/2014/10/17/health-policy-brief-the-ninety-day-grace-period/> (last viewed Feb. 8, 2024).

⁵⁶ Correspondence with Kevin Jacobs, Deputy Chief of Staff, Office of Insurance Regulation (Feb. 2, 2024). (On file with Senate Banking and Insurance Committee.)

Grace Periods for Policies or Contracts without a Federal Subsidy

The federal regulation governing grace periods for federally subsidized policies or contracts does not affect policies or contracts of individuals who are not enrolled in an exchange QHP or who are enrolled in an exchange QHP and do not receive a subsidy. The grace period for these individual policies or contracts remain at the length required under Florida law,⁵⁷ which varies by the duration of the premium payment interval. During the grace period, the policy or contract stays in force. The policy is in force during the grace period, thus the insurer or HMO must affirm that an individual is insured, even when the payment is late and remains unpaid during the grace period. If the insurer or HMO does not receive the full payment of the premium by the end of the grace period, coverage terminates as of the grace period start date and the insurer or HMO may retroactively deny any claims incurred during the grace period.

Prompt Payment of Health Insurer and HMO Claims

The Florida Insurance Code prescribes rights and responsibilities of health care providers, health insurers, and HMOs for the payment of claims. Florida's prompt payment laws govern payment of provider claims submitted to insurers and HMOs, including Medicaid managed care plans, in accordance with ss. 627.6131, 627.662, and 641.3155, F.S., respectively.⁵⁸ The law prescribes a protocol for specified providers to use for the submission of their claims to an insurer or HMO, as well as a statutory process for insurers or HMOs to use for the payment or denial of the claims.

Division of State Group Insurance

Under the authority of s. 110.123, F.S., the Department of Management Services (DMS), through the Division of State Group Insurance (DSGI), administers the state group health insurance program under a cafeteria plan consistent with s. 125, Internal Revenue Code. To administer the state group health insurance program, the DMS contracts with third party administrators for self-insured health plans and insured (HMOs), as well as a pharmacy benefits manager for the state employees' self-insured prescription drug program pursuant to s. 110.12315, F.S.

Credit/Virtual Card Payments and Fees Imposed on Dentists⁵⁹

According to the American Dental Association (ADA), dental insurance companies and third party administrators may pay dental offices with a credit or debit card instead of a traditional

⁵⁷ Sections 627.608 and 641.31(15), F.S. The grace period of an individual policy must be a minimum of seven days for weekly premium; 10 days for a monthly premium; and 31 days for all other periods. The grace period of a HMO contract must be at least 10 days. For group policies, if cancellation is due to nonpayment of premium, the insurer may not retroactively cancel the policy to a date prior to the date that notice of cancellation was provided to the policyholder unless the insurer mails notice of cancellation to the policyholder prior to 45 days after the date the premium was due. Such notice must be mailed to the policyholder's last address as shown by the records of the insurer and may provide for a retroactive date of cancellation no earlier than midnight of the date that the premium was due. *See also* Section 627.6645, F.S.

⁵⁸ The prompt pay provisions apply to HMO contracts and major medical policies offered by individual and group insurers licensed under ch. 624, F.S., including preferred provider policies and an exclusive provider organizations, and specified contracts.

⁵⁹ American Dental Association, *Credit/Virtual Card Payment* (2021), https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/resources/practice/dental-insurance/ada_credit_virtual_card_payment.pdf?rev=36fd0dc0475a41eba0446a1b1f67cbfc&hash=833CFBB660D3A5232CF8FB0F851A17A2 (last visited Feb. 8, 2024).

check. Many companies provide virtual credit card services and offer a virtual stored-value debit card program designed specifically for claims payments. Generally, the cards are delivered to the dental office either by fax or email. Then, the dental office processes the payment by entering the card number, security code, expiration date and amount.

The ADA notes virtual credit card companies may market the quicker reimbursement as a benefit for dentists to use the credit/virtual card; however, dentists may incur a higher processing fee for virtual cards than a traditional debit or credit card transaction.⁶⁰ The ADA suggests that a dental office can request to opt out of using the card and instead receive a paper check as payment for services rendered.⁶¹ The ADA suggests that a dental office may need to contact the card issuing company and not necessarily the dental plan to resolve this payment issue.⁶² The ADA noted there is a reported reluctance on these companies' customer service representatives to waive the credit/virtual card as payment, which may cause a dental office to request to speak to either a supervisor or manager within the company.⁶³

A representative of the Florida Dental Association noted that states have enacted legislation to address credit or virtual card payments.⁶⁴

III. Effect of Proposed Changes:

Credit Card Payments and Fees (Sections 1, 3, and 5)

Section 1 amends s. 627.6131, F.S., relating to claims; **Section 3** amends s. 636.032, F.S., relating to acceptable payments; and, **Section 5** amends s. 641.315, F.S., relating to provider contracts.

The bill prohibits a health insurer, health maintenance organization (HMO) or prepaid limited health service organization (PLHSO) from specifying credit card payment as the only acceptable method for payments to the dentist. The bill requires a health insurer, HMO or PLHSO to provide a written notice to the dentist and obtain written consent from the dentist before the payment of a claim to a dentist through electronic funds transfer, including but not limited to, virtual credit card payments the following information:

⁶⁰ American Dental Association, *Credit/Virtual Card Payment* (2021), https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/resources/practice/dental-insurance/ada_credit_virtual_card_payment.pdf?rev=36fd0dc0475a41eba0446a1b1f67cbfc&hash=833CFBB660D3A5232CF8FB0F851A17A2 (last visited Feb. 9, 2024).

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ Correspondence from Joe Ann Hart, (Feb. 1, 2024) (on file with Senate Banking and Insurance Committee). *See also* American Dental Association, *Dental Insurance Reform, Virtual Credit Cards, Virtual Credit Card – Claim Payment Restrictions, State Law* (2021), https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/resources/practice/dental-insurance/ada_dental_insurance_reform_virtual_credit_cards.pdf (last visited Feb. 9, 2024). *See* Dental Medical Billing, *State Laws Changing* (Sept. 15, 2022), citing South Dakota, Kentucky and Kansas as states who enacted legislation prohibiting dental benefit plans from limiting method of claim payment to virtual credit card only. Available at <https://dentalmedicalbilling.com/advice/state-laws-changing/> (last visited Feb. 9, 2024); *See supra* note 60, the American Dental Association, noted 13 states have passed legislation to address credit/virtual card payments. Those states are: Alabama, Arizona, Connecticut, Georgia, Louisiana, Maryland, Missouri, Nebraska, North Carolina, Oklahoma, Oregon, Texas, and Utah.

- The fee, if any, associated with the electronic funds transfer; and
- The available methods of payment of claims by the health insurer, HMO or PLHSO including instructions to the dentist on how to select an alternative payment.

Further, the bill:

- Prohibits a health insurer, HMO or PLHSO that pays a claim to a dentist through an Automated Clearing House (ACH) transfer to charge a fee solely to transmit the payment to the dentist unless the dentist has consented to the fee;
- Provides that these provisions may not be waived, voided, or nullified by contract;
- Authorizes the OIR to enforce these provisions pursuant to their general powers provided in s. 624.307, F.S.; and
- Authorizes the Financial Services Commission to adopt rules.

Limitations on Insurers, HMOs, or PLHSOs Denying Payment of Claims for Procedures Included in Prior Authorizations (Sections 1, 4, and 5)

Section 1 amends s. 627.6131, F.S., relating to claims; **Section 4** amends s. 636.035, F.S., relating to provider arrangements; and **Section 5** amends, s. 641.315, F.S., relating to provider contracts.

The bill prohibits an insurer, HMO or PLHSO from denying any claim subsequently submitted by a dentist for procedures that were included in a prior authorization unless at least one of the following circumstances applies for each procedure denied:

- Benefit limitations, such as annual maximums and frequency limitations not applicable at the time of the prior authorization, are reached subsequent to issuance of the prior authorization;
- The documentation provided by the person submitting the claim fails to support the claim as originally authorized;
- Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the condition of the patient occurs such that the prior authorized procedure would no longer be considered medically necessary, based on the prevailing standard of care;
- Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the patient's condition occurs such that the prior authorized procedure would at that time have required disapproval pursuant to the terms and conditions for coverage under the patient's plan in effect at the time the prior authorization was issued; and
- The denial of the claim was due to one of the following:
 - Another payor is responsible for payment;
 - The dentist has already been paid for the procedures identified in the claim;
 - The claim was submitted fraudulently, or the prior authorization was based in whole or material part on erroneous information provided to the health insurer by the dentist, patient, or other person not related to the insurer; and
 - The person receiving the procedure was not eligible to receive the procedure on the date of service and the health insurer did not know, and with the exercise of reasonable care could not have known, of his or her ineligibility.

Further, the bill provides these provisions may not be waived, voided, or nullified by contract. Furthermore, any contractual clause in conflict with these provisions or that purports to waive any requirements of these provisions is null and void. The bill authorizes the Office of Insurance Regulation (OIR) to enforce these provisions pursuant to their general powers provided in s. 624.307, F.S., and authorizes the Financial Services Commission to adopt rules.

Provider Contracts and Covered Services (Sections 2, 4, and 5)

Section 2 amends s. 627.6474, F.S., relating to provider contracts; **Section 4** amends s. 636.035, F.S., relating to provider arrangements; and **Section 5** amends, s. 641.315, F.S., relating to provider contracts.

The bill revises the definition of covered services to mean dental care services for which a reimbursement is available under the contract or agreement of the insurer, HMO or PLHSO, notwithstanding the application of contractual limitations, such as deductibles, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation. As a result, if an insured or subscriber reaches their benefit limits prior to the end of plan year, the dentist is not required to bill the insured or subscriber at the negotiated rate. The dentist may charge a higher rate.

Effective Date (Section 6)

Provides the bill is effective December 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:

To the extent the bill applies to contracts and insurance policies entered into or renewed before the effective date of July 1, 2024, the bill could impair those contracts. Article I, s. 10 of the United States Constitution prohibits state legislatures from enacting laws impairing the obligation of contracts. The severity of the impairment is a key issue when evaluating whether a state law impairs a contract. In *Exxon Corp. v Eagerton*,

462 U.S. 176 (1983), the Supreme Court suggested it would uphold legislation that imposes a generally applicable rule of conduct designed to advance a broad societal interest that only incidentally disrupts existing contractual relationships.

While Florida courts have historically strictly applied this restriction, they have exempted laws when they find there is an overriding public necessity for the state to exercise its police powers. This exception extends to laws that are “reasonable and necessary to serve an important public purpose,”⁶⁵ to include protecting the public’s health, safety or welfare. For a statute to offend the constitutional prohibition against impairment of contract, the statute must have the effect of changing substantive rights of the parties to an existing contract. Any retroactive application of a statute affecting substantive contractual rights would be constitutionally suspect. Historically, both the state and federal courts have attempted to find a rational and defensible compromise between individual rights and public welfare when laws are enacted that may impair existing contracts. The balancing process focuses on whether “the nature and extent of the impairment is constitutionally tolerable in light of the importance of the state’s objective, or whether it unreasonably intrudes into the parties’ bargain to a degree greater than is necessary to achieve that objective.”⁶⁶

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Dentists may experience savings in fees if they opt out of the payment of claims by credit cards. Further, dentists may realize additional revenues if an insurer, health maintenance organization (HMO) or prepaid limited health service organization (PLHSO) is limited in their ability to subsequently deny claims they previously authorized.

The impact on insurers, HMOs or PLHSOs is indeterminate. While the bill establishes specific criteria for claims denial and service coverage, which could improve clarity for providers, compliance may result in costs. These costs include investments in systems and staff training by insurers, PLHSOs, and HMOs to ensure compliance.

Insureds or subscribers that have exhausted their dental policy limits prior to the end of the policy or contract period may not be able to obtain additional services at the negotiated rate if the dentist chooses to use a higher rate.

Federal regulations govern the grace period and payment of claims of individuals receiving federally subsidized products on the exchange. This bill would not apply to such claims.

⁶⁵ *Searcy, Denney, Scarola, Barnhart & Shipley, Etc. v. State*, 209 So. 3d 1181 (Fla. 2017) at 1192 (quoting *Pomponio, Pomponio v. Claridge of Pompano Condominium*, 378 So. 2d 774 (Fla. 1980))

⁶⁶ *Id.*

The provisions of the bill would not apply to ERISA (Federal Employee Retirement Income Security Act of 1974)⁶⁷ self-insured plans. ERISA preempts the regulation of such plans by the state.

C. Government Sector Impact:

The bill has an indeterminate, likely insignificant impact to state revenues and expenditures. The Office of Insurance Regulation (OIR) estimates the bill could increase enforcement action which would necessitate recurring funds of \$30,000 to upgrade positions in OIR's Legal and Market Regulations offices.⁶⁸ This can be handled within existing resources.

If the provisions lead to an increase in appeals or legal challenges related to denied claims, it could necessitate additional resources for adjudication processes, potentially adding to state expenditures.

The bill does not impact the Division of State Group Insurance, as there is no expansion of services within the bill.⁶⁹ However, an increase in premium costs for state agencies who provide primary dental coverage, resulting from reimbursement requirements stipulated in the bill, could adversely affect state government expenditures.

VI. Technical Deficiencies:

The effective date of the bill is December 1, 2024. Typically, health insurers and HMOs file rates with the Office of Insurance Regulation (OIR) in June for the next calendar year and finalize the rates around August. The Division of State Group Insurance plan year is also on a calendar year basis.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 627.6131, 627.6474, 636.032, 636.035, and 641.315.

⁶⁷ 29 U.S.C. 1001 *et seq.* (1974).

⁶⁸ Office of Insurance Regulation, *Senate Bill Agency Legislative Analysis of SB 892* (Jan. 11, 2024) (on file with the Senate Committee on Agriculture, Environment, and General Government).

⁶⁹ Email from Jake Holmgreen, Deputy Legislative Affairs Director, Florida Department of Management Services to Eric Lloyd, Policy Chief, House Subcommittee on Insurance and Banking (Jan. 29, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment, and General Government).

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 Appropriations Committee on Agriculture, Environment, and General Government on February 12, 2024:

The committee substitute :

- Clarifies a health insurer, prepaid limited health service organization (PLHSO), or health maintenance organization (HMO) who uses electronic funds transfers (EFT) to pay claims, must notify the dentist of such practice and must obtain written consent from the dentist or dental practice prior to using EFT;
- Clarifies EFT includes, but is not limited to virtual credit card payments; and
- Revises the effective date to December 1, 2024.

CS by Banking and Insurance Feb. 5, 2024:

The committee substitute eliminates a provision in the bill that would authorize a health insurer, a prepaid limited health service organization or a health maintenance organization to charge a reasonable fee for other value-added services related to automatic clearing house (ACH) transfers.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (Harrell) recommended the following:

Senate Amendment (with title amendment)

Delete lines 70 - 341
and insert:

(b) When a health insurer employs the method of claims payment to a dentist through electronic funds transfer, including, but not limited to, virtual credit card payment, the health insurer shall notify the dentist as provided in this paragraph and obtain the dentist's consent in writing before employing the electronic funds transfer. The dentist's written



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consent described in this paragraph applies to the dentist's entire practice. The insurer or dentist may not require that a dentist's consent as described in this paragraph be made on a patient-by-patient basis. The notification provided by the health insurer to the dentist must include all of the following:

1. The fees, if any, associated with the electronic funds transfer.

2. The available methods of payment of claims by the health insurer, with clear instructions to the dentist on how to select an alternative payment method.

(c) A health insurer that pays a claim to a dentist through Automated Clearing House transfer may not charge a fee solely to transmit the payment to the dentist unless the dentist has consented to the fee.

(d) This subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this subsection or that purports to waive any requirements of this subsection is null and void.

(e) The office has all rights and powers to enforce this subsection as provided by s. 624.307.

(f) The commission may adopt rules to implement this subsection.

(21)(a) A health insurer may not deny any claim subsequently submitted by a dentist licensed under chapter 466 for procedures specifically included in a prior authorization unless at least one of the following circumstances applies for each procedure denied:

1. Benefit limitations, such as annual maximums and frequency limitations not applicable at the time of the prior



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authorization, are reached subsequent to issuance of the prior authorization.

2. The documentation provided by the person submitting the claim fails to support the claim as originally authorized.

3. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the condition of the patient occurs such that the prior authorized procedure would no longer be considered medically necessary, based on the prevailing standard of care.

4. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the patient's condition occurs such that the prior authorized procedure would at that time have required disapproval pursuant to the terms and conditions for coverage under the patient's plan in effect at the time the prior authorization was issued.

5. The denial of the claim was due to one of the following:

a. Another payor is responsible for payment.

b. The dentist has already been paid for the procedures identified in the claim.

c. The claim was submitted fraudulently, or the prior authorization was based in whole or material part on erroneous information provided to the health insurer by the dentist, patient, or other person not related to the insurer.

d. The person receiving the procedure was not eligible to receive the procedure on the date of service and the health insurer did not know, and with the exercise of reasonable care could not have known, of his or her ineligibility.

(b) This subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this



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subsection or that purports to waive any requirements of this
subsection is null and void.

(c) The office has all rights and powers to enforce this
subsection as provided by s. 624.307.

(d) The commission may adopt rules to implement this
subsection.

Section 2. Subsection (2) of section 627.6474, Florida
Statutes, is amended to read:

627.6474 Provider contracts.—

(2) A contract between a health insurer and a dentist
licensed under chapter 466 for the provision of services to an
insured may not contain a provision that requires the dentist to
provide services to the insured under such contract at a fee set
by the health insurer unless such services are covered services
under the applicable contract. As used in this subsection, the
term “covered services” means dental care services for which a
reimbursement is available under the insured’s contract,
~~notwithstanding or for which a reimbursement would be available~~
~~but for~~ the application of contractual limitations such as
deductibles, coinsurance, waiting periods, annual or lifetime
maximums, frequency limitations, alternative benefit payments,
or any other limitation.

Section 3. Section 636.032, Florida Statutes, is amended to
read:

636.032 Acceptable payments.—

(1) Each prepaid limited health service organization may
accept from government agencies, corporations, groups, or
individuals payments covering all or part of the cost of
contracts entered into between the prepaid limited health



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service organization and its subscribers.

(2) (a) A contract between a prepaid limited health service organization and a dentist licensed under chapter 466 for the provision of services to a subscriber may not specify credit card payment as the only acceptable method for payments from the prepaid limited health service organization to the dentist.

(b) When a prepaid limited health service organization employs the method of claims payment to a dentist through electronic funds transfer, including, but not limited to, virtual credit card payment, the prepaid limited health service organization shall notify the dentist as provided in this paragraph and obtain the dentist's consent in writing before employing the electronic funds transfer. The dentist's written consent described in this paragraph applies to the dentist's entire practice. The prepaid limited health service organization or dentist may not require that the dentist's consent as described in this paragraph be made on a patient-by-patient basis. The notification provided by the prepaid limited health service organization to the dentist must include all of the following:

1. The fees, if any, that are associated with the electronic funds transfer.

2. The available methods of payment of claims by the prepaid limited health service organization, with clear instructions to the dentist on how to select an alternative payment method.

(c) A prepaid limited health service organization that pays a claim to a dentist through Automatic Clearing House transfer may not charge a fee solely to transmit the payment to the



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dentist unless the dentist has consented to the fee.

(d) This subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this subsection or that purports to waive any requirements of this subsection is null and void.

(e) The office has all rights and powers to enforce this subsection as provided by s. 624.307.

(f) The commission may adopt rules to implement this subsection.

Section 4. Subsection (13) of section 636.035, Florida Statutes, is amended, and subsection (15) is added to that section, to read:

636.035 Provider arrangements.—

(13) A contract between a prepaid limited health service organization and a dentist licensed under chapter 466 for the provision of services to a subscriber of the prepaid limited health service organization may not contain a provision that requires the dentist to provide services to the subscriber of the prepaid limited health service organization at a fee set by the prepaid limited health service organization unless such services are covered services under the applicable contract. As used in this subsection, the term "covered services" means dental care services for which a reimbursement is available under the subscriber's contract, notwithstanding ~~or for which a reimbursement would be available but for~~ the application of contractual limitations such as deductibles, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation.



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(15) (a) A prepaid limited health service organization may not deny any claim subsequently submitted by a dentist licensed under chapter 466 for procedures specifically included in a prior authorization unless at least one of the following circumstances applies for each procedure denied:

1. Benefit limitations, such as annual maximums and frequency limitations not applicable at the time of the prior authorization, are reached subsequent to issuance of the prior authorization.

2. The documentation provided by the person submitting the claim fails to support the claim as originally authorized.

3. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the condition of the patient occurs such that the prior authorized procedure would no longer be considered medically necessary, based on the prevailing standard of care.

4. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the patient's condition occurs such that the prior authorized procedure would at that time have required disapproval pursuant to the terms and conditions for coverage under the patient's plan in effect at the time the prior authorization was issued.

5. The denial of the dental service claim was due to one of the following:

a. Another payor is responsible for payment.

b. The dentist has already been paid for the procedures identified in the claim.

c. The claim was submitted fraudulently, or the prior authorization was based in whole or material part on erroneous



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information provided to the prepaid limited health service organization by the dentist, patient, or other person not related to the organization.

d. The person receiving the procedure was not eligible to receive the procedure on the date of service and the prepaid limited health service organization did not know, and with the exercise of reasonable care could not have known, of his or her ineligibility.

(b) This subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this subsection or that purports to waive any requirements of this subsection is null and void.

(c) The office has all rights and powers to enforce this subsection as provided by s. 624.307.

(d) The commission may adopt rules to implement this subsection.

Section 5. Subsection (11) of section 641.315, Florida Statutes, is amended, and subsections (13) and (14) are added to that section, to read:

641.315 Provider contracts.—

(11) A contract between a health maintenance organization and a dentist licensed under chapter 466 for the provision of services to a subscriber of the health maintenance organization may not contain a provision that requires the dentist to provide services to the subscriber of the health maintenance organization at a fee set by the health maintenance organization unless such services are covered services under the applicable contract. As used in this subsection, the term “covered services” means dental care services for which a reimbursement



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is available under the subscriber's contract, notwithstanding ~~or~~
~~for which a reimbursement would be available but for~~ the
application of contractual limitations such as deductibles,
coinsurance, waiting periods, annual or lifetime maximums,
frequency limitations, alternative benefit payments, or any
other limitation.

(13) (a) A contract between a health maintenance
organization and a dentist licensed under chapter 466 for the
provision of services to a subscriber of the health maintenance
organization may not specify credit card payment as the only
acceptable method for payments from the health maintenance
organization to the dentist.

(b) When a health maintenance organization employs the
method of claims payment to a dentist through electronic funds
transfer, including, but not limited to, virtual credit card
payment, the health maintenance organization shall notify the
dentist as provided in this paragraph and obtain the dentist's
consent in writing before employing the electronic funds
transfer. The dentist's written consent described in this
paragraph applies to the dentist's entire practice. The health
maintenance organization or dentist may not require a dentist's
consent as described in this paragraph be made on a patient-by-
patient basis. The notification provided by the health
maintenance organization to the dentist must include all of the
following:

1. The fees, if any, that are associated with the
electronic funds transfer.

2. The available methods of payment of claims by the health
maintenance organization, with clear instructions to the dentist



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on how to select an alternative payment method.

(c) A health maintenance organization that pays a claim to a dentist through Automated Clearing House transfer may not charge a fee solely to transmit the payment to the dentist unless the dentist has consented to the fee.

(d) This subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this subsection or which purports to waive any requirements of this subsection is null and void.

(e) The office has all rights and powers to enforce this subsection as provided by s. 624.307.

(f) The commission may adopt rules to implement this subsection.

(14) (a) A health maintenance organization may not deny any claim subsequently submitted by a dentist licensed under chapter 466 for procedures specifically included in a prior authorization unless at least one of the following circumstances applies for each procedure denied:

1. Benefit limitations, such as annual maximums and frequency limitations not applicable at the time of the prior authorization, are reached subsequent to issuance of the prior authorization.

2. The documentation provided by the person submitting the claim fails to support the claim as originally authorized.

3. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the condition of the patient occurs such that the prior authorized procedure would no longer be considered medically necessary, based on the prevailing standard of care.



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272 4. Subsequent to the issuance of the prior authorization,
273 new procedures are provided to the patient or a change in the
274 patient's condition occurs such that the prior authorized
275 procedure would at that time have required disapproval pursuant
276 to the terms and conditions for coverage under the patient's
277 plan in effect at the time the prior authorization was issued.

278 5. The denial of the claim was due to one of the following:

279 a. Another payor is responsible for payment.

280 b. The dentist has already been paid for the procedures
281 identified in the claim.

282 c. The claim was submitted fraudulently, or the prior
283 authorization was based in whole or material part on erroneous
284 information provided to the health maintenance organization by
285 the dentist, patient, or other person not related to the
286 organization.

287 d. The person receiving the procedure was not eligible to
288 receive the procedure on the date of service and the health
289 maintenance organization did not know, and with the exercise of
290 reasonable care could not have known, of his or her
291 ineligibility.

292 (b) The subsection may not be waived, voided, or nullified
293 by contract, and any contractual clause in conflict with this
294 subsection or which purports to waive any requirements of this
295 subsection is null and void.

296 (c) The office has all rights and powers to enforce this
297 subsection as provided by s. 624.307.

298 (d) The commission may adopt rules to implement this
299 subsection.

300 Section 6. This act shall take effect December 1, 2024.



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

And the title is amended as follows:

Delete lines 6 - 47
and insert:

insurer to make certain notifications and obtain a
dentist's consent before paying a claim to the dentist
through electronic funds transfer; providing that the
dentist's consent applies to the dentist's entire
practice; prohibiting the insurer and dentist from
requiring consent on a patient-by-patient basis;
specifying the requirements of a certain notification;
prohibiting a health insurer from charging a fee to
transmit a payment to a dentist through Automated
Clearing House (ACH) transfer unless the dentist has
consented to such fee; providing construction;
authorizing the Office of Insurance Regulation of the
Financial Services Commission to enforce certain
provisions; authorizing the commission to adopt rules;
prohibiting a health insurer from denying claims for
procedures included in a prior authorization;
providing exceptions; providing construction;
authorizing the office to enforce certain provisions;
authorizing the commission to adopt rules; amending s.
627.6474, F.S.; revising the definition of the term
"covered services"; amending s. 636.032, F.S.;
prohibiting a contract between a prepaid limited
health service organization and a dentist from
containing certain restrictions on payment methods;



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requiring the prepaid limited health service organization to make certain notifications and obtain a dentist's consent before paying a claim to the dentist through electronic funds transfer; providing that the dentist's consent applies to the dentist's entire practice; prohibiting the limited health service organization and dentist from requiring consent on a patient-by-patient basis; specifying the requirements of a certain notification; prohibiting a prepaid limited health service organization from charging a fee to transmit a payment to a dentist through ACH transfer unless the dentist has consented to such fee; providing construction; authorizing the office to enforce certain provisions; authorizing the commission to adopt rules; amending s. 636.035, F.S.; revising the definition of the term "covered services"; prohibiting a prepaid limited health service organization from denying claims for procedures included in a prior authorization; providing exceptions; providing construction; authorizing the office to enforce certain provisions; authorizing the commission to adopt rules; amending s. 641.315, F.S.; revising the definition of the term "covered services"; prohibiting a contract between a health maintenance organization and a dentist from containing certain restrictions on payment methods; requiring the health maintenance organization to make certain notifications and obtain a dentist's consent before paying a claim to the dentist through



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359 electronic funds transfer; providing that the
360 dentist's consent applies to the dentist's entire
361 practice; prohibiting the health maintenance
362 organization and dentist from requiring consent on a
363 patient-by-patient basis; specifying the requirements
364 of a certain notification; prohibiting a health
365 maintenance

By the Committee on Banking and Insurance; and Senator Harrell

597-03028-24

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1 A bill to be entitled
 2 An act relating to dental insurance claims; amending
 3 s. 627.6131, F.S.; prohibiting a contract between a
 4 health insurer and a dentist from containing certain
 5 restrictions on payment methods; requiring a health
 6 insurer to make certain notifications before paying a
 7 claim to a dentist through electronic funds transfer;
 8 prohibiting a health insurer from charging a fee to
 9 transmit a payment to a dentist through ACH transfer
 10 unless the dentist has consented to such fee;
 11 providing construction; authorizing the Office of
 12 Insurance Regulation of the Financial Services
 13 Commission to enforce certain provisions; authorizing
 14 the commission to adopt rules; prohibiting a health
 15 insurer from denying claims for procedures included in
 16 a prior authorization; providing exceptions; providing
 17 construction; authorizing the office to enforce
 18 certain provisions; authorizing the commission to
 19 adopt rules; amending s. 627.6474, F.S.; revising the
 20 definition of the term "covered services"; amending s.
 21 636.032, F.S.; prohibiting a contract between a
 22 prepaid limited health service organization and a
 23 dentist from containing certain restrictions on
 24 payment methods; requiring the prepaid limited health
 25 service organization to make certain notifications
 26 before paying a claim to a dentist through electronic
 27 funds transfer; prohibiting a prepaid limited health
 28 service organization from charging a fee to transmit a
 29 payment to a dentist through ACH transfer unless the

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

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30 dentist has consented to such fee; providing
 31 construction; authorizing the office to enforce
 32 certain provisions; authorizing the commission to
 33 adopt rules; amending s. 636.035, F.S.; revising the
 34 definition of the term "covered services"; prohibiting
 35 a prepaid limited health service organization from
 36 denying claims for procedures included in a prior
 37 authorization; providing exceptions; providing
 38 construction; authorizing the office to enforce
 39 certain provisions; authorizing the commission to
 40 adopt rules; amending s. 641.315, F.S.; revising the
 41 definition of the term "covered service"; prohibiting
 42 a contract between a health maintenance organization
 43 and a dentist from containing certain restrictions on
 44 payment methods; requiring the health maintenance
 45 organization to make certain notifications before
 46 paying a claim to a dentist through electronic funds
 47 transfer; prohibiting a health maintenance
 48 organization from charging a fee to transmit a payment
 49 to a dentist through ACH transfer unless the dentist
 50 has consented to such fee; providing construction;
 51 authorizing the office to enforce certain provisions;
 52 authorizing the commission to adopt rules; prohibiting
 53 a health maintenance organization from denying claims
 54 for procedures included in a prior authorization;
 55 providing exceptions; providing construction;
 56 authorizing the office to enforce certain provisions;
 57 authorizing the commission to adopt rules; providing
 58 an effective date.

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

Section 1. Subsections (20) and (21) are added to section 627.6131, Florida Statutes, to read:

627.6131 Payment of claims.—

(20) (a) A contract between a health insurer and a dentist licensed under chapter 466 for the provision of services to an insured may not specify credit card payment as the only acceptable method for payments from the health insurer to the dentist.

(b) At least 10 days before a health insurer pays a claim to a dentist through electronic funds transfer, including, but not limited to, virtual credit card payments, the health insurer shall notify the dentist in writing of all of the following:

1. The fees, if any, associated with the electronic funds transfer.

2. The available methods of payment of claims by the health insurer, with clear instructions to the dentist on how to select an alternative payment method.

(c) A health insurer that pays a claim to a dentist through Automated Clearing House (ACH) transfer may not charge a fee solely to transmit the payment to the dentist unless the dentist has consented to the fee.

(d) This subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this subsection or that purports to waive any requirements of this subsection is null and void.

(e) The office has all rights and powers to enforce this

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subsection as provided by s. 624.307.

(f) The commission may adopt rules to implement this subsection.

(21) (a) A health insurer may not deny any claim subsequently submitted by a dentist licensed under chapter 466 for procedures specifically included in a prior authorization unless at least one of the following circumstances applies for each procedure denied:

1. Benefit limitations, such as annual maximums and frequency limitations not applicable at the time of the prior authorization, are reached subsequent to issuance of the prior authorization.

2. The documentation provided by the person submitting the claim fails to support the claim as originally authorized.

3. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the condition of the patient occurs such that the prior authorized procedure would no longer be considered medically necessary, based on the prevailing standard of care.

4. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the patient's condition occurs such that the prior authorized procedure would at that time have required disapproval pursuant to the terms and conditions for coverage under the patient's plan in effect at the time the prior authorization was issued.

5. The denial of the claim was due to one of the following:

a. Another payor is responsible for payment.

b. The dentist has already been paid for the procedures identified in the claim.

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c. The claim was submitted fraudulently, or the prior authorization was based in whole or material part on erroneous information provided to the health insurer by the dentist, patient, or other person not related to the insurer.

d. The person receiving the procedure was not eligible to receive the procedure on the date of service and the health insurer did not know, and with the exercise of reasonable care could not have known, of his or her ineligibility.

(b) This subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this subsection or that purports to waive any requirements of this subsection is null and void.

(c) The office has all rights and powers to enforce this subsection as provided by s. 624.307.

(d) The commission may adopt rules to implement this subsection.

Section 2. Subsection (2) of section 627.6474, Florida Statutes, is amended to read:

627.6474 Provider contracts.—

(2) A contract between a health insurer and a dentist licensed under chapter 466 for the provision of services to an insured may not contain a provision that requires the dentist to provide services to the insured under such contract at a fee set by the health insurer unless such services are covered services under the applicable contract. As used in this subsection, the term “covered services” means dental care services for which a reimbursement is available under the insured’s contract, ~~notwithstanding or for which a reimbursement would be available but for~~ the application of contractual limitations such as

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deductibles, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation.

Section 3. Section 636.032, Florida Statutes, is amended to read:

636.032 Acceptable payments.—

(1) Each prepaid limited health service organization may accept from government agencies, corporations, groups, or individuals payments covering all or part of the cost of contracts entered into between the prepaid limited health service organization and its subscribers.

(2) (a) A contract between a prepaid limited health service organization and a dentist licensed under chapter 466 for the provision of services to a subscriber may not specify credit card payment as the only acceptable method for payments from the prepaid limited health service organization to the dentist.

(b) At least 10 days before a limited health service organization pays a claim to a dentist through electronic funds transfer, including, but not limited to, virtual credit card payments, the prepaid limited health service organization shall notify the dentist in writing of all of the following:

1. The fees, if any, that are associated with the electronic funds transfer.

2. The available methods of payment of claims by the prepaid limited health service organization, with clear instructions to the dentist on how to select an alternative payment method.

(c) A prepaid limited health service organization that pays a claim to a dentist through Automatic Clearing House (ACH)

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transfer may not charge a fee solely to transmit the payment to the dentist unless the dentist has consented to the fee.

(d) This subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this subsection or that purports to waive any requirements of this subsection is null and void.

(e) The office has all rights and powers to enforce this subsection as provided by s. 624.307.

(f) The commission may adopt rules to implement this subsection.

Section 4. Subsection (13) of section 636.035, Florida Statutes, is amended, and subsection (15) is added to that section, to read:

636.035 Provider arrangements.—

(13) A contract between a prepaid limited health service organization and a dentist licensed under chapter 466 for the provision of services to a subscriber of the prepaid limited health service organization may not contain a provision that requires the dentist to provide services to the subscriber of the prepaid limited health service organization at a fee set by the prepaid limited health service organization unless such services are covered services under the applicable contract. As used in this subsection, the term "covered services" means dental care services for which a reimbursement is available under the subscriber's contract, ~~notwithstanding or for which a reimbursement would be available but for~~ the application of contractual limitations such as deductibles, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other

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limitation.

(15) (a) A prepaid limited health service organization may not deny any claim subsequently submitted by a dentist licensed under chapter 466 for procedures specifically included in a prior authorization unless at least one of the following circumstances applies for each procedure denied:

1. Benefit limitations, such as annual maximums and frequency limitations not applicable at the time of the prior authorization, are reached subsequent to issuance of the prior authorization.

2. The documentation provided by the person submitting the claim fails to support the claim as originally authorized.

3. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the condition of the patient occurs such that the prior authorized procedure would no longer be considered medically necessary, based on the prevailing standard of care.

4. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the patient's condition occurs such that the prior authorized procedure would at that time have required disapproval pursuant to the terms and conditions for coverage under the patient's plan in effect at the time the prior authorization was issued.

5. The denial of the dental service claim was due to one of the following:

a. Another payor is responsible for payment.

b. The dentist has already been paid for the procedures identified in the claim.

c. The claim was submitted fraudulently, or the prior

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authorization was based in whole or material part on erroneous information provided to the prepaid limited health service organization by the dentist, patient, or other person not related to the organization.

d. The person receiving the procedure was not eligible to receive the procedure on the date of service and the prepaid limited health service organization did not know, and with the exercise of reasonable care could not have known, of his or her ineligibility.

(b) This subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this subsection or that purports to waive any requirements of this subsection is null and void.

(c) The office has all rights and powers to enforce this subsection as provided by s. 624.307.

(d) The commission may adopt rules to implement this subsection.

Section 5. Subsection (11) of section 641.315, Florida Statutes, is amended, and subsections (13) and (14) are added to that section, to read:

641.315 Provider contracts.—

(11) A contract between a health maintenance organization and a dentist licensed under chapter 466 for the provision of services to a subscriber of the health maintenance organization may not contain a provision that requires the dentist to provide services to the subscriber of the health maintenance organization at a fee set by the health maintenance organization unless such services are covered services under the applicable contract. As used in this subsection, the term "covered

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services" means dental care services for which a reimbursement is available under the subscriber's contract, notwithstanding ~~or~~ ~~for which a reimbursement would be available but for the~~ application of contractual limitations such as deductibles, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation.

(13) (a) A contract between a health maintenance organization and a dentist licensed under chapter 466 for the provision of services to a subscriber of the health maintenance organization may not specify credit card payment as the only acceptable method for payments from the health maintenance organization to the dentist.

(b) At least 10 days before a health maintenance organization pays a claim to a dentist through electronic funds transfer, including, but not limited to, virtual credit card payments, the health maintenance organization shall notify the dentist in writing of all of the following:

1. The fees, if any, that are associated with the electronic funds transfer.

2. The available methods of payment of claims by the health maintenance organization, with clear instructions to the dentist on how to select an alternative payment method.

(c) A health maintenance organization that pays a claim to a dentist through Automated Clearing House (ACH) transfer may not charge a fee solely to transmit the payment to the dentist unless the dentist has consented to the fee.

(d) This subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this

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2024892c1

291 subsection or which purports to waive any requirements of this
 292 subsection is null and void.

293 (e) The office has all rights and powers to enforce this
 294 subsection as provided by s. 624.307.

295 (f) The commission may adopt rules to implement this
 296 subsection.

297 (14) (a) A health maintenance organization may not deny any
 298 claim subsequently submitted by a dentist licensed under chapter
 299 466 for procedures specifically included in a prior
 300 authorization unless at least one of the following circumstances
 301 applies for each procedure denied:

302 1. Benefit limitations, such as annual maximums and
 303 frequency limitations not applicable at the time of the prior
 304 authorization, are reached subsequent to issuance of the prior
 305 authorization.

306 2. The documentation provided by the person submitting the
 307 claim fails to support the claim as originally authorized.

308 3. Subsequent to the issuance of the prior authorization,
 309 new procedures are provided to the patient or a change in the
 310 condition of the patient occurs such that the prior authorized
 311 procedure would no longer be considered medically necessary,
 312 based on the prevailing standard of care.

313 4. Subsequent to the issuance of the prior authorization,
 314 new procedures are provided to the patient or a change in the
 315 patient's condition occurs such that the prior authorized
 316 procedure would at that time have required disapproval pursuant
 317 to the terms and conditions for coverage under the patient's
 318 plan in effect at the time the prior authorization was issued.

319 5. The denial of the claim was due to one of the following:

Page 11 of 12

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

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320 a. Another payor is responsible for payment.

321 b. The dentist has already been paid for the procedures
 322 identified in the claim.

323 c. The claim was submitted fraudulently, or the prior
 324 authorization was based in whole or material part on erroneous
 325 information provided to the health maintenance organization by
 326 the dentist, patient, or other person not related to the
 327 organization.

328 d. The person receiving the procedure was not eligible to
 329 receive the procedure on the date of service and the health
 330 maintenance organization did not know, and with the exercise of
 331 reasonable care could not have known, of his or her
 332 ineligibility.

333 (b) The subsection may not be waived, voided, or nullified
 334 by contract, and any contractual clause in conflict with this
 335 subsection or which purports to waive any requirements of this
 336 subsection is null and void.

337 (c) The office has all rights and powers to enforce this
 338 subsection as provided by s. 624.307.

339 (d) The commission may adopt rules to implement this
 340 subsection.

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

Page 12 of 12

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



2024 AGENCY LEGISLATIVE BILL ANALYSIS

Office of Insurance Regulation

<u>BILL INFORMATION</u>	
BILL NUMBER:	SB 892
BILL TITLE:	Dental Insurance Claims
BILL SPONSOR:	Harrell
EFFECTIVE DATE:	7/1/2024

<u>COMMITTEES OF REFERENCE</u>
1) Banking and Insurance
2) Appropriations Committee on Agriculture, Environment, and General Government
3) Fiscal Policy
4)
5)

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

<u>CURRENT COMMITTEE</u>
Banking and Insurance

<u>SIMILAR BILLS</u>	
BILL NUMBER:	
SPONSOR:	

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	HB 1219
SPONSOR:	Black

<u>Is this bill part of an agency package?</u>
No

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	January 11, 2024
LEAD AGENCY ANALYST:	Shannon Doheny
ADDITIONAL ANALYST(S):	
LEGAL ANALYST:	Kama Monroe
FISCAL ANALYST:	

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill amends several sections of the Insurance Code to provide specified requirements for claim payments made to dentists by health insurers, health maintenance organizations (HMOs), and Prepaid Limited Health Services Organizations (PLHSOs).

The effective date is July 1, 2024.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Dental benefits can be provided to insureds by an insurer, HMO, or a PLHSO. Dental insurance can be sold as group or individual insurance. The health policies are considered an ancillary benefit insurance, meaning it does not offer comprehensive coverage such as major medical policies offer. Plans can be bought both off and on the federal marketplace.

Health Maintenance Organizations do not offer stand-alone dental policies, as these policies are not considered to be comprehensive coverage. HMOs must offer comprehensive coverage under their subscriber contracts.

The current regulation of claims payments provides section 627.6131, Florida Statutes, Payment of Claims, applies to dental insurance. There is currently no similar requirement under the PLHSO statutes or HMO statutes.

There is not currently any regulation of payment methods, except as enumerated in section 627.4035(3), which permits many payment options for claim payments regarding insurance contracts. There is no similar mandate for HMOs or PLHSOs. Additionally, there is currently no mandate that an insurer, HMO or PLHSO offer multiple payment options to a provider.

The term “covered service” is defined in statutes and means a service for which reimbursement is available or for which reimbursement would be available but for the application of contractual limitations such as deductibles, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments or any other limitation.

2. EFFECT OF THE BILL:

Section 1 of the bill amends section 627.6131, Florida Statutes, and creates new subsections (20) and (21).

Subsection (20) prohibits a contract between a health insurer and a dentist licensed under section 466 from requiring credit cards to be the only payment method from the insurer to the dentist. The subsection requires the insurer to notify the dentist at least 10 days prior to any electronic payment of 1) any fees associated with the electronic funds transfer 2) the other available methods of payment and how to select those methods. The section governs the fees that may or may not be charged as part of the funds transfer. The section states that these requirements cannot be waived, voided, or nullified by contract and that any provision contrary to the new requirements is null and void. The statute also provides that the Office has authority to enforce the subsection and that the commission may adopt rules if necessary for enforcement.

Subsection (21) details when a dental insurer can deny a claim after a preauthorization has been granted. These circumstances include 1) where there is a benefit limitation such as an annual maximum frequency limitation 2) where the documentation fails to support the claim as it was originally authorized 3) the patient has a new procedure in the interim such that the preauthorized procedure would no longer

be necessary 4) new procedures are provided in the interim that, if they had been conducted at the time of the preauthorization, would have resulted in a disapproval of the preauthorization. The subsection also provides the claim can be denied where another payor is responsible, where the dentist has already been paid for the procedure, where the claim was submitted fraudulently or was based on erroneous information provided to the health insurer by the dentist, insured, or other person not related to the insurer, or where the person receiving the procedure was not eligible on the date of service and the health insurer did not know, with the exercise of reasonable care, about the ineligibility. The section states that these requirements cannot be waived, voided, or nullified by contract and that any provision contrary to the new requirements is null and void. The statute also provides that the Office has authority to enforce the subsection and that the commission may adopt rules if necessary for enforcement

Section 2 of the bill amends section 627.6474(2), Florida Statutes, and revises the definition of “covered services,” providing that a covered service means dental care for which reimbursement is available *notwithstanding* the application of contractual limitations such as deductibles, coinsurance, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation.

Section 3 of the bill amends section 636.032, Florida Statutes, and creates new subsection (2). The subsection applies the contractual requirements of Section 1, above, to contracts between PLHSOs and dentists licensed under chapter 466.

Section 4 of the bill amends section 636.035, amending subsection (13) and adding a new subsection (15).

Subsection (13) applies the requirements of Section 2, above, to PLHSOs.

Subsection (15) applies the requirements of Section 1, regarding denial of preauthorized claims, to PLHSOs.

Section 5 of the bill amends section 641.315, Florida Statutes, amending subsection (11) and adding subsections (13) and (14).

Subsection (11) is amended to apply the requirements of Section 2, above, to HMOs.

Subsection (13) applies the contractual requirements of Section 1, above, to contracts between HMOs and dentists licensed under chapter 466.

Subsection (14) applies the requirements of Section 1, regarding denial of preauthorized claims, to HMOs.

The effective date is July 1, 2024.

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? YES

If yes, explain:	Yes, the statute provides that the Office of Insurance Regulation has authority to enforce the law in accord with s. 624.307, Florida Statutes, and that the commission may adopt rules if necessary for enforcement.
What is the expected impact to the agency's core mission?	
Rule(s) impacted (provide references to F.A.C., etc.):	N/A

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

List any known proponents and opponents:	
Provide a summary of the proponents' and opponents' positions:	

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? NO

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? NO

Board:	
Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS**1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT? NONE**

Revenues:	None
Expenditures:	None
Does the legislation increase local taxes or fees?	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	No

2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?

Revenues:	None
Expenditures:	This bill could increase enforcement actions by OIR. OIR would need an additional \$30,000 in recurring funds to upgrade positions in Legal and Market Regulation.

Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

3. WHAT IS THE FISCAL IMPACT TO THE PRIVATE SECTOR?

Revenues:	Revenue to dentists may increase as there may be a reduction in fees deducted from their payments from insurers and HMOs.
Expenditures:	
Other:	

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? NO

Does the bill increase taxes, fees or fines?	
Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

TECHNOLOGY IMPACT

Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)?	No
If yes, describe the anticipated impact to the agency including any fiscal impact.	

FEDERAL IMPACT

Does the legislation have a federal impact (i.e. federal compliance, federal funding, federal agency involvement, etc.)?	None.
If yes, describe the anticipated impact including any fiscal impact.	

ADDITIONAL COMMENTS

Also, if it is determined that a rule is necessary, there will not be time to implement it under the current effective date. A later effective date would be advisable.

The Center for Medicare and Medicaid Services (CMS) proposed 2025 Notice of Benefit and Payment Parameters includes a provision for all allow states to add routine adult dental benefits as Essential Health Benefits

LEGAL - GENERAL COUNSEL’S OFFICE REVIEW

Issues/concerns/comments and recommended action:	No comments.

Sanders, Michelle

From: Lloyd, Eric <Eric.Lloyd@myfloridahouse.gov>
Sent: Monday, January 29, 2024 3:06 PM
To: 'Holmgreen, Jake'
Cc: Ivey, Jeff; Calamas, Christa; Herrera, Daniela; Lloyd, Jennifer; Parrish, Katie
Subject: RE: HB 1219, Dental Insurance Claims

Caution: This email originated from outside of the organization! Please ensure that you were expecting this message before clicking links or opening attachments.

Thank you for the response. I will share it with relevant staff and one of us may get back to you with any questions.

I appreciate it.

Eric...
Eric Lloyd
Policy Chief
Insurance & Banking Subcommittee
303 House Office Building
Tallahassee, FL 32399-1300
eric.lloyd@myfloridahouse.gov
(850) 717-5347

From: Holmgreen, Jake <Jake.Holmgreen@dms.fl.gov>
Sent: Monday, January 29, 2024 3:03 PM
To: Lloyd, Eric <Eric.Lloyd@myfloridahouse.gov>
Cc: Ivey, Jeff <Jeff.Ivey@dms.fl.gov>; Calamas, Christa <Christa.Calamas@myfloridahouse.gov>; Herrera, Daniela <Daniela.Herrera@myfloridahouse.gov>; Lloyd, Jennifer <Jennifer.Lloyd@myfloridahouse.gov>; Parrish, Katie <Katie.Parrish@dms.fl.gov>
Subject: Re: HB 1219, Dental Insurance Claims

EXTERNAL EMAIL: This email originated from outside of the Legislature. USE CAUTION when clicking links or opening attachments unless you recognize the sender and know the content is safe.

Good afternoon Eric,

All of our dental contracts are fully-insured and include rates for each year of the contract. Our health plans only cover dental services for acute injuries (accidents that impact the teeth) or to correct birth defects, such as cleft palate. Health insurance companies do not typically maintain agreements with dentists for that reason and we typically direct them to enter into single case agreements or a similar payment arrangement.

There is no expansion of services contemplated within the bill, based upon our reading. All of the changes are centered around payment methods and fees from insurer to practitioner. We consider these types of changes administrative in nature and are not drivers of additional cost.

Please let us know if you have any additional questions.

Cordially,

Jake Holmgreen | Deputy Legislative Affairs Director

Office of the Secretary

(850) 922-6535 (Office)

(850) 597-3677 (Cell)

Florida Department of Management Services

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If you are not the intended recipient of this information, any disclosure, copying, distribution, or the taking of any action in reliance on this information is strictly prohibited.

If you received this e-mail in error, please notify the sender immediately by return e-mail or by calling (850) 487-7001 (Office)

Additionally, please note that Florida has a very broad public records law. Unless expressly exempt, this or any other written communication with the agency may be subject to public disclosure.

From: Lloyd, Eric <Eric.Lloyd@myfloridahouse.gov>

Date: Monday, January 29, 2024 at 10:31 AM

To: Holmgreen, Jake <Jake.Holmgreen@dms.fl.gov>

Cc: Ivey, Jeff <Jeff.Ivey@dms.fl.gov>, Calamas, Christa <Christa.Calamas@myfloridahouse.gov>,

Herrera, Daniela <Daniela.Herrera@myfloridahouse.gov>, Lloyd, Jennifer

<Jennifer.Lloyd@myfloridahouse.gov>

Subject: RE: HB 1219, Dental Insurance Claims

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Jake,

For clarity, DSGI is unaffected by changes to a health insurer/HMO's handling of dental contracts and claims?

Could I please have some detail on that? How is DSGI not affected by a change to the law governing claims management for a health insurer/HMO?

Please advise.

Thanks!

Eric...

Eric Lloyd

Policy Chief

Insurance & Banking Subcommittee

303 House Office Building
Tallahassee, FL 32399-1300
eric.lloyd@myfloridahouse.gov
(850) 717-5347

From: Holmgreen, Jake <Jake.Holmgreen@dms.fl.gov>
Sent: Monday, January 29, 2024 9:52 AM
To: Lloyd, Eric <Eric.Lloyd@myfloridahouse.gov>
Subject: Re: HB 1219, Dental Insurance Claims

EXTERNAL EMAIL: This email originated from outside of the Legislature. USE CAUTION when clicking links or opening attachments unless you recognize the sender and know the content is safe.

Good morning Eric,

HB 1219, as currently written, does not impact our agency. Thank you.

Cordially,
Jake Holmgreen | Deputy Legislative Affairs Director
Office of the Secretary
(850) 922-6535 (Office)
(850) 597-3677 (Cell)
Florida Department of Management Services
We Serve Those Who Serve Florida



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If you received this e-mail in error, please notify the sender immediately by return e-mail or by calling (850) 487-7001 (Office)

Additionally, please note that Florida has a very broad public records law. Unless expressly exempt, this or any other written communication with the agency may be subject to public disclosure.

From: Lloyd, Eric <Eric.Lloyd@myfloridahouse.gov>
Date: Friday, January 26, 2024 at 6:14 PM
To: 'Jacobs, Kevin' <Kevin.Jacobs@flor.com>, 'Steele, Patrick' <Patrick.Steele@ahca.myflorida.com>, Ivey, Jeff <Jeff.Ivey@dms.fl.gov>
Cc: Marante, Stephen <Stephen.Marante@flor.com>, Fenske, Tretyn <Tretyn.Fenske@ahca.myflorida.com>, Holmgreen, Jake <Jake.Holmgreen@dms.fl.gov>, Calamas, Christa <Christa.Calamas@myfloridahouse.gov>, Herrera, Daniela <Daniela.Herrera@myfloridahouse.gov>, Lloyd, Jennifer <Jennifer.Lloyd@myfloridahouse.gov>
Subject: HB 1219, Dental Insurance Claims

**Caution: This email originated from outside of the organization!
Please ensure that you were expecting this message before clicking
links or opening attachments.**

All,

Please provide an agency bill analysis on HB 1219, Dental Insurance Claims, as soon as you can. If it is not readily available, I need the agency's fiscal analysis by Tuesday, Jan. 30th, at Noon. For the analysis in that case, I need it by end of the day Wednesday, Jan. 31st.

If the bill does not impact your agency, please say so by return email.

Thank you!

Eric...
Eric Lloyd
Policy Chief
Insurance & Banking Subcommittee
303 House Office Building
Tallahassee, FL 32399-1300
eric.lloyd@myfloridahouse.gov
(850) 717-5347

The Florida Senate

APPEARANCE RECORD

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

2/13/24
Meeting Date

892
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Kevin Comercher

Phone

Address

Street

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

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

Assoc. of Dental Support Organizations

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

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

S-001 (08/10/2021)

APPEARANCE RECORD

SB 892

Meeting Date

Bill Number or Topic

Approp. Agriculture Environment & General Government
CommitteeDeliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Dr. Tracy Eckles

Phone

850 322 5320

Address

3620 Longford Drive
Street

Email

tracymecklesdds@gmail.com

Tallahassee, FL 32309
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](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Feb. 13, 2024

Meeting Date

SB 892

Bill Number or Topic

Approp. Anguishing Environment & General Government

Committee

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

Amendment Barcode (if applicable)

Name

Joe Anne Hart

Phone

850.224.1089

Address

118 East Jefferson St

Email

jahart@uniteddental.org

Street

Tall, 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 Dental Association

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Feb. 13, 2024

Meeting Date

SB 892

Bill Number or Topic

Approps, Agriculture, Environment, & General Government

Committee

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

101858

Amendment Barcode (if applicable)

Name

Joe Anne Hart

Phone

850-224-1089

Address

118 East Jefferson Street

Street

Email

jahart@floridadental.org

City

Tallahassee FL

State

32301

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Florida Dental Association

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/SB 932

INTRODUCER: Appropriations Committee on Agriculture, Environment, and General Government and Senators Berman and Davis

SUBJECT: Coverage for Diagnostic and Supplemental Breast Examinations

DATE: February 15, 2024 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	Favorable
2.	Davis	Betta	AEG	Fav/CS
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 932 prohibits the state group insurance program from imposing any cost-sharing liability for diagnostic breast examinations and supplemental breast examinations in any contract or plan for state employee health benefits that provides coverage for diagnostic breast examinations or supplemental breast examinations. The prohibition is effective January 1, 2025, consistent with the start of the new plan year.

The bill provides that if, under federal law, this prohibition would result in health savings account ineligibility under s. 223 of the Internal Revenue Code, the prohibition applies only to health savings account qualified high-deductible health plans with respect to the deductible of such a plan after the person has satisfied the minimum deductible under such plan.

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

The bill provides an effective date of January 1, 2025.

II. Present Situation:

Background

Rates of breast cancer vary among different groups of people. Rates vary between women and men and among people of different ethnicities and ages. Rates of breast cancer incidence (new cases) and mortality (death) are much lower among men than among women. The American Cancer Society made the following estimates regarding cancer among women in the U.S. during 2023:

- 297,790 new cases of invasive breast cancer (This includes new cases of primary breast cancer, but not breast cancer recurrences);
- 55,720 new cases of ductal carcinoma in situ (DCIS), a non-invasive breast cancer; and
- 43,170 breast cancer deaths.¹

The estimates for men in the U.S. for 2023 were:

- 2,800 new cases of invasive breast cancer (This includes new cases of primary breast cancers, but not breast cancer recurrences); and
- 530 breast cancer deaths.²

Breast Cancer Screening

In Florida, a group, blanket, or franchise accident or health insurance policy issued, amended, delivered, or renewed in this state must provide coverage for at least the following:

- A baseline mammogram for any woman who is 35 years of age or older, but younger than 40 years of age.
- A mammogram every two years for any woman who is 40 years of age or older, but younger than 50 years of age, or more frequently based on the patient's physician's recommendation.
- A mammogram every year for any woman who is 50 years of age or older.
- One or more mammograms a year, based upon a physician's recommendation, for any woman who is at risk for breast cancer because of a personal or family history of breast cancer, because of having a history of biopsy-proven benign breast disease, because of having a mother, sister, or daughter who has or has had breast cancer, or because a woman has not given birth before the age of 30.³

Each such insurer must offer, for an appropriate additional premium, this same coverage without such coverage being subject to the deductible or coinsurance provisions of the policy.⁴

However, mammography is only the initial step in early detection and, by itself, unable to diagnose cancer. A mammogram is an x-ray of the breast.⁵ While screening mammograms are routinely performed to detect breast cancer in women who have no apparent symptoms,

¹ *Cancer Facts & Figures*, p. 4, American Cancer Society - <https://www.cancer.org/cancer-facts-and-statistics> (last visited January 30, 2024).

² *Id.*

³ Section 627.6613(1), F.S.

⁴ Section 627.6613(3), F.S.

⁵ *What Is The Difference Between A Diagnostic Mammogram And A Screening Mammogram?* National Breast Cancer Foundation - <https://www.nationalbreastcancer.org/diagnostic-mammogram> (last visited January 30, 2024).

diagnostic mammograms are used after suspicious results on a screening mammogram or after some signs of breast cancer alert the physician to check the tissue.⁶

If a mammogram shows something abnormal, early detection of breast cancer requires diagnostic follow-up or additional supplemental imaging required to rule out breast cancer or confirm the need for a biopsy.⁷ An estimated 12-16 percent of women screened with modern digital mammography require follow-up imaging.⁸ Out-of-pocket costs are particularly burdensome on those who have previously been diagnosed with breast cancer, as diagnostic tests are recommended rather than traditional screening.⁹ When breast cancer is detected early, the five-year relative survival rate is ninety-nine percent.¹⁰

Regulation of Insurance in Florida

The Office of Insurance Regulation (OIR) regulates specified insurance products, insurers and other risk bearing entities in Florida.¹¹ As part of their regulatory oversight, the OIR may suspend or revoke an insurer's certificate of authority under certain conditions.¹² The OIR is responsible for examining the affairs, transactions, accounts, records, and assets of each insurer that holds a certificate of authority to transact insurance business in Florida.¹³ As part of the examination process, all persons being examined must make available to the OIR the accounts, records, documents, files, information, assets, and matters in their possession or control that relate to the subject of the examination.¹⁴ The OIR is also authorized to conduct market conduct examinations to determine compliance with applicable provisions of the Insurance Code.¹⁵

The Agency for Health Care Administration (AHCA) regulates the quality of care by health maintenance organizations (HMO) under part III of ch. 641, F.S. Before receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from AHCA.¹⁶ As part of the certificate process used by the agency, an HMO must provide information to demonstrate that the HMO has the ability to provide quality of care consistent with the prevailing standards of care.¹⁷

⁶ *Id.*

⁷ *Breast Cancer Screening & Early Detection*, Susan G. Komen Organization - <https://www.komen.org/breast-cancer/screening/> (last visited January 30, 2024).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Early Detection*, National Breast Cancer Foundation - [Breast Cancer Early Detection - National Breast Cancer Foundation](https://www.nationalbreastcancerfoundation.org/early-detection) (last visited January 31, 2024).

¹¹ Section 20.121(3)(a), F.S. The Financial Services Commission, composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, serves as agency head of the Office of Insurance Regulation for purposes of rulemaking. Further, the Financial Services Commission appoints the commissioner of the Office of Insurance Regulation.

¹² Section 624.418, F.S.

¹³ Section 624.316(1)(a), F.S.

¹⁴ Section 624.318(2), F.S.

¹⁵ Section 624.3161, F.S.

¹⁶ Section 641.21(1)(1), F.S.

¹⁷ Section 641.495, F.S.

Patient Protection and Affordable Care Act

Essential Benefits

Under the Patient Protection and Affordable Care Act (PPACA),¹⁸ all non-grandfathered health plans in the non-group and small-group private health insurance markets must offer a core package of health care services known as the essential health benefits (EHBs). While not specifying the benefits within the EHB, the PPACA provides 10 categories of benefits and services which must be covered and then required the Secretary of Health and Human Services to further define the EHB.¹⁹

The 10 EHB categories are:

- Ambulatory patient services.
- Emergency services.
- Hospitalization.
- Maternity and newborn care
- Mental health and substance use disorder services, including behavioral health treatment.
- Prescription drugs.
- Rehabilitation and habilitation services.
- Laboratory services.
- Preventive and wellness services and chronic disease management.
- Pediatric services, including oral and vision care.

The PPACA requires each state to select its own reference benchmark plan as its EHB benchmark plan which all other health plans in the state use as a model. Beginning in 2020, states could choose a new EHB plan using one of three options, including: selecting another's state benchmark plan; replacing one or more categories of EHB benefits; or selecting a set of benefits that would become the State's EHB benchmark plan.²⁰ Florida selected its EHB plan before 2012 and has not modified that selection.²¹

State Insurance Coverage Mandates

If a state elects to amend its benchmark plan later by imposing a statutory mandate to cover a new service, the PPACA requires the state to pay for the additional costs of that mandate for the entire industry.²² According to a recent study, only two states have chosen to enhance their EHB benchmark plans and have incurred the additional benefits penalty: Utah and Massachusetts.²³ Utah, for example, added a coverage mandate for applied behavioral analysis therapy for

¹⁸ Affordable Care Act, (March 23, 2010), P.L.111-141, as amended.

¹⁹ 45 CFR 156.100. et seq.

²⁰ Centers for Medicare and Medicare Services, *Marketplace – Essential Health Benefits*, available at <https://www.cms.gov/marketplace/resources/data/essential-health-benefits> (last reviewed January 30, 2024).

²¹ Centers for Medicare and Medicaid Services, *Information on Essential Health Benefits (EHB) Benchmark Plans*, Florida State Required Benefits, available at <https://downloads.cms.gov/> (last viewed on January 30, 2024).

²² 42 U.S.C. section 1803 U.S. Preventive Services Task Force, *Skin Cancer Prevention: Behavioral Counseling (March 20, 2018)* available at [Recommendation: Skin Cancer Prevention: Behavioral Counseling](#) (last reviewed January 30, 2024).

²³ California Health Benefits Program, (CHBRP) (August 2023), *Issue Brief: Essential Health Benefits: Exceeding EHBs and the Defrayal Requirement*, p.2. available at <https://www.chbrp.org/sites/> (last viewed January 30, 2024).

individuals with autism in 2014 and subsequently implemented a state rule to allow the state to reimburse the estimated five affected carriers for the autism claims with state funds.²⁴

Annually, the federal Centers for Medicare and Medicaid Services issues a *Notice of Benefit and Payment Parameters (NBPP)* for the next plan year. The NBPP typically includes minor updates to coverage standards, clarifications to prior policy statements, and announcements relating to any major process changes. For the 2025 Plan Year which begins on January 1, 2025, the NBPP proposes to codify that any new, additional benefits included in a state's EHB plan would *not* be considered an addition to the state's EHB, and therefore not subject to the PPACA provision requiring the state to defray the cost for the industry.²⁵ This change is part of a proposed rule which has not yet been finalized, so it is unclear whether the PPACA state defrayal provision will apply in future.²⁶

State Employee Health Plan

For state employees who participate in the state employee benefit program, the Department of Management Services (DMS) through the Division of State Group Insurance (DSGI) administers the state group health insurance program (Program).²⁷ The Program is a cafeteria plan managed consistent with section 125 of the Internal Revenue Service Code.²⁸ To administer the program, DSGI contracts with third party administrators for self-insured plans, a fully insured HMO, and a pharmacy benefits manager for the state employees' self-insured prescription drug program, pursuant to s.110.12315, F.S.

Legislative Proposals for Mandated Health Benefit Coverage

Any person or organization proposing legislation which would mandate health coverage or the offering of health coverage by an insurance carrier, health care service contractor, or health maintenance organization as a component of individual or group policies, must submit to the AHCA and the legislative committees having jurisdiction a report which assesses the social and financial impacts of the proposed coverage.²⁹ Guidelines for assessing the impact of a proposed mandated or mandatorily offered health coverage, to the extent that information is available, include:

- To what extent is the treatment or service generally used by a significant portion of the population?
- To what extent is the insurance coverage generally available?

²⁴ Utah Admin. Code R590-283 – Notice of Proposed Rule (November 1, 2019), available at <https://rules.utah.gov/publicat/bulletin/2019/20191115/44181.htm> (last viewed January 30, 2024).

²⁵ CMS.GOV, *HHS Notice of Benefit and Payment Parameters for 2025 Proposed Rule* (November 15, 2023), available at <https://www.cms.gov/newsroom/fact-sheets/> (last viewed January 30, 2024).

²⁶ Patient Protection and Affordable Care Act, *HHS Notice of Benefit and Payment Parameters for 2025; Updating Section 1332 Waiver Public Notice Procedures; Medicaid; Consumer Operated and Oriented Plan (CO-OP) Program, and Basic Health Program*, 88 Fed. Reg. 82510, 82553, 82630-82631, 82649, 82653-82654 (November 24, 2023)(to be codified at section 45 CFR 155.170 and 156.11).

²⁷ Section 110.123, F.S.

²⁸ A section 125 cafeteria plan is a type of employer offered, flexible health insurance plan that provides employees a menu of pre-tax and taxable qualified benefits to choose from, but employees must be offered at least one taxable benefit such as cash, and one qualified benefit, such as a Health Savings Account.

²⁹ Section 624.215(2), F.S.

- If the insurance coverage is not generally available, to what extent does the lack of coverage result in persons avoiding necessary health care treatment?
- If the coverage is not generally available, to what extent does the lack of coverage result in unreasonable financial hardship?
- The level of public demand for the treatment or service.
- The level of public demand for insurance coverage of the treatment or service.
- The level of interest of collective bargaining agents in negotiating for the inclusion of this coverage in group contracts.
- To what extent will the coverage increase or decrease the cost of the treatment or service?
- To what extent will the coverage increase the appropriate uses of the treatment or service?
- To what extent will the mandated treatment or service be a substitute for a more expensive treatment or service?
- To what extent will the coverage increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders?
- The impact of this coverage on the total cost of health care.³⁰

To date, such a report has not been received by the Senate Committee on Banking and Insurance.

III. Effect of Proposed Changes:

Section 1 amends s. 110.123, F.S., to provide definitions of “Cost-sharing requirement,” “Diagnostic breast examination,” and “Supplemental breast examination.”

Section 2 amends s. 110.12303, F.S., to prohibit the state group insurance program from imposing on an enrollee any cost-sharing requirement (such as a deductible, copayment, coinsurance, or any other cost-sharing) with respect to coverage for diagnostic breast examinations and supplemental breast examinations in any contract or plan for state employee health benefits that provides coverage for diagnostic breast examinations or supplemental breast examinations. While current plans provide diagnostic breast examinations without cost sharing, cost sharing for supplemental examinations among the current plans vary. The bill provides parameters for what constitutes supplemental breast examinations, prohibiting cost sharing for examinations that are:

- Medically necessary and appropriate examinations which may include magnetic resonance imaging and ultrasounds and other types of examinations;
- Used when no abnormality is seen or suspected; and
- Based on personal or family medical history or other increased risk factors.

The bill provides that if, under federal law, this prohibition would result in health savings account ineligibility under s. 223 of the Internal Revenue Code, the prohibition applies only to health savings account qualified high-deductible health plans with respect to the deductible of such a plan after the person has satisfied the minimum deductible under such plan.

Section 3 provides that the bill takes effect January 1, 2025.

³⁰ Section 624.215(2)(a)-(l), F.S.

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 eliminates out-of-pocket costs for diagnostic and supplemental imaging for breast examinations which is anticipated to improve access to these tests and likely to result in more patients receiving an earlier diagnosis. Early diagnosis increases the likelihood of successful treatment, which may result in savings for health insurers and HMOs.

C. Government Sector Impact:

The bill's prohibition on out of pocket costs for diagnostic and supplemental breast examinations has the potential to generate a higher insurance premium for the state group health plan. Historically, the state has covered premium inflation in the Program with General Revenue, rather than pass on premium increases to employees.

The Division of State Group Insurance within the Department of Management Services (DMS) estimates the bill will have an estimated fiscal impact of \$2.9 million annually in

increased claim costs to state health plans due to the elimination of cost sharing and a projected increase in utilization.³¹

The DMS included the following fiscal impact breakout between the PPO and HMO plans:

- Due to the differences in cost sharing arrangements, the PPO plan will experience a greater fiscal impact estimated at \$2.7 million. The removal of cost sharing as it relates to advanced imaging drives most of the estimated impact. The remaining impact is due to an estimated 13-20 percent increase in utilization for both the under age 40 population as well as the over age 40 population.
- HMO impacts are estimated to be lower due to the limited cost share responsibility of the standard HMO plan. Cumulative impacts for the HMO plans are estimated at approximately \$220,000. The removal of cost sharing as well as increased utilization drives the estimated impact.³²

The bill does not appear to implicate the Patient Protection and Affordable Care Act as it is a cost-sharing bill only and does not mandate any new coverage and/or service or require any additions to the benchmark plan. Florida's EHB Benchmark Plan already includes diagnostic imaging.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 110.123, and 110.12303.

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 Appropriations Committee on Agriculture, Environment, and General Government on February 13, 2024:

The committee substitute prohibits copayments and other cost sharing for supplemental or diagnostic breast imaging within the state employee group health plan, for plans that cover such services. The prohibition is effective January 1, 2025, consistent with the start of the new plan year.

³¹ See Department of Management Services, *2024 Agency Legislative Bill Analysis for HB 773* at 5 (Jan. 31, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment, and General Government).

³² *Id.*

B. Amendments:

None.

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



322264

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/13/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (Berman) recommended the following:

Senate Amendment

Delete lines 61 - 74
and insert:
necessary and appropriate imaging examination of the breast, as
determined in accordance with the most recent applicable
guidelines of the National Comprehensive Cancer Network,
including, but not limited to, an examination using diagnostic
mammography, breast magnetic resonance imaging, or breast
ultrasound, which is used to evaluate an abnormality that is



322264

11 seen or suspected from a screening examination for breast
12 cancer.

13 (c) "Supplemental breast examination" means a medically
14 necessary and appropriate imaging examination of the breast, as
15 determined in accordance with the most recent applicable
16 guidelines of the National Comprehensive Cancer Network, which
17 is:

18 1. Used to screen for breast cancer when there is no
19 abnormality seen or suspected; and

20 2. Based on personal or family medical history or
21 additional factors that may increase the person's risk of breast
22 cancer, as determined in accordance with the most recent
23 applicable guidelines of the National Comprehensive Cancer
24 Network.



520370

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (Berman) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present paragraphs (a), (b) through (p), (q), and (r) of subsection (2) of section 110.123, Florida Statutes, are redesignated as paragraphs (b), (d) through (r), (t), and (u), respectively, new paragraphs (a) and (c) and paragraph (s) are added to that subsection, and paragraphs (c) and (d) of subsection (14) of that section are amended, to read:



520370

110.123 State group insurance program.—

(2) DEFINITIONS.—As used in ss. 110.123-110.1239, the term:

(a) "Cost-sharing requirement" means an insured's deductible, coinsurance, copayment, or similar out-of-pocket expense.

(c) "Diagnostic breast examination" means a medically necessary and appropriate examination of the breast, including, but not limited to, an examination using diagnostic mammography, breast magnetic resonance imaging, or breast ultrasound, which is used to evaluate an abnormality that is seen or suspected from a screening examination for breast cancer.

(s) "Supplemental breast examination" means a medically necessary and appropriate examination of the breast, including, but not limited to, an examination using breast magnetic resonance imaging or breast ultrasound, which is:

1. Used to screen for breast cancer when there is no abnormality seen or suspected; and

2. Based on personal or family medical history or additional factors that may increase the person's risk of breast cancer.

(14) OTHER-PERSONAL-SERVICES EMPLOYEES (OPS).—

(c) The initial measurement period used to determine whether an employee hired before April 1, 2013, and paid from OPS funds is a full-time employee described in subparagraph (2)(g)1. ~~(2)(e)1.~~ is the 6-month period from April 1, 2013, through September 30, 2013.

(d) All other measurement periods used to determine whether an employee paid from OPS funds is a full-time employee described in paragraph (2)(g) ~~(2)(e)~~ must be for 12 consecutive



520370

months.

Section 2. Subsection (5) is added to section 110.12303, Florida Statutes, to read:

110.12303 State group insurance program; additional benefits; price transparency program; reporting.—

(5) In any contract or plan for state employee health benefits which provides coverages for diagnostic breast examinations or supplemental breast examinations, the state group insurance program may not impose on an enrollee any cost-sharing requirement. If, under federal law, the application of this subsection would result in health savings account ineligibility under s. 223 of the Internal Revenue Code, the prohibition under this subsection applies only to health savings account qualified high-deductible health plans with respect to the deductible of such a plan after the person has satisfied the minimum deductible under s. 223 of the Internal Revenue Code, except with respect to items or services that are preventive care pursuant to s. 223(c)(2)(C) of the Internal Revenue Code, in which case the requirements of s. 223(c)(2)(A) of the Internal Revenue Code apply regardless of whether the minimum deductible under s. 223 of the Internal Revenue Code has been satisfied.

Section 3. This act shall take effect January 1, 2025.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled



520370

69

An act relating to ; providing an effective date.

By Senator Berman

26-01578-24

2024932__

1 A bill to be entitled
 2 An act relating to coverage for diagnostic and
 3 supplemental breast examinations; amending s. 110.123,
 4 F.S.; prohibiting the state group insurance program
 5 from imposing any enrollee cost-sharing liability with
 6 respect to coverage for diagnostic breast examinations
 7 and supplemental breast examinations; creating ss.
 8 627.64181, 627.66131, and 641.31093, F.S.; defining
 9 terms; prohibiting the imposition of cost-sharing
 10 requirements for diagnostic and supplemental breast
 11 examinations by individual accident and health
 12 insurance policies; group, blanket, or franchise
 13 accident and health insurance policies; and health
 14 maintenance contracts, respectively, which provide
 15 such coverage; providing applicability; authorizing
 16 the Financial Services Commission to adopt rules;
 17 providing an effective date.
 18
 19 Be It Enacted by the Legislature of the State of Florida:
 20
 21 Section 1. Paragraph (c) of subsection (3) of section
 22 110.123, Florida Statutes, is amended to read:
 23 110.123 State group insurance program.—
 24 (3) STATE GROUP INSURANCE PROGRAM.—
 25 (c) 1. Notwithstanding any provision in this section to the
 26 contrary, it is the intent of the Legislature that the
 27 department shall be responsible for all aspects of the purchase
 28 of health care for state employees under the state group health
 29 insurance plan or plans, TRICARE supplemental insurance plans,

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

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30 and the health maintenance organization plans. Responsibilities
 31 shall include, but not be limited to, the development of
 32 requests for proposals or invitations to negotiate for state
 33 employee health benefits, the determination of health care
 34 benefits to be provided, and the negotiation of contracts for
 35 health care and health care administrative services. Prior to
 36 the negotiation of contracts for health care services, the
 37 Legislature intends that the department shall develop, with
 38 respect to state collective bargaining issues, the health
 39 benefits and terms to be included in the state group health
 40 insurance program. The department shall adopt rules necessary to
 41 perform its responsibilities pursuant to this section. The
 42 department is responsible for the contract management and day-
 43 to-day management of the state employee health insurance
 44 program, including, but not limited to, employee enrollment,
 45 premium collection, payment to health care providers, and other
 46 administrative functions related to the program.
 47 2. In any contract or plan for state employee health
 48 benefits which provides coverage for diagnostic breast
 49 examinations or supplemental breast examinations, as those terms
 50 are defined in s. 627.64181(1), the state group insurance
 51 program may not impose any enrollee cost-sharing liability.
 52 Section 2. Section 627.64181, Florida Statutes, is created
 53 to read:
 54 627.64181 Coverage for diagnostic and supplemental breast
 55 examinations; cost-sharing requirements prohibited.—
 56 (1) As used in this section, the term:
 57 (a) "Cost-sharing requirement" means an insured's
 58 deductible, coinsurance, copayment, or similar out-of-pocket

Page 2 of 6

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

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59 expense.

60 (b) "Diagnostic breast examination" means a medically
 61 necessary and appropriate examination of the breast, including,
 62 but not limited to, an examination using diagnostic mammography,
 63 breast magnetic resonance imaging, or breast ultrasound, which
 64 is used to evaluate an abnormality that is seen or suspected
 65 from a screening examination for breast cancer.

66 (c) "Supplemental breast examination" means a medically
 67 necessary and appropriate examination of the breast, including,
 68 but not limited to, an examination using breast magnetic
 69 resonance imaging or breast ultrasound, which is:

70 1. Used to screen for breast cancer when there is no
 71 abnormality seen or suspected; and

72 2. Based on personal or family medical history or
 73 additional factors that may increase the person's risk of breast
 74 cancer.

75 (2) An accident or health insurance policy issued, amended,
 76 delivered, or renewed on or after January 1, 2025, which
 77 provides coverage for diagnostic breast examinations and
 78 supplemental breast examinations may not impose any cost-sharing
 79 requirement with respect to such coverage.

80 (3) If, under federal law, the application of subsection
 81 (2) would result in health savings account ineligibility under
 82 s. 223 of the Internal Revenue Code, the prohibition under
 83 subsection (2) applies only to health savings account qualified
 84 high-deductible health plans with respect to the deductible of
 85 such a plan after the person has satisfied the minimum
 86 deductible under s. 223 of the Internal Revenue Code, except
 87 with respect to items or services that are preventive care

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88 pursuant to s. 223(c) (2) (C) of the Internal Revenue Code, in
 89 which case the requirements of s. 223(c) (2) (A) of the Internal
 90 Revenue Code apply regardless of whether the minimum deductible
 91 under s. 223 of the Internal Revenue Code has been satisfied.

92 (4) The commission may adopt rules to administer this
 93 section.

94 Section 3. Section 627.66131, Florida Statutes, is created
 95 to read:

96 627.66131 Coverage for diagnostic and supplemental breast
 97 examinations; cost-sharing requirements prohibited.—

98 (1) As used in this section, the terms "cost-sharing
 99 requirement," "diagnostic breast examination," and "supplemental
 100 breast examination" have the same meanings as in s.
 101 627.64181(1).

102 (2) A group, blanket, or franchise accident or health
 103 insurance policy issued, amended, delivered, or renewed on or
 104 after January 1, 2025, which provides coverage for diagnostic
 105 breast examinations and supplemental breast examinations may not
 106 impose any cost-sharing requirement with respect to such
 107 coverage.

108 (3) If, under federal law, the application of subsection
 109 (2) would result in health savings account ineligibility under
 110 s. 223 of the Internal Revenue Code, the prohibition under
 111 subsection (2) applies only to health savings account qualified
 112 high-deductible health plans with respect to the deductible of
 113 such a plan after the person has satisfied the minimum
 114 deductible under s. 223 of the Internal Revenue Code, except
 115 with respect to items or services that are preventive care
 116 pursuant to s. 223(c) (2) (C) of the Internal Revenue Code, in

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117 which case the requirements of s. 223(c)(2)(A) of the Internal
 118 Revenue Code apply regardless of whether the minimum deductible
 119 under s. 223 of the Internal Revenue Code has been satisfied.
 120 (4) The commission may adopt rules to administer this
 121 section.
 122 Section 4. Section 641.31093, Florida Statutes, is created
 123 to read:
 124 641.31093 Coverage for diagnostic and supplemental breast
 125 examinations; cost-sharing requirements prohibited.-
 126 (1) As used in this section, the terms "cost-sharing
 127 requirement," "diagnostic breast examination," and "supplemental
 128 breast examination" have the same meanings as in s.
 129 627.64181(1).
 130 (2) A health maintenance contract issued, amended,
 131 delivered, or renewed on or after January 1, 2025, which
 132 provides coverage for diagnostic breast examinations and
 133 supplemental breast examinations may not impose any cost-sharing
 134 requirement with respect to such coverage.
 135 (3) If, under federal law, the application of subsection
 136 (2) would result in health savings account ineligibility under
 137 s. 223 of the Internal Revenue Code, the prohibition under
 138 subsection (2) applies only to health savings account qualified
 139 high-deductible health plans with respect to the deductible of
 140 such a plan after the person has satisfied the minimum
 141 deductible under s. 223 of the Internal Revenue Code, except
 142 with respect to items or services that are preventive care
 143 pursuant to s. 223(c)(2)(C) of the Internal Revenue Code, in
 144 which case the requirements of s. 223(c)(2)(A) of the Internal
 145 Revenue Code apply regardless of whether the minimum deductible

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146 under s. 223 of the Internal Revenue Code has been satisfied.
 147 (4) The commission may adopt rules to administer this
 148 section.
 149 Section 5. This act shall take effect July 1, 2024.



The Florida Senate

Committee Agenda Request

To: Senator Jason Brodeur, Chair
Appropriations Committee on Agriculture, Environment, and General Government

Subject: Committee Agenda Request

Date: January 30, 2024

I respectfully request that **Senate Bill # 932**, relating to Coverage for Diagnostic and Supplemental Breast Examinations, be placed on the:

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

A handwritten signature in black ink, reading "Lori Berman", followed by a horizontal line.

Senator Lori Berman
Florida Senate, District 26



2024 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Management Services

BILL INFORMATION	
BILL NUMBER:	HB 773
BILL TITLE:	Coverage for Diagnostic and Supplemental Breast Examinations
BILL SPONSOR:	Rep. Woodson
EFFECTIVE DATE:	7/1/24

COMMITTEES OF REFERENCE
1) Health Innovation
2) Appropriations
3) Health & Human Services
4)
5)

PREVIOUS LEGISLATION	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

CURRENT COMMITTEE

SIMILAR BILLS	
BILL NUMBER:	SB 132 – Withdrawn 11/17/23
SPONSOR:	Berman

IDENTICAL BILLS	
BILL NUMBER:	
SPONSOR:	

Is this bill part of an agency package?

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	January 29, 2024
LEAD AGENCY ANALYST:	Jake Holmgreen, Deputy Legislative Affairs Director
ADDITIONAL ANALYST(S):	Teela Sanders, Director, DSGI Greg Mauldin, Deputy Director, DSGI Anna Cleveland, Policy Administrator DSGI
LEGAL ANALYST:	Jennifer Perkins, Managing Attorney, Healthcare Practice Unit
FISCAL ANALYST:	Sue Swirz, Budget Analyst Donna Carmack, Deputy Budget Director

POLICY ANALYSIS

1. **EXECUTIVE SUMMARY**

Requires individual health insurers, group health insurers, including small employer groups, and health maintenance organizations with health policies issued or renewed on or after January 1, 2025, to:

- Cover diagnostic breast exams and supplemental breast exams with no cost-sharing for the enrollee.

Provides an effective date of July 1, 2024.

2. **SUBSTANTIVE BILL ANALYSIS**

1. **PRESENT SITUATION:**

Under the authority of section 110.123, F.S., the Department of Management Services, through the Division of State Group Insurance (DSGI), administers the state group health insurance program (Program) under a cafeteria plan consistent with section 125, Internal Revenue Code.

To administer the Program, DSGI contracts with third party administrators for self-insured health plans, a fully-insured HMO, and a pharmacy benefits manager (PBM) for the state employees' Self-Insured Prescription Drug Program (PDP) pursuant to section 110.12315, F.S.

Screening mammograms are covered in accordance with current A and B recommendations of the U.S. Preventive Services Task Force and state law and do not require a copayment or coinsurance. Currently under our Program, follow-up services after the initial "preventive" visit may require a copayment or coinsurance. Additionally, cost sharing requirements for advanced imaging vary by health plan (HMO vs. PPO).

2. **EFFECT OF THE BILL:**

Section 1: Amends paragraph (c) of subsection (3) of section 110.123: applies directly to DSGI.

- Adds section 2 language that any contract or plan for state employee health benefits which provides coverage from diagnostic or supplemental breast examinations as defined in s. 627.64181(1), may not impose any enrollee-cost sharing liability.

Section 2: Creates Section 627.64181, F.S.; applies to individual health insurance but includes terms used in section 1 of the bill; impacts DSGI.

- Defines "Cost-sharing requirement" to mean an insured's deductible, coinsurance, copayment, or other out-of-pocket expense.
- Defines "Diagnostic breast examination" to mean a medically necessary and appropriate examination of the breast, including an examination using diagnostic mammography, breast magnetic resonance imaging, or breast ultrasound which is used to evaluate an abnormality that was seen or suspected on the screening examination or detected by other means.
- Defines "Supplemental breast examination" to mean a medically necessary and appropriate examination of the breast, including an examination using breast magnetic resonance imaging or breast ultrasound, which is used to screen for breast cancer when there is no abnormality seen or suspected, and based on personal or family medical history or additional factor may increase the individual's risk of breast cancer.
- No accident or health insurance policy issued on or after January 1, 2025, which cover diagnostic breast examinations and supplemental breast examinations can impose any cost-sharing requirement with respect to such coverage.
- If under federal law the application of this section would result in a health savings account (HSA) ineligibility under s.223 of the Internal Revenue Code (IRC), the prohibition applies only to HSA qualified high-deductible health plans with respect to deductible of such a plan after the person has satisfied the minimum deductible required under s. 223 IRC, except with respect to items or services that are preventative care pursuant to s. 223(c)(2)(C) of the IRC in which case the requirements of s. 223(c)(2)(A) of the IRC apply regardless of whether the minimum deductible under 2. 223 of the IRC have been satisfied.

Section 3: Creates Section 627.66131, F.S.; applies to group health insurance; impacts DSGI

- Defines “Cost-sharing requirement” to mean an insured’s deductible, coinsurance, copayment, or other out-of-pocket expense.
- Defines “Diagnostic breast examination” to mean a medically necessary and appropriate examination of the breast, including an examination using diagnostic mammography, breast magnetic resonance imaging, or breast ultrasound which is used to evaluate an abnormality that was seen or suspected on the screening examination or detected by other means.
- Defines “Supplemental breast examination” to mean a medically necessary and appropriate examination of the breast, including an examination using breast magnetic resonance imaging or breast ultrasound, which is used to screen for breast cancer when there is no abnormality seen or suspected, and based on personal or family medical history or additional factor may increase the individual’s risk of breast cancer.
- No accident or health insurance policy issued on or after January 1, 2025, which cover diagnostic breast examinations and supplemental breast examinations can impose any cost-sharing requirement with respect to such coverage.
- If under federal law the application of this section would result in a health savings account (HSA) ineligibility under s.223 of the Internal Revenue Code (IRC), the prohibition applies only to HSA qualified high-deductible health plans with respect to deductible of such a plan after the person has satisfied the minimum deductible required under s. 223 IRC, except with respect to items or services that are preventative care pursuant to s. 223(c)(2)(C) of the IRC in which case the requirements of s. 223(c)(2)(A) of the IRC apply regardless of whether the minimum deductible under 2. 223 of the IRC have been satisfied.

Section 4: Creates Section 641.31093, F.S.: applies to health maintenance organizations; impacts DSGI.

- Defines “Cost-sharing requirement” to mean an insured’s deductible, coinsurance, copayment, or other out-of-pocket expense.
- Defines “Diagnostic breast examination” to mean a medically necessary and appropriate examination of the breast, including an examination using diagnostic mammography, breast magnetic resonance imaging, or breast ultrasound which is used to evaluate an abnormality that was seen or suspected on the screening examination or detected by other means.
- Defines “Supplemental breast examination” to mean a medically necessary and appropriate examination of the breast, including an examination using breast magnetic resonance imaging or breast ultrasound, which is used to screen for breast cancer when there is no abnormality seen or suspected, and based on personal or family medical history or additional factor may increase the individual’s risk of breast cancer.
- No accident or health insurance policy issued on or after January 1, 2025, which cover diagnostic breast examinations and supplemental breast examinations can impose any cost-sharing requirement with respect to such coverage.
- If under federal law the application of this section would result in a health savings account (HSA) ineligibility under s.223 of the Internal Revenue Code (IRC), the prohibition applies only to HSA qualified high-deductible health plans with respect to deductible of such a plan after the person has satisfied the minimum deductible required under s. 223 IRC, except with respect to items or services that are preventative care pursuant to s. 223(c)(2)(C) of the IRC in which case the requirements of s. 223(c)(2)(A) of the IRC apply regardless of whether the minimum deductible under 2. 223 of the IRC have been satisfied.

Section 5: Provides an effective date of July 1, 2024

Click or tap here to enter text.

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?

Y ☐ N ☒

If yes, explain:

Click or tap here to enter text.

What is the expected impact to the agency's core mission?	Click or tap here to enter text.
Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.

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

List any known proponents and opponents:	
Provide a summary of the proponents' and opponents' positions:	

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS LEGISLATION?

Y ☐ N ☒

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

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

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

FISCAL ANALYSIS

1. DOES THE LEGISLATION HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y ☒ N ☐

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

2. DOES THE LEGISLATION HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Y ☒ N ☐

Revenues:	N/A
Expenditures:	The annual fiscal impact to the Division of State Group Insurance (DSGI) is estimated to be approximately \$2,920,000 across all health plans due to the elimination of cost sharing and a projected increase in utilization. Estimated Fiscal Impact: Impact for this bill is broken out by PPO and HMO. Due to the differences in cost sharing arrangements, the PPO plan will experience a greater fiscal impact estimated at \$2.7 million. The removal of cost sharing as it relates to advanced imaging drives most of the estimated impact. The remaining impact is due to an estimated 13-20% increase in utilization for both the under age 40 population as well as the over age 40 population. HMO impacts are estimated to be lower due to the limited cost share responsibility of our standard HMO plan. Cumulative impacts for the HMO plans is estimated at approximately \$220,000. The removal of cost sharing as well as increased utilization drives the estimated impact. Fiscal impact is provided by the health plans' actuarial team after review of the bill at the request of the Division, utilizing generally accepted fiscal practices.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

3. DOES THE LEGISLATION HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Y ☒ N ☐

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Other:	Click or tap here to enter text.

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

Does the bill increase taxes, fees or fines?	No.
Does the bill decrease taxes, fees or fines?	No.
What is the impact of the increase or decrease?	N/A.
Bill Section Number:	Click or tap here to enter text.

5. ACTUARIAL STATEMENT OF FISCAL SOUNDNESS (RETIREMENT ONLY)FRS ☐ OR LOCAL ☐

Does the bill comply with the requirements of Article X, Section 14 of the Constitution?	Y ☐ N ☐
Does the bill satisfy the actuarial cost impact provisions of Chapter 112, Part VII, Florida Statutes pending completion of actuarial impact statements?	Y ☐ N ☐
Explanation:	Click or tap here to enter text.
Fiscal Note:	Click or tap here to enter text.
Signature: Company or Organization: Date:	Click or tap here to enter text.

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	Click or tap here to enter text.

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

If yes, describe the anticipated impact including any fiscal impact.	Click or tap here to enter text.

ADDITIONAL COMMENTS**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

Does the proposed legislation conflict with existing federal law, or regulations? If so, what laws and/or regulations? Does the proposed legislation raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, impairment of contracts)? Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties?	No. In sections 3 (3) & 4 (3) the bill has contemplated the potential federal tax and eligibility implications to members with Health Savings Accounts (HSA's) attached to High Deductible Health Plans (HDHP's). No. No

2/13/24

Meeting Date

The Florida Senate
APPEARANCE RECORD

932

Bill Number or Topic

App. on Agriculture

Committee

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

Amendment Barcode (if applicable)

Name Chris Noland

Phone 904-233-3051

Address 4427 Herschel St

Street

Email nolandlaw@aol.com

Jacksonville, FL 32210

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 Chapter, American College of Physicians

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

2/13/24

Meeting Date

SB 932

Bill Number or Topic

Approps Under Agriculture, Environment & Conservation
Committee

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

Amendment Barcode (if applicable)

Name Jeff Scott

Phone 850 224-6496

Address 1430 Piedmont Dr. E.
Street

Email j.scott@flmedical.org

Tallahassee
City

FL
State

32308
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 Medical Association

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

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

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

S-001 (08/10/2021)

02/13/2024

Meeting Date

Appr. Agricultura, Envirom & GG

Committee

The Florida Senate

APPEARANCE RECORD

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

SB 0932

Bill Number or Topic

Amendment Barcode (if applicable)

954-850-7262

Name **Edda " Ivonne" Fernandez**

Phone

Address **215 S. Monroe Street- Suite 603**

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. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

13 Feb 2024

Meeting Date

0932

Bill Number or Topic

Rep. Comm. Ag. Env. & Gen. Gov

Committee

Amendment Barcode (if applicable)

Name Matthew Holliday

Phone 239-826-7864

Address 350 7th St N

Street

Email matthew.holliday@ncld.org

Naples

City

FL

State

34102

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:

NCH

☐ 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 Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/CS/SB 1098

INTRODUCER: Appropriations Committee on Agriculture, Environment, and General Government and Banking and Insurance Committee and Senator DiCeglie

SUBJECT: Department of Financial Services

DATE: February 15, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	Fav/CS
2.	Sanders	Betta	AEG	Fav/CS
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1098 revises provisions of multiple programs within the Department of Financial Services (DFS) to:

- Create the position of Federal Tax Liaison within DFS;
- Rename the Division of Investigative and Forensic Services to the Florida Division of Investigations and repeal the Division of Public Assistance Fraud (DPAF), moving its responsibilities to the renamed division;
- Revise the special risk provision to refer to employees of the DFS rather than the State Fire Marshal and retains the current effective employment date of July 1, 2008;
- Eliminate quarterly reports of the total amount of salary indemnification benefits paid and the total amount of reimbursements from each agency to the State Risk Management Trust Fund;
- Provide for workers' compensation reimbursement for emergency services and care provided when a maximum reimbursement allowance is not available. Provides this provision expires June 30, 2026;
- Require the DFS to engage an actuarial services firm to begin development of maximum reimbursement allowances for emergency services and care;
- Require purchases and contracts of \$100,000 or more entered into by the Florida Self-Insurers Guaranty Association, the Florida Medical Malpractice Joint Underwriting Association, the Florida Insurance Guaranty Association, the Florida Life and Health Guaranty Association, the Florida Health Maintenance Organization Consumer Assistance Plan, and the Florida Workers' Compensation Guaranty Association, entered into after

July 1, 2024, must first be approved by the DFS and that all such contracts must be competitively procured and be awarded to the most responsible and responsive vendor; specifies contracts required by law are exempt from approval by the DFS;

- Revise appointment authority and requirements for the Board of Funeral, Cemetery, and Consumer Services (Board); provides the Board members are subject to the code of ethics under part III of ch. 112, F.S.;
- Amend service requirements for disciplinary and citation procedures to provide for service by e-mail if service by certified mail cannot be made at the last provided address;
- Provide the DFS with the authority, in emergency situations, to access and secure any facility licensed under ch. 497, F.S., and to determine if a facility is abandoned and if there is an emergency situation;
- Provide criminal penalties for violations of s. 497.386, F.S.;
- Provide restrictions on when a preneed licensee may withdraw funds from the amount deposited in trust;
- Amend provisions regarding investigations and prosecutions within the regulatory authority of the DFS;
- Require surplus lines insurers to respond to the DFS' Division of Consumer Services (Division) within 14 days after receipt of a written request from the Division for documents and information concerning a consumer complaint;
- Provide for applicants to submit cellular telephone numbers as part of the application process on a voluntary basis for purposes of two-factor authentication of login credentials;
- Add "Registered Claims Adjuster (RCA) from American Insurance College" to the list of individuals exempted from the examination requirement to become an agent or adjuster;
- Allow the DFS to disclose confidential investigative information to the subject or the subject's representative in order to review the details of the investigation;
- Add the designation of "Chartered Customer Service Representative (CCSR) from American Insurance College" to the list of criteria to qualify as a customer representative;
- Require a licensed adjuster to identify themselves in any advertisements, solicitations or written documents based on the adjuster appointment type held;
- Provide that a general lines agent while licensed as a surplus lines agent may appoint licenses with a single surplus license agent appointment;
- Require that the renewal notice sent to the named insured containing changes in policy terms must be in bold type of not less than 14 points and included as a single page within the written notice;
- Revise provisions under the State Fire Marshal relating to standards on the use of fireworks, the Florida Fire Prevention Code, and uniform fire safety standards for mobile food dispensing vehicles and energy storage systems;
- Allow motor vehicle service agreement companies to utilize multiple contractual liability insurance policies when backing their financial obligations;
- Revise financial requirements for warranty associations and exempt employees and agents of a municipality, county government, or special district from the licensing and appointment requirements;
- Revise provisions relating to bail bond agents and agencies; provide that bail bond agents are not required to be employed with a bail bond agency; Revise provisions of the Florida Disposition of Unclaimed Property Act;

- Remove the exclusion of 20 percent of the asset value from the calculation of assets and liabilities provisions related for Florida Birth-Related Neurological Injury Compensation Association (NICA) claims;
- Require NICA by July 1, 2024, to provide a report of recommendations to address actuarial soundness to the Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives for ensuring a revenue level to maintain actuarial soundness;
- Direct the Division of Law Revision to prepare a reviser's bill to implement certain changes within this bill; and
- Authorize the DFS to adopt rules to implement provisions contained within the bill.

The bill has a significant, negative impact on state revenues and expenditures. See Section V. Fiscal Impact.

Except as otherwise provided, the bill takes effect upon becoming a law.

II. Present Situation:

Internal Revenue Service (IRS)

The IRS is a bureau of the United States Department of Treasury (Treasury) and is organized to carry out the responsibilities of the secretary of the Treasury under s. 7801 of the Internal Revenue Code.¹ The mission of the IRS is to provide the United States of America's taxpayers with top quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.² The IRS processes federal tax returns, payments, refunds and correspondence; levies federal tax liens; provides enforcement and compliance operations; enforces collection programs; resolves tax disputes through the IRS Independent Office of Appeals; and litigates tax cases within the U.S. Tax Court.³

The IRS offers many tools to assist taxpayers with tax questions and concerns, including online (self-service options), in person or by phone.⁴ Taxpayer Assistance Center Offices (IRS Offices) are located throughout the United States and the IRS also provides IRS-certified volunteers and Taxpayer Advocate Services for taxpayers who meet certain criteria.⁵ The IRS provides specific toll-free phone numbers and help lines for: individuals and businesses tax filers, overseas callers and callers who are hearing impaired; and persons who have questions regarding non-profit

¹ Internal Revenue Service (IRS), *The Agency, its Mission and Statutory Authority*, <https://www.irs.gov/about-irs/the-agency-its-mission-and-statutory-authority> (last visited Feb. 6, 2024). See 26 U.S.C. s. 7801 – U.S. Code (Jan. 1, 2018), Internal Revenue Code, Authority of Department of Treasury, available at <https://codes.findlaw.com/us/title-26-internal-revenue-code/26-usc-sect-7801/> (last visited Feb. 6, 2024).

² *Id.*

³ IRS, *IRS operations: Status of mission-critical functions*, <https://www.irs.gov/newsroom/irs-operations-status-of-mission-critical-functions> (last visited Feb. 6, 2024).

⁴ IRS, *Let Us Help You*, <https://www.irs.gov/help/let-us-help-you> (last visited Feb. 6, 2024).

⁵ *Id.*

taxes, estate and gift taxes and excise taxes.⁶ The IRS provides multiple toll free, 24-hour a day, pre-recorded messages covering more than 100 tax topics for tax payers seeking assistance.⁷

As of February 6, 2024, there are 18 IRS Offices in Florida. The IRS has offices in Clearwater, Daytona Beach, Ft. Myers, Gainesville, Jacksonville, Lakeland, Melbourne, Miami, Ocala, Orlando, Panama City, Pensacola, Plantation/Ft. Lauderdale, Port St. Lucie, Sarasota, Tallahassee, Tampa, and West Palm Beach.⁸ Each Florida location is open from 8:30 a.m. to 4:30 p.m., Monday through Friday. Some of the Florida IRS Offices offer extended hours on set days. Each Florida IRS Office offer online and local services.⁹

Florida Department of Revenue

The Florida Department of Revenue (DOR) administers three main programs: Child Support Program, General Tax Administration, and Property Tax Oversight.¹⁰ The DOR's primary responsibility lies in administering Florida's state tax law.¹¹ To encourage tax compliance, the DOR offers taxpayer education through online resources and webinars.¹² In addition, the DOR monitors taxpayer compliance and initiates enforcement actions, including audits and collections, while prioritizing the protection of taxpayer rights.¹³

Taxpayer Rights Advocate

The Taxpayer Rights Advocate (TRA) is a position established by statute, appointed by, and accountable to the DOR Chief Inspector General, with removal from office authorized only by the Chief Inspector General.¹⁴ The TRA's role is to address taxpayer concerns and ensure adherence to taxpayer rights as defined by Florida constitutional and statutory provisions.¹⁵

Article I, Section 25 of the Florida Constitution provides for the enactment of a Taxpayers' Bill of Rights by the legislature, outlining taxpayers' rights and responsibilities and the government's obligations to treat taxpayers fairly.¹⁶ The 1992 Florida Legislature created the Taxpayer's Bill of Rights, specified in s. 213.015, F.S., which grants taxpayers the right to request assistance from a DOR Taxpayer Rights Advocate.¹⁷ The TRA facilitates the resolution of taxpayer

⁶ *Id.*

⁷ IRS, *IRS Tax Tip 2001-39, Toll-Free Telephone Service*, available at <https://www.irs.gov/pub/irs-news/at-01-39.pdf> (last visited Feb. 6, 2024).

⁸ IRS, *Taxpayer Assistance Center Office Locator*, <https://apps.irs.gov/app/office-locator/> (last visited Feb. 6, 2024).

⁹ *Id.*

¹⁰ Florida Department of Revenue (DOR), *Quick Facts About the Florida DOR*, https://floridarevenue.com/opengovt/Pages/quick_facts.aspx (last visited Feb. 6, 2024).

¹¹ Florida DOR, *Florida's Taxpayers' Rights Advocate Annual Report July 1, 2020 – June 30, 2021*, p.7 <https://floridarevenue.com/Documents/taxpayerrights/4-%20TRA%20Annual%20Report%20%20%28FY%2020-21%29.pdf> (last visited Feb. 6, 2024).

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 1.

¹⁵ *Id.*

¹⁶ FLA. CONST., Art. I, s. 25

¹⁷ Florida DOR, *Florida's Taxpayers' Rights Advocate Annual Report July 1, 2020 – June 30, 2021*, p.7 <https://floridarevenue.com/Documents/taxpayerrights/4-%20TRA%20Annual%20Report%20%20%28FY%2020-21%29.pdf> (last visited Feb. 6, 2024).

complaints and problems not resolved through regular administrative channels within the DOR.¹⁸ This includes issuing stay actions on behalf of taxpayers facing irreparable loss due to the DOR actions and issuing an annual report.¹⁹ Additionally, the TRA's are required to safeguard and protect taxpayer rights during tax determination and collection processes.²⁰ While the TRA advocates for taxpayer rights, they do not administer the DOR's general tax processes.²¹ The TRA cannot represent taxpayers but works to ensure fair treatment and resolution of taxpayer issues.²² The TRA does not handle inquiries regarding local property tax matters, instead referring them to the DOR's Property Tax Oversight Program.²³

Powers and Duties of the Department of Financial Services

The organizational structure of the Department of Financial Services (DFS) is set forth in s. 20.121, F.S. The DFS is statutorily responsible for:

- Carrying out the state's accounting and auditing functions, including preparing the state's Comprehensive Annual Financial Report; monitoring state contracts; and making payment for state expenditures.
- Implementing state fire prevention and control measures, including the investigation of arson and other suspicious fires; training and certification of firefighter candidates; and regulation of explosive storage and use.
- Operating the state's risk management program and securing insurance and reinsurance for covered state liabilities.
- Managing the state Treasury and directing safekeeping and the investment of all state funds.
- Managing the deferred compensation program for state employees.
- Investigating fraud, including insurance fraud, public assistance fraud, and false claims against the state.
- Regulating cemeteries and funeral homes.
- Licensing and oversight of insurance agents and agencies.
- Ensuring that Florida employers provide workers' compensation coverage for their employees in a cost effective manner.
- Assisting consumers in the resolution of issues pertaining to insurance and funeral services.
- Collecting and returning unclaimed property belonging to Florida residents.²⁴

The DFS is composed of the following thirteen divisions:

- Accounting and Auditing;
- Administration;
- Consumer Services;
- Funeral, Cemetery, and Consumer Services;
- Insurance Agent and Agency Services;

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 2.

²² *Id.*

²³ *Id.*

²⁴ Florida Department of Financial Services, *Statement of Agency Organization and Operation*, Organization of the Department of Financial Services, <https://www.myfloridacfo.com/required/agency-org> (last visited Feb. 6, 2024).

- Investigative and Forensic Services;
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;
- Unclaimed Property; and
- Workers' Compensation.²⁵

Division of Investigative and Forensic Services

The Division of Investigative and Forensic Services (DIFS) functions as a criminal justice agency for purposes of ss. 943.045-943.08, F.S., and is authorized to conduct investigations within or outside of Florida, as necessary. The DIFS includes the following office and bureaus:

- The Bureau of Forensic Services;
- The Bureau of Fire, Arson, and Explosives Investigations;
- The Office of Fiscal Integrity;
- The Bureau of Insurance Fraud; and
- The Bureau of Workers' Compensation Fraud.

The DIFS encompasses all enforcement and forensic components within the DFS, investigating a wide range of fraudulent and criminal acts including:

- Insurance fraud investigations;
- Workers' compensation fraud investigations;
- Fire, arson, and explosives investigations;
- Theft/misuse of state funds; and
- Fire and explosives sample analysis.²⁶

The DIFS investigates various types of insurance fraud including Personal Injury Protection fraud, workers' compensation fraud, vehicle fraud, application fraud, licensee fraud, homeowner's insurance fraud, and healthcare fraud.²⁷ The DIFS is directed by statute to investigate fraudulent insurance acts, violations of the Unfair Insurance Trade Practices Act,²⁸ false and fraudulent insurance claims,²⁹ and willful violations of the Florida Insurance Code and rules adopted pursuant to the Code.³⁰ The DIFS employs sworn law enforcement officers to investigate insurance fraud.

²⁵ Florida Department of Financial Services, *Statement of Agency Organization and Operation*, General Description and Functions of the Department of Financial Services, <https://www.myfloridacfo.com/required/agency-org> (last visited Feb. 6, 2024).

²⁶ Department of Financial Services, Investigative and Forensic Services, *About the Division*, <https://myfloridacfo.com/Division/DIFS/> (last visited Feb. 6, 2024).

²⁷ *Id.*

²⁸ Section 626.9541, F.S.

²⁹ Section 817.234, F.S.

³⁰ Section 624.15, F.S.

Investigations by the DIFS are conducted as provided in s. 626.989, F.S. These provisions include:

- Authority to administer oaths and affirmations, request the attendance of witnesses or proffering of matter, and collect evidence;
- Authority to request that an individual who refuses to comply with a request be ordered by the circuit court to provide the testimony or matter;
- Responsibility to report any alleged violations of law which its investigations disclose to the appropriate licensing agency and state attorney or other prosecuting agency having jurisdiction;
- The power to make arrests for criminal violations established as a result of investigations; and
- That its investigators be considered state law enforcement officers for all purposes and have the power to execute arrest warrants and search warrants; to serve subpoenas issued for the examination, investigation, and trial of all offenses.

Division of Public Assistance Fraud

The Division of Public Assistance Fraud (DPAF) is created pursuant to s. 20.121(2)(f), F.S. The DPAF is charged with functioning as a criminal justice agency and to conduct investigations of public assistance fraud.³¹ The DPAF safeguards against public assistance fraud and the impact of those crimes by enforcing relevant state laws. The DPAF partners with the Department of Children and Families, the Agency for Health Care Administration, the Department of Health, and the Department of Education's Office of Early Learning to investigate fraud in programs administered by those departments.³² On the federal level, the DPAF partners with the U.S. Department of Agriculture's Food and Nutrition Services, the Social Security Administration, and the Department of Health and Human Services.³³

Special Risk Class

Chapter 121, F.S., contains provisions relating to the Florida Retirement System (FRS). Persons employed in law enforcement, firefighting, criminal detention, and emergency and forensic medical care are members of the Special Risk Class.³⁴ In establishing the Special Risk Class of membership within the FRS, the Legislature recognized that persons employed in certain categories of law enforcement, firefighting, and criminal detention positions must, as an essential function of their positions, perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity.³⁵ The Legislature further found that as persons in such positions age, they may not be able to continue performing their duties without posing a risk to the health and safety of themselves, the public and their coworkers.³⁶ Forensic professionals employed with the Division of State Fire Marshal in the forensic laboratory are included within the Special Risk Class.

³¹ Section 20.121(2)(f), F.S.

³² Department of Financial Services, Public Assistance Fraud, *About the Division*, <https://www.myfloridacfo.com/Division/PAF/> (last visited Feb. 6, 2024).

³³ *Id.*

³⁴ Section 121.0515(2), F.S.

³⁵ Section 121.0515(1), F.S.

³⁶ *Id.*

State Risk Management and Safety Programs

The Division of Risk Management (DRM) supports Florida's state agencies and universities by assisting them in managing various risks and ensuring quality coverage for workers' compensation, liability, federal civil rights, automobile liability, and property insurance at reasonable rates³⁷ through self-insurance, the purchase of insurance, and claims administration.³⁸ The DRM consists of three bureaus: Risk Financing and Loss Prevention, State Employee Workers' Compensation Claims, and State Liability and Property Claims.³⁹

Chapter 284, F.S., provides for state risk management and safety programs, including workers' compensation for state employees. In 1995, the Legislature created s. 284.44, F.S., in order "to provide state agencies with an increased incentive to become actively involved in the prevention and management of workers' compensation claims involving state employees."⁴⁰ This section requires that each agency covered under the program must provide the initial salary indemnification costs for employees entitled to workers' compensation benefits from funds appropriated for salaries and benefits.⁴¹

The DRM is required to prepare quarterly reports of the total amount of salary indemnification benefits paid and the total amount of reimbursements from each agency to the State Risk Management Trust Fund for initial costs each quarter.⁴² These reports also include information indicating the number of cases and any amounts waived by the Executive Office of the Governor.⁴³ The reports are provided to the Executive Office of the Governor and the chairs of the legislative appropriations committees.⁴⁴

Workers' Compensation

Workers' Compensation Maximum Reimbursement Allowances

The Division of Workers' Compensation (DWC) within the DFS provides regulatory oversight of Florida's workers' compensation system, which includes the enforcement of coverage requirements,⁴⁵ administration of the workers' compensation health care delivery system,⁴⁶ data collection,⁴⁷ and assisting injured workers, employers, insurers, and providers in fulfilling their responsibilities under ch. 440, F.S.⁴⁸ Whether an employer is required to have workers' compensation insurance depends upon the employer's industry and the number of its employees. Employers may secure coverage by purchasing a workers' compensation insurance policy or

³⁷ DFS, Division of Risk Management, *Fiscal Year 2021 Annual Report*, at 2, https://www.myfloridacfo.com/docs-sf/risk-management-libraries/risk-documents/annual-reports/risk-mgmt-annual-report-2021.pdf?sfvrsn=720e7fcb_4 (last visited Feb. 7, 2024).

³⁸ *Id.* at 2.

³⁹ *Id.* at 2.

⁴⁰ Section 284.44(1), F.S.

⁴¹ Section 284.44(2), F.S.

⁴² Section 284.44(6), F.S.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Section 440.107(3), F.S.

⁴⁶ Section 440.13, F.S.

⁴⁷ Section 440.185 and 440.593, F.S.

⁴⁸ Section 440.191, F.S.

qualifying as a self-insurer.⁴⁹ Individuals who elect an exemption are not considered “employees,” for premium calculation purposes, and are not eligible to receive workers’ compensation benefits if they suffer a workplace injury. Florida’s workers’ compensation law provides for medically necessary treatment and care of injured employees, including medications. The law provides reimbursement formulas and methodologies to compensate providers of health services, subject to maximum reimbursement allowances (MRAs).

A three-member panel (panel), consisting of the CFO or the CFO’s designee and two Governor’s appointees, sets the MRAs.⁵⁰ The DFS incorporates the statewide schedules of the MRAs by rule in reimbursement manuals. In establishing the MRA manuals, the panel considers the usual and customary levels of reimbursement for treatment, services, and care;⁵¹ the cost impact to employers for providing reimbursement that ensures that injured workers have access to necessary medical care;⁵² and the financial impact of the MRAs on healthcare providers and facilities. Florida law requires the panel to develop MRA manuals that are reasonable, promote the workers’ compensation system’s healthcare cost containment and efficiency, and are sufficient to ensure that medically necessary treatment is available for injured workers.⁵³

The panel develops four different reimbursement manuals to determine statewide schedules of maximum reimbursement allowances. The healthcare provider manual limits the maximum reimbursement for licensed physicians to 110 percent of Medicare reimbursement,⁵⁴ while reimbursement for surgical procedures is limited to 140 percent of Medicare.⁵⁵ The hospital manual sets maximum reimbursement for outpatient scheduled surgeries at 60 percent of usual and customary charges,⁵⁶ while other outpatient services are limited to 75 percent of usual and customary charges.⁵⁷ Reimbursement of inpatient hospital care is limited based on a schedule of per diem rates approved by the panel.⁵⁸ The ambulatory surgical centers manual limits reimbursement to 60 percent of usual and customary charge as such services are generally scheduled outpatient surgeries. The prescription drug reimbursement manual limits reimbursement to the average wholesale price plus a \$4.18 dispensing fee.⁵⁹ Repackaged or relabeled prescription medication dispensed by a dispensing practitioner has a maximum reimbursement of 112.5 percent of the average wholesale price plus an \$8.00 dispensing fee.⁶⁰ Fees may not exceed the schedules adopted under ch. 440, F.S., and the DFS rule.⁶¹

⁴⁹ Section 440.38, F.S.

⁵⁰ Section 440.13(12)(a), F.S.

⁵¹ Section 440.13(12)(d)1., F.S.

⁵² Section 440.13(12)(d)2., F.S.

⁵³ Section 440.13(12)(d)3., F.S.

⁵⁴ Section 440.13(12)(b)4., F.S.

⁵⁵ Section 440.13(12)(b)5., F.S.

⁵⁶ Section 440.13(12)(b)3., F.S.

⁵⁷ Section 440.13(12)(a), F.S.

⁵⁸ Section 440.13(12)(a), F.S.

⁵⁹ Section 440.13(12)(c), F.S.

⁶⁰ *Id.*

⁶¹ Section 440.13(13)(b), F.S. The DFS also has broad rulemaking authority under s. 440.591, F.S.

Florida Self-Insurers Guaranty Association

An employer may be eligible to self-insure for their workers' compensation coverage.⁶² Such an employer must furnish proof to the Florida Self-Insurers Guaranty Association (FSIGA) that the employer has the financial strength necessary to ensure timely payment of all current and future claims.⁶³ The FSIGA is a nonprofit corporation established pursuant to s. 440.385, F.S., and monitors the financial strength of self-insured entities for the DFS and makes recommendations as to the qualifications to self-insure.⁶⁴ All self-insurers other than governmental entities and public utilities are required to be members of the FSIGA.⁶⁵

Funeral, Cemetery, and Consumer Services

Chapter 497, F.S., known as the Florida Funeral, Cemetery, and Consumer Services Act (Act), provides for the regulation of funeral and cemetery services.⁶⁶ The Act authorizes the Board of Funeral, Cemetery, and Consumer Services (Board) within the DFS to regulate cemeteries, columbaria, cremation services and practices, cemetery companies, dealers and monument builders, funeral directors, and funeral establishments.⁶⁷

Section 20.121(4), F.S., creates the Board within the Division of Funeral, Cemetery, and Consumer Services of the DFS. The Board acts as the licensing and rulemaking authority for certain matters related to examinations and other substantive requirements for licensure within the death care industry under ch. 497, F.S., including facility requirements;⁶⁸

The Board has broad authority over licensure and examination of applicants for various licenses including:

- Authority to determine any and all criteria for licensure;
- Authority to specify who may conduct practical examination;
- Authority to specify the content of examinations for licensure, both written and practical, and the relative weighting of areas examined, and grading criteria, and determination of what constitutes a passing grade;
- Authority to strike any examination question determined before or after an examination to be inappropriate for any reason;
- Authority to specify which national examinations or parts thereof shall or shall not be required or accepted regarding Florida licensure;
- Authority to determine time limits and substantive requirements regarding reexamination of applicants who fail any portion of a licensing examination; and

⁶² Section 440.38(1)(b), F.S.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Section 440.385(1)(a), F.S.

⁶⁶ See Section 497.001, F.S.

⁶⁷ Sections 497.101 and 497.103, F.S.

⁶⁸ See s. 497.103(1)(a)-(cc), F.S. Licenses available to natural persons include: embalmer apprentice and intern; funeral directors and intern; funeral director and embalmer, direct disposer, monument establishment sales agent, and preneed sales agent. Section 497.141(12)(a), F.S. Licenses available to natural persons, corporations, limited liability companies, and partnerships include: funeral establishment, centralized embalming facility, refrigeration facility, direct disposal establishment, monument establishment, cinerator facility, removal service, preneed sales business under s. 497.453, F.S., and cemetery. Section 497.141(12)(b)-(c), F.S.

- Authority to determine substantive requirements and conditions relating to apprenticeships and internships, and temporary licensure pending examination.⁶⁹

The Board must have 10 members; one member must be the State Health Officer, or his or her designee, and the remaining nine members must be nominated by the Chief Financial Officer (CFO), appointed by the Governor, and confirmed by the Senate.⁷⁰ The composition of the Board must be as follows:

- The State Health Officer;
- Two funeral directors who are:
 - Licensed under part III of ch. 497, F.S., as funeral directors, and
 - Associated with a funeral establishment;
- One funeral director who is:
 - Licensed under part III of ch. 497, F.S.,
 - Associated with a funeral establishment licensed under part III of ch. 497, F.S., that has a valid preneed license issued pursuant to ch. 497, F.S., and
 - Operates an incinerator facility that is approved under ch. 403, F.S., and licensed under part IV of ch. 497, F.S.;
- Two persons whose primary occupation is associated with a licensed cemetery;
- Three consumers who:
 - Are residents of Florida;
 - Have never been licensed funeral directors or embalmers;
 - Are not connected with a cemetery or licensed cemetery company;
 - Are not connected to the death care industry or the practice of embalming, funeral directing, or direct disposition;
 - At least one of which is at least 60 years of age; and
 - At least one of which is a licensed certified public accountant; and
- One principal of a monument establishment licensed under ch. 497, F.S., as a monument builder.

Two or more members may not be principals or employees of the same company or partnership, or group of companies or partnerships under common control.⁷¹ Board members are appointed for four-year terms, except for the State Health Officer, who serves so long as he or she holds the office.⁷²

Service of Process

In general, the law provides for the designation of a public officer, board, agency, or commission as the agent for service of process on a person, firm, or corporation in the state.⁷³ However, the state CFO is designated as the agent for service of process on insurers and other specific entities or persons licensed by DFS or the Office of Insurance Regulation (OIR). The OIR provides oversight for specified insurance products, insurers and other risk bearing entities in Florida.⁷⁴

⁶⁹ Section 497.103(1)(a)-(g), F.S.

⁷⁰ Section 497.101(1), F.S.

⁷¹ Section 497.101(2), F.S.

⁷² Section 497.101(3), F.S.

⁷³ Section 48.151, F.S.

⁷⁴ Section 20.121(3)(a), F.S.

The Financial Services Commission (FSC), composed of the Governor, the Attorney General, the CFO, and the Commissioner of Agriculture, serves as agency head of the Office of Insurance Regulation for purposes of rulemaking. Further, the FSC appoints the commissioner of the Florida Office of Insurance Regulation.⁷⁵ Service of process on the CFO is made by mail, personal service, or via DFS's e-portal.⁷⁶

After receiving service of process, the CFO is required to promptly send a copy by registered or certified mail, or by any other verifiable means, to the person designated by an insurer to receive the process.⁷⁷ Verifiable means includes making the documents available by electronic transmission from a secure website established by the DFS.⁷⁸ If the DFS makes the documents available electronically, the CFO is required to send a notice of receipt of process to the person designated by the insurer being served to receive legal process.⁷⁹

Service is considered perfected on an insurer when the CFO is served with the process.⁸⁰ Although an insurer is not required to respond to a lawsuit except until 20 days after the CFO sends or makes a copy of the process available, the triggering date for other legal deadlines is the date the CFO is served with process.⁸¹ This can create problems for an insurer when a delay occurs between the time the CFO is served and the time the CFO notifies the insurer of the service of process.

Service of an administrative complaint in a disciplinary matter, whether against a licensee or an unlicensed person or entity, may be in person by the DFS staff or a person authorized to make service of process under the Florida Rules of Civil Procedure.⁸² If the complaint is against a licensee, than service "may in the alternative be made by certified mail, return receipt requested, to the last known address of record provided by the licensee to the department."⁸³ Service of a citation may be made in person or by certified mail at the subject's last known address.⁸⁴

Disciplinary Grounds and Complaints

Under current law, certain conduct related to funeral, cemetery and consumer services is prohibited and violation of such can lead to denial of application, imposition of discipline, or other enforcement action against the licensee. Such violations include:⁸⁵

- Fraud, deceit, negligence, incompetency, or misconduct in the practice of any activities regulated under ch. 497, F.S.;
- Any violation of any rules, orders or laws of the Board or the DFS;
- Failing to maintain the proscribed qualifications;

⁷⁵ *Id.*

⁷⁶ *Id.* See the DFS, General Counsel, *Service Instructions*, <https://myfloridacfo.com/division/generalcounsel/service-of-process> (last visited Feb. 6, 2024).

⁷⁷ Section 624.423, F.S.

⁷⁸ Section 624.307(9), F.S.

⁷⁹ *Id.*

⁸⁰ Section 624.423(3), F.S.

⁸¹ Section 624.423(2), F.S.

⁸² Section 497.153(4)(a), F.S.

⁸³ *Id.*

⁸⁴ Section 497.155(1)(e), F.S.

⁸⁵ Section 497.152, F.S.

- Refusing to sell or issue a contract or provide services based on race, color, creed, marital status, sex or national origin;
- Being convicted of or found guilty of, or entering a guilty plea or nolo contendere to, regardless of adjudication, a crime in any jurisdiction that relates to the practice of, of the ability to practice, a licensee's profession or occupation;
- Having a license or the authority to practice a profession or occupation revoked, suspended, fined, denied, or otherwise acted against or disciplined by the licensing authority of another jurisdiction, including its agencies and subdivisions, for conduct that would constitute a violation of ch. 497, F.S.;
- Improperly interfering with an investigation or inspection authorized by statute or with any disciplinary proceeding;
- Failure to comply with a lawfully issued subpoena of the DFS;
- Refusal to produce records to the DFS or Board in connection with any regulated activity under ch. 497, F.S.;
- Failing to report to the DFS any violation of ch. 497, F.S., by another person, which violation is known to the licensee to have created or be creating a serious and immediate danger to the public health, safety or welfare;
- Knowingly concealing information relative to violations of ch. 497, F.S.;
- Attempting to obtain, obtaining, or renewing a license under ch. 497, F.S., by bribery, false or forged evidence, or misrepresentation or through an error of the DFS or Board known to the applicant;
- Making or filing a report or statement to or with any government entity that the licensee knows or has reason to know to be false, or intentionally or negligently failing to file a report or record required to be filed with any government entity, or willfully impeding or obstructing another person to do so, or inducing another person to impede or obstruct;
- Failing to perform any statutory or legal obligation placed upon licensee;
- Unlicensed practice of any profession licensed under ch. 497, F.S.;
- Failing to comply with educational standards and requirements required under ch. 497, F.S.;
- Violating state law or rule of any municipal or county ordinance or regulation relating to the handling, custody, care or transportation of human dead bodies;
- Refusing to surrender promptly the custody of a dead human body upon the express order of the legally authorized person to such person's custody, subject to state or local laws;
- Taking possession of a dead human body without first having obtained written or oral permission from a legally authorized person;
- Embalming human remains without first having obtained written or oral permission from a legally authorized person;
- Failing to obtain written authorization from a legally authorized person before entombment, interment, disinterment, disintombment, or disinurnment of the remains of any human being;
- Making certain misinterpreting statements;
- Violating sales practices;
- Failing to disclose certain requirements;
- Failing to timely honor contract entered into by the licensee or under the licensee's license for funeral and burial merchandise or services;
- Failing to honor preneed contract cancellation requests and make refunds as required;
- Failing to address obligations regarding complaints and claims by customers; and

- Failing to comply with certain financial matters, including remittance of fees, remittance to trust funds or paying or receiving any commission, bonus, kickback or rebate not otherwise allowed under ch. 497, F.S.

In January 2024, the DFS responded to complaints against a Jacksonville funeral home. These complaints included “mishandling of cremated remains” and alleged “abandonment” of the funeral business.⁸⁶ In the course of its investigation, the DFS and law enforcement were able to execute a warrant issued by the 4th Circuit Court.⁸⁷ In addition, the DFS and law enforcement were able to secure the mortuary premises, take proper care of the remains of three human bodies, and work to reunite the bodies with their loved ones.⁸⁸ Multiple charges, including one felony count of Grand Theft and one misdemeanor count of Improper Preservation of a Human Body were included in the arrest warrant.⁸⁹

The DFS - Division of Consumer Services

The Division of Consumer Services (DCS) provides education, information, and assistance to consumers for all products or services regulated by the DFS or the FSC.⁹⁰ The DCS’s duties specifically include:

- Receiving consumer questions and complaints;
- Educating the public about insurance-related topics;
- Providing mediation to resolve disputes between a consumer and insurance company; and
- Serving as a conduit for referrals for further legal action by the DFS.⁹¹

Section 624.307(10)(b), F.S., permits the DCS to impose an administrative penalty on a person who holds a license or certificate of authority from the DFS if that person fails to respond to the DCS’s request for information within 20 days. A licensed individual must produce any requested documents not subject to attorney-client or work product privilege.

Insurance Field Representatives and Operations

Chapter 626, F.S., governs the regulation of insurance field representatives, navigators, insurance administrators, unauthorized insurers and surplus lines, viatical settlements, structured settlements, and operations.⁹² The powers and duties of the CFO and the DFS in part I of ch. 626, F.S., apply only with respect to insurance agents, insurance agencies, managing general

⁸⁶ News4Jax, *Arrest warrant issued for Jacksonville funeral home director accused of theft, mishandling remains*, <https://www.news4jax.com/news/local/2024/01/31/jacksonville-funeral-home-director-at-center-of-investigation-after-florida-cfo-says-he-allegedly-abandoned-mortuary/> (last visited Feb. 13, 2024).

⁸⁷ The DFS, Press Release, *DFS Secures Felony Arrest Warrant for Jacksonville Funeral Home Director* (Jan. 31, 2024), [DFS Secures Felony Arrest Warrant for Jacksonville Funeral Home Director \(myfloridacfo.com\)](https://www.myfloridacfo.com/division/consumers/understanding-insurance/guides) (last visited Feb. 13, 2024).

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ The DFS, *Department of Financial Services Long Range Program Plan: Fiscal Years 2023-24 through 2027-28*, 15 (Oct. 17, 2022), available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=24407&DocType=PDF> (last visited Feb. 6, 2024). See also, DFS, *Consumer Guides*, <https://www.myfloridacfo.com/division/consumers/understanding-insurance/guides> (last visited Feb. 6, 2024).

⁹¹ Section 624.307(10)(a), F.S.

⁹² This includes licensing and other requirements (part I), general lines agents (part II), life insurance agents (part III), health insurance agents (part IV), title insurance agents (part V), insurance adjusters (part VI), insurance administrators (part VII), and viatical settlements (part X).

agents, insurance adjusters, reinsurance intermediaries, viatical settlement brokers, customer representatives, service representatives, and agencies.⁹³ Further, the DFS has jurisdiction to enforce provisions of parts VIII and IX of ch. 626, F.S., with respect to persons engaged in actions for which a license issued by the DFS is required.⁹⁴ The powers and duties of the FSC and the OIR⁹⁵ specified in part I apply only with respect to service companies, insurance administrators, and viatical settlement providers and contracts.⁹⁶ The OIR has jurisdiction to enforce provisions of parts VIII and IX of ch. 626, F.S., with respect to persons who engage in actions for which a license or certificate of authority issued by the OIR is required.⁹⁷ However, s. 626.016(4), F.S., provides that it is not intended to limit the authority of the DFS and the Division of Investigative and Forensic Services (DIFS) within the DFS, as authorized in s. 626.989, F.S.

The Division of Insurance Agent and Agency Services (Division) licenses and appoints individuals and entities authorized to transact insurance in Florida as provided in s. 626.016, F.S. Further, the Division receives and reviews applications for insurance licenses and oversees the examination, licensing, and continuing education of licensees. The Division also conducts investigations of alleged violations of the Florida Insurance Code and refers suspected criminal violations of the Florida Insurance Code to the Division's Bureau of Insurance Fraud within the DFS or other law enforcement agencies as appropriate.⁹⁸

Insurance Adjuster Licensure Examination

An adjuster is an individual employed by an insurer to evaluate losses and settle policyholder claims.⁹⁹ An adjuster may be licensed as either an “all-lines adjuster” or a “public adjuster.”¹⁰⁰ An all-lines adjuster “is a person who, for money, commission, or any other thing of value, directly or indirectly undertakes on behalf of a public adjuster or an insurer to ascertain and determine the amount of any claim, loss, or damage payable under an insurance contract or undertakes to effect settlement of such claim, loss, or damage.”¹⁰¹ Subject to certain exceptions, a public adjuster is someone that is paid by an insured to prepare and file a claim against his or her insurer.¹⁰²

Among other requirements, an applicant must pass an examination to obtain an adjuster’s license; however, the examination requirement is waived if the applicant has attained certain professional designations that document their successful completion of professional education coursework. An examination is not required for all-lines adjuster applicants that obtains certain

⁹³ Section 626.016(1), F.S.

⁹⁴ Section 626.016(3), F.S.

⁹⁵ Pursuant to s. 20.121(3), F.S., the Office of Insurance Regulation is an office within the Financial Services Commission (FSC). The FSC is composed of the Governor, the Attorney General, the CFO, and the Commissioner of Agriculture. The FSC members serve as the agency head for purposes of rulemaking under ss. 120.536-120.565, F.S.

⁹⁶ Section 626.016(2), F.S.

⁹⁷ Section 626.016(3), F.S.

⁹⁸ Sections 624.307, 624.317, and 624.321, F.S.

⁹⁹ Insurance Information Institute. *I.I.I. Glossary* (defining “adjuster”), <https://www.iii.org/resource-center/iii-glossary/A> (last visited Feb. 6, 2024).

¹⁰⁰ Section 626.864, F.S.

¹⁰¹ Sections 626.015 and 626.8548, F.S.

¹⁰² Section 626.854(1), F.S.

specified professional designations.¹⁰³ The DFS must approve the curriculum, which must include comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard the DFS testing for the all-lines adjuster license.¹⁰⁴

Public Adjusters

A public adjuster is any person, except a duly licensed attorney-at-law, who, for money, commission, or any other things of value, directly or indirectly prepares, completes, or files an insurance claim for an insured or third-party claimant, or who, for money, commission, or any other thing of value, acts on behalf of, or aids an insured or third-party claimant in negotiating for or effecting the settlement of a claim or claims for loss or damage covered by an insurance contract, or who, advertises for employment as an adjuster of such claims.¹⁰⁵ The term also includes any person who, for money, commission, or any other thing of value, directly or indirectly solicits, investigates, or adjusts such claims on behalf of the public adjuster, an insured, or a third-party claimant.¹⁰⁶

Surplus Lines Insurer

Surplus lines insurance is coverage for specific risks that the standard or admitted market is either unable or unwilling to cover.¹⁰⁷ While the admitted market is where most consumers find coverage, the surplus lines market is a supplement for those individuals and businesses that cannot find coverage otherwise.¹⁰⁸ Florida law defines “eligible surplus lines insurer” as an unauthorized insurer which has been made eligible by the OIR to issue insurance coverage under the Surplus Lines Law.¹⁰⁹

Unauthorized Insurers and Surplus Lines

General Lines Agent

A general lines agent¹¹⁰ is one who sells the following lines of insurance: property;¹¹¹ casualty,¹¹² including commercial liability insurance underwritten by a risk retention group, a commercial self-insurance fund,¹¹³ or a Workers’ Compensation self-insurance fund;¹¹⁴ surety;¹¹⁵ health;¹¹⁶ and, marine.¹¹⁷ The general lines agent may only transact health insurance for an insurer that the

¹⁰³ Section 626.221, F.S.

¹⁰⁴ Section 626.221(2)(j), F.S.

¹⁰⁵ Section 626.854(1), F.S.

¹⁰⁶ *Id.*

¹⁰⁷ Florida Surplus Lines Service Office, *Surplus Lines Insurance*, <https://www.fslso.com/about/surplus-lines-insurance#:~:text=Surplus%20lines%20insurance%20is%20coverage,that%20cannot%20find%20coverage%20otherwise> (last visited Feb. 6, 2024).

¹⁰⁸ *Id.*

¹⁰⁹ Section 626.915, F.S.

¹¹⁰ Section 626.015(5), F.S.

¹¹¹ Section 624.604, F.S.

¹¹² Section 624.605, F.S.

¹¹³ As defined in s. 624.462, F.S.

¹¹⁴ Pursuant to s. 624.4621, F.S.

¹¹⁵ Section 626.606, F.S.

¹¹⁶ Sections 624.603 and 627.6482, F.S.

¹¹⁷ Section 624.607, F.S.

general lines agent also represents for property and casualty insurance. If the general lines agent wishes to represent health insurers that are not property and casualty insurers, they must be licensed as a health insurance agent.¹¹⁸

A general lines agent while licensed and appointed as a surplus lines agent may originate surplus lines business and may accept surplus lines business from any other originating Florida-licensed general lines agent appointed and licensed as to the kinds of insurance involved and may compensate that agent.¹¹⁹ A managing general agent while licensed and appointed as a surplus lines agent may accept and place such surplus lines business as is originated by a Florida-licensed general lines agent appointed and licensed as to the kinds of insurance involved and may compensate that agent.¹²⁰ Such general lines agent may not knowingly misrepresent to the surplus lines agent any material fact involved in any such insurance or in the eligibility thereof for placement with a surplus lines insurer.¹²¹

Florida Medical Malpractice Joint Underwriting Association

The Florida Medical Malpractice Joint Underwriting Association (FMMJUA) is an insurance risk apportionment plan created by law for the purpose of assuring the availability of medical liability (malpractice) insurance to Florida health care providers (physicians, surgeons, dentists, nurses, physician partnerships or corporations, hospitals, medical facilities and other health care providers).¹²² The FMMJUA provides liability insurance for those medical providers who are unable to obtain coverage from the private market.

The FMMJUA is administered through its Board of Governors (Board). The Board is comprised of representatives from the Florida Medical Association, Florida Hospital Association, The Florida Bar, Florida Dental Association, and the insurance industry. Subject to the final approval of the OIR, the Board approves insurance rates, rate classifications, policy forms, and otherwise sets the FMMJUA policy under the framework of the FMMJUA Plan of Operation. Operational and administrative functions are provided by a general manager and staff located in Tallahassee. The general manager is responsible for implementing policy and conducting the daily activities of the FMMJUA.

Guaranty Associations

A guaranty association generally is a nonprofit corporation created by law directed to protect policyholders from financial losses and delays in claim payment and settlement due to the insolvency of an insurance company.

¹¹⁸ Section 626.829, F.S.

¹¹⁹ Section 626.929(1), F.S.

¹²⁰ Section 626.929(2), F.S.

¹²¹ Section 626.929(3), F.S.

¹²² Section 627.351, F.S. *See also* Florida Medical Malpractice Joint Underwriting Association, *Welcome to the FMMJUA Web Site*, www.fmmjua.com (last visited Feb. 6, 2024). *See* DFS, Division of Rehabilitation and Liquidation, *Florida Guaranty Funds and Associations*, <https://www.myfloridacfo.com/division/receiver/guide-to-the-receivership-process/floridainsuranceguarantyassociations> (last visited Feb. 7, 2024).

Florida Self-Insurers Guaranty Association, Inc.

The Florida Self-Insurers Guaranty Association, Inc. (FSIGA), is a private, nonprofit corporation established in s. 440.385, F.S. The FSIGA is responsible for guaranteeing injured workers of insolvent self-insurers continue to receive workers' compensation benefits. Other than governmental entities, all self-insurers are required to be a member of FSIGA.¹²³

Florida Insurance Guaranty Association

Section 631.55, F.S., provides for the creation of the Florida Insurance Guaranty Association, Inc. (FIGA). When a property and casualty insurance company becomes insolvent, FIGA is required by law to assume the claims of the insurer and pay the claims of the company's policyholders.¹²⁴ All insurers licensed to sell property and casualty insurance in the state are required to participate in the FIGA as a condition of transacting business in Florida. The FIGA operates under a board of directors as a nonprofit corporation. The Board consists of five to nine members appointed by the DFS to serve four-year terms.¹²⁵

Florida Life and Health Insurance Guaranty Association

Section 631.715, F.S., provides for the creation of the Florida Life and Health Insurance Guaranty Association (FLHIGA). All insurers licensed to sell direct life insurance policies, health insurance policies, annuity contracts, and supplemental contracts with or without life contingencies in the state are required to participate in the FLHIGA as a condition of transacting business in Florida. The FLHIGA operates under a board of directors as a nonprofit corporation. The Board consists of nine to eleven members appointed by member insurers.¹²⁶

Florida Health Maintenance Organization Consumer Assistance Plan

Section 631.815, F.S., provides for the creation of the Florida Health Maintenance Organization Consumer Assistance Plan (FHMOCAP). All health maintenance organizations possessing a valid certificate of authority in the state are required to participate in the FHMOCAP as a condition of transacting business in Florida. The FHMOCAP operates under a board of directors as a nonprofit corporation. The Board consists of five to nine members appointed by the DFS to serve four-year terms.¹²⁷

Florida Workers' Compensation Insurance Guaranty Association

Section 631.911, F.S., provides the creation of the Florida Workers' Compensation Insurance Guaranty Association, Incorporated (FWCIGA). All insurers authorized to provide workers' compensation insurance in the state are required to participate in the FWCIGA as a condition of transacting business in Florida. The FWCIGA operates under a board of directors as a nonprofit corporation. The Board consists of eleven members appointed to serve four-year terms.¹²⁸

¹²³ Florida Self-Insurers Guaranty Association, Inc., *What Is the FSIGA, Inc.?*, <https://fsiga.org/> (last visited Feb. 7, 2024).

¹²⁴ Section 631.57, F.S.

¹²⁵ Section 631.56(1), F.S.

¹²⁶ Section 631.716(1), F.S.

¹²⁷ Section 631.816(1), F.S.

¹²⁸ Section 631.912(1), F.S.

State Fire Marshal

State law on fire prevention and control is provided in Chapter 633, F.S. Section 633.104, F.S., designates the Chief Financial Officer (CFO) as the State Fire Marshal, operating through the Division of the State Fire Marshal within the DFS. This law provides “it is the intent of the Legislature that the State Fire Marshal shall have the responsibility to minimize the loss of life and property in this state due to fire.”¹²⁹ Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts fire safety inspections of state property; develops fire safety standards; provides facilities for the analysis of fire debris; and operates the Florida State Fire College.

The State Fire Marshal is charged with adopting the current edition of the National Fire Protection Association’s Standard 1, Fire Prevention Code, but is prohibited from adopting a building, mechanical, or plumbing code.¹³⁰ Criminal penalties for violation of the Florida Fire Prevention Code, any order or rule of the State Fire Marshal, or any order to cease and desist or to correct conditions, are set forth in s. 633.124, F.S.

Uniform Fire Safety Standards

The DFS is required to establish uniform firesafety standards that apply to:

- All new, existing, and proposed state-owned and state-leased buildings; and
- All new, existing, and proposed hospitals, nursing homes, assisted living facilities, adult family-care homes, correctional facilities, public schools, transient public lodging establishments, public food service establishments, elevators, migrant labor camps, mobile home parks, lodging parks, recreational vehicle parks, recreational camps, residential and nonresidential child care facilities, facilities for the developmentally disabled, motion picture and television special effects productions, tunnels, and self-service gasoline stations.¹³¹

The uniform fire safety standards must be reasonably prudent with respect to protecting life, safety, and property and which take into consideration the characteristics of the people utilizing the subject buildings and structures and other hazards associated with the subject buildings and structures throughout the state.¹³² A local authority may not require more stringent uniform fire safety standards with respect to buildings or structures subject to such standards except in limited circumstances.¹³³

¹²⁹ Section 633.104(2), F.S.

¹³⁰ Section 633.202(2), F.S.

¹³¹ Section 633.206(1), F.S.

¹³² Section 633.206(2)(a), F.S.

¹³³ Section 633.206(2)(b), F.S.

Motor Vehicle Service Agreement Companies

A person may not transact, administer, market, or attempt any of these activities with respect to a service agreement¹³⁴ business in Florida without a license.¹³⁵ To qualify for and maintain a license, a service agreement company (“company”) must comply with applicable Florida laws (including the Florida Insurance Code), rules and charter powers, and comply with specified requirements, including, in part:

- Being a solvent corporation;
- Furnishing the OIR with evidence that the management of the company is competent and trustworthy, and can successfully and lawfully manage its affairs;
- Making a deposit required under s. 634.052, F.S.;
- Maintaining the requires reserves and the required ratio of liquid assets to the required reserves;
- Having and maintaining net assets of \$500,000, which all of such assets maintained in the United States; and
- Establishing and maintaining an unearned premium reserve that meets certain requirements, including:
 - The unearned premium reserve consists of unencumbered assets equal to a minimum of 50 percent of the unearned gross written premium of each service agreement and must amortize this reserve pro rata over the duration of the service agreement;
 - A company utilizing the 50-percent reserve must not allow its ratio of gross written premium to net assets to exceed 10 to one; and
 - The company must deposit with the DFS securities of the type eligible for deposit by insurers under s. 625.52, F.S., equal to 15 percent of the unearned premium reserve; or
- Is not required to establish and maintain an unearned premium reserve if the company secures and maintains contractual liability insurance in accordance with the following:
 - Coverage of 100 percent of the claim exposure is obtained from an insurer approved by the OIR which meets certain criteria;
 - The contractual liability insurance policy binds its issuer to pay or cause to be paid to the service agreement holder all legitimate claims and cancellation refunds if the company does not meet its contractual obligations;
 - If the issuer of the contractual liability policy is fulfilling the service agreements covered by contractual liability policy and the holder cancel the service agreement, the issuer must make a full refund of the unearned premium to the consumer in certain circumstances;

¹³⁴ Section 634.011(8), F.S., defines “motor vehicle service agreement” or “service agreement” as a contract or agreement indemnifying the service agreement holder for the motor vehicle listed on the service agreement and arising out of the ownership, operation, and use of the motor vehicle against loss caused by failure of any mechanical or other component part, or any mechanical or other component part that does not function as it was originally intended; however, nothing in this part shall prohibit or affect the giving, free of charge, of the usual performance guarantees by manufacturers or dealers in connection with the sale of motor vehicles. Transactions exempt under s. 624.125, F.S., are expressly excluded from this definition and are exempt from the provisions of this part. The term “motor vehicle service agreement” includes any contract or agreement that provides: (a) for the coverage or protection and which is issued or provided in conjunction with an additive produce applied to the motor vehicle that is the subject of such contract or agreement; (b) For payment of vehicle protection expenses as defined in s. 634.011(8)(b)1.a., F.S.

¹³⁵ Section 634.031(1), F.S.

- The policy's cancellation, termination, or nonrenewal is subject to 90 days written notice by the insurer to the OIR; and
- The company must provide the OIR with the claims statistics.¹³⁶

A policy issued in compliance with this provision may either pay 100 percent of claims as they are incurred, or pay 100 percent of claims due in the event of the failure of the service agreement company to pay such claims when due.¹³⁷

Home Warranty Associations

Chapter 634, F.S., provides for the regulation of warranty associations. There are three parts to the chapter: Part I for motor vehicle service agreement companies; Part II for home warranty associations; and Part III for service warranty associations.

A home warranty association is any business other than an authorized insurer that issues home warranties.¹³⁸ A home warranty includes any agreement whereby a business indemnifies the warranty holder against the cost of repair or replacement of any structural component or appliance of a home, necessitated by wear and tear or an inherent defect of any such structural component or appliance.¹³⁹ It does not include or prohibit the giving, at no charge, of usual performance guarantees by either the builder of a home or the manufacturer or seller.¹⁴⁰ The regulation is administered by the OIR.¹⁴¹

Bail Bonds

A bail bond is a guarantee by a third-party that a defendant in a criminal case will appear in court at all scheduled proceedings. A bail bond agent posts a surety bond to secure the defendant's release from custody; the defendant provides money or other collateral to secure the bail bond and forfeits the premium (10 percent of the amount of bail set by the court) if he or she fails to appear in court or comply with other conditions of the bond. Bail bond agents must be licensed by the DFS and appointed by insurance carriers to execute bail bonds. If a defendant fails to appear in court, the bail bond agent may apprehend and detain the defendant until the defendant is surrendered to the authorities.¹⁴²

Bail bond agents may execute or sign bonds, handle collateral receipts, deliver bonds to appropriate authorities, or operate an agency or branch agency at a separate location from the supervising bail bond agent, managing general agent, or insurer that employs the bail bond agent.¹⁴³

¹³⁶ Section 634.041, F.S.

¹³⁷ Section 634.041(8)(b)6., F.S.

¹³⁸ Section 634.301(3), F.S.

¹³⁹ Section 634.301(2), F.S.

¹⁴⁰ *Id.*

¹⁴¹ Section 634.302, F.S.

¹⁴² Sections 648.24 and 624.26, F.S. *See also* Department of Financial Services, Division of Consumer Services, *Bail Bonds Overview*, <https://www.myfloridacfo.com/division/consumers/understanding-insurance/bail-bonds-overview> (last visited Feb. 6, 2024).

¹⁴³ Section 648.355, F.S.

Licensure as a Bail Bond Agent

All applicants for bail bond licenses must submit fingerprints for a national criminal background check and pay an application fee. Bail bond agents may not have been convicted of a felony, must be age 18 or older, and must be eligible to work in the United States. A bail bond agent must be appointed by a licensed insurer and the insurer must report the appointment to the DFS. A bail bond agent may not charge a premium other than the rate that has been approved by the OIR, and must retain records related to any bail bonds the agent has executed or countersigned for at least three years after the liability of the surety has been terminated. Additionally, bail bond agents must register with the sheriff and the clerk of the circuit court in the county where the bail bond agent resides. Bail bond agents may not solicit clients at a jail, prison, or courthouse, and may not pay fees for referrals from any person working in the law enforcement community.¹⁴⁴

Ownership of a Bail Bond Agency

The owner of a bail bond agency must be a licensed and appointed bail bond agent.¹⁴⁵ The owner or operator of a bail bond agency must designate a primary bail bond agent who is responsible for the overall operation and management of a bail bond agency location and file the name and license number of the primary bail bond agent and the address of the bail bond agency with the DFS. A primary bail bond agent may supervise only one location, is responsible for hiring employees and may not employ or contract with any person who has been found guilty of a felony.¹⁴⁶

Continuing Education

Bail bond agents must complete at least 14 hours of continuing education every two years.¹⁴⁷ Schools that offer continuing education must be approved and certified by the DFS, and must offer a minimum of three classroom-instruction continuing education classes per calendar year. Continuing education classes must consist of at least two hours of approved coursework and be taught by a supervising instructor who is approved by the DFS.¹⁴⁸

Florida Disposition of Unclaimed Property Act

As part of the DFS' statutory responsibilities, the DFS is to collect and return unclaimed property belonging to Florida residents. Chapter 717, F.S., is entitled the Florida Disposition of Unclaimed Property Act, over which the DFS is responsible to administer. Unclaimed property is any funds or other property, tangible or intangible, that has remained unclaimed by the owner for a certain number of years. Unclaimed property may include savings and checking accounts, money orders, travelers' checks, uncashed payroll or cashiers' checks, stocks, bonds, other securities, insurance policy payments, refunds, security and utility deposits, and contents of safe

¹⁴⁴ Sections 648.355, 648.33, 648.34, 648.35, 648.36, 648.382, 648.42, and 648.44, F.S.

¹⁴⁵ Section 648.285, F.S.

¹⁴⁶ Sections 648.25(6) and 648.387, F.S.

¹⁴⁷ Section 648.385, F.S.

¹⁴⁸ Section 648.386, F.S.

deposit boxes.¹⁴⁹ Until claimed, unclaimed money is deposited into the state school fund to be used for public education.

Pursuant to s. 717.124, F.S., a claimant representative must be a Florida-licensed attorney, a licensed Florida-certified public accountant (CPA), or a private investigator licensed under ch. 493, F.S. A claimant representative must register with the DFS on a form designated by the DFS and provide certain documentation (including tax identification number, identification, electronic funds transfer information, business address, and employees and agents) and credentials as to their status as an attorney, CPA, or private investigator.¹⁵⁰ In order to move forward in obtaining unclaimed property on a potential client's behalf, the representative must first obtain that client's authorization.

Chapter 717, F.S., details how to determine whether property held by a person belonging to another is unclaimed and how to dispose of it. Any intangible property or income held in the possession of a "holder"¹⁵¹ for the benefit of another is presumed unclaimed if the owner fails to claim such property for more than five years after the property becomes payable or distributable.¹⁵²

Once the five year period elapses, the holder may file a petition with the DFS and request that the DFS accept custody of the property.¹⁵³ Upon delivery of property to the DFS, the state assumes custody and responsibility for the safekeeping of the property. So long as the person who delivers the property to the DFS has done so in good faith, he or she is relieved of any liability to manage the property.¹⁵⁴ While the DFS serves as the custodian for the State of Florida, it does not assume legal ownership of the property.¹⁵⁵

To notify owners of their unclaimed property, the DFS employs various methods, including database searches.¹⁵⁶ Citizens have the right to claim their property at any time, irrespective of the amount, without incurring any costs.¹⁵⁷ Unclaimed funds are deposited into the State School Fund to support public schools.¹⁵⁸ Importantly, the original amount reported as unclaimed can always be claimed by the owner or their heirs at no cost.¹⁵⁹

A claimant representative, who must be a Florida-licensed attorney, a licensed Florida-certified public accountant (CPA), or a private investigator licensed under Chapter 493, F.S., is required

¹⁴⁹ Sections 717.104-717.116, F.S.

¹⁵⁰ Section 717.1400, F.S.

¹⁵¹ Section 717.101(12), F.S., defines "holder" as a person, wherever organized or domiciled, who is:

- In possession of property belonging to another;
- A trustee in case of a trust; or
- Indebted to another on an obligation.

¹⁵² Section 717.102(1), F.S.

¹⁵³ Section 717.117(5), F.S.

¹⁵⁴ Section 717.1201(5), F.S.

¹⁵⁵ Sections 717.104-717.116, F.S.

¹⁵⁶ Florida Department of Financial Services, *Agency Analysis of Senate Bill 1434*, p. 1 (Feb. 9, 2021) (on file with the Senate Committee on Agriculture, Environment, and General Government).

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

to register with the DFS.¹⁶⁰ A claimant representative must register with DFS on a form designated by the DFS and provide certain documentation (including tax identification number, identification, electronic funds transfer information, business address, and employees and agents) and credentials as to their status as an attorney, CPA, or private investigator.¹⁶¹ In order to move forward in obtaining unclaimed property on a potential client's behalf, the representative must first obtain that client's authorization.

Florida Birth-Related Neurological Injury Compensation Association

History

In the 1970's and 1980's, Florida obstetric malpractice claims sharply rose and medical liability insurance skyrocketed.¹⁶² A special task force was created to study Florida's medical malpractice crisis. The task force evaluated the rising cost of insurance, litigation costs and attorney's fees and noted no substantive change in law accounted for the increases.¹⁶³ In 1985, the national average for obstetricians-gynecologist (OB-GYNs) medical malpractice liability premium was \$23,300. In Florida, the average for the same insurance was \$185,460.¹⁶⁴

In 1988, the Legislature enacted the Florida Birth-Related Neurological Injury Compensation Plan¹⁶⁵ (Plan) to provide compensation, long-term medical care, and other services to persons with birth-related neurological injuries.¹⁶⁶ If an infant suffers such an injury, and the physician participates in NICA and delivers obstetrical services in connection with the birth, then an administrative award for a compensable injury is the infant's sole and exclusive remedy for the injury, with exceptions.¹⁶⁷ Although the benefits paid under the Plan are limited, the Plan does not require the claimant to prove malpractice and provides a streamlined administrative hearing process to resolve the claim.¹⁶⁸

A "birth-related neurological injury" is an injury to the brain or spinal cord of a live infant who weighs at least 2,500 grams for a single gestation or, in the case of a multiple gestation, a live infant who weighs at least 2,000 grams at birth caused by oxygen deprivation or by mechanical injury occurring in the course of labor, delivery, or resuscitation in the immediate post-delivery period in a hospital.¹⁶⁹ Such an injury addressed by this statute renders the infant permanently and substantially mentally and physically impaired.¹⁷⁰

¹⁶⁰ Section 717.124, F.S.

¹⁶¹ Section 717.1400, F.S.

¹⁶² The Florida Birth-Related Neurological Injury Compensation Association, *About NICA*, <https://www.nica.com/about-nica/> (last visited Feb. 13, 2024).

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ Section 766.303(1), F.S.

¹⁶⁶ Chapter 88-1, ss. 60-75, Laws of Fla., was enacted by the Legislature to stabilize and reduce malpractice insurance premiums for physicians practicing obstetrics. The intent of the Legislature is to provide compensation, on a no-fault basis, for a limited class of high costs catastrophic injuries, specifically birth-related neurological injuries, that result in unusually high costs for custodial care and rehabilitation. Section 766.301 F.S.

¹⁶⁷ Section 766.31(1), F.S.

¹⁶⁸ See *Florida Birth-Related Neurological Injury Compensation Ass'n v. McKaughan*, 668 So.2d 974, 977 (Fla. 1996).

¹⁶⁹ Section 766.302(2), F.S.

¹⁷⁰ *Id.*

NICA is an independent association. Although it is not a state agency, NICA is subject to regulation and oversight by the Office of Insurance Regulation (OIR) and the Joint Legislative Auditing Committee. Directors on NICA's board are appointed by the Chief Financial Officer.¹⁷¹ The five-member board of directors of the Florida Birth-Related NICA administers the Plan.¹⁷² Duties of the NICA include:

- Administering the plan;
- Administering the funds collected;
- Reviewing and paying claims;
- Directing the investment and reinvestment of any surplus funds over losses and expenses;
- Reinsuring the risks of the plan in whole or in part;
- Suing and being sued, appearing and defending, in all actions and proceedings in its name; and
- Taking such legal action as may be necessary to avoid payment of improper claims.¹⁷³

Filing a Claim for Benefits under NICA

A claim for compensation under the Plan must be filed within five years of the birth of the infant alleged to be injured.¹⁷⁴ First, the parents or guardians of the infant must file a petition with the Division of Administrative Hearings (DOAH).¹⁷⁵ Then, the DOAH serves a copy of the petition upon NICA, the physician(s) and hospital named in the petition, the Division of Medical Quality Assurance, and the Agency for Health Care Administration.¹⁷⁶ Within 10 days of filing the petition, the parents or guardian must provide to NICA all medical records, assessments, evaluations and prognoses, documentation of expenses, and documentation of any private or governmental source of services or reimbursement relative to the impairments.¹⁷⁷

Within 45 days from the date of service of a complete claim, NICA must file a response to the petition and submit relevant written information relating to the issue of whether the injury alleged is a birth-related neurological injury.¹⁷⁸ An ALJ from the DOAH will set a hearing on the claim to be conducted 60-120 days from the petition filing date.¹⁷⁹

The issue of whether the claim for compensation is covered by the Plan is determined exclusively in an administrative proceeding.¹⁸⁰ The ALJ presiding over the hearing makes the following determinations:

- Whether the injury claimed is a birth-related neurological injury;
- Whether obstetrical services were delivered by a participating physician;

¹⁷¹ Section 766.315, F.S. and section 74 of ch. 88-1 Laws of Fla.

¹⁷² Section 766.315(1) and (2), F.S.

¹⁷³ Section 766.315(4), F.S.

¹⁷⁴ Section 766.313, F.S.

¹⁷⁵ Section 766.305, F.S.

¹⁷⁶ Section 766.305(2), F.S.

¹⁷⁷ Section 766.305(3), F.S.

¹⁷⁸ Section 766.305(4), F.S.

¹⁷⁹ Section 766.307(1), F.S.

¹⁸⁰ Section 766.301(1)(d), F.S.

- How much compensation, if any, is awardable under s. 766.31, F.S.; and
- Whether, if raised by the claimant or other party, the factual determination regarding the notice requirement in s. 766.316, F.S.¹⁸¹

If the ALJ determines that an injury meets the definition of a birth-related neurological injury, compensation from the plan is the exclusive legal remedy.¹⁸² If the ALJ determines that, the injury alleged is not a birth-related neurological injury or that a participating physician did not deliver the obstetrical services, the ALJ will enter an order to that effect.¹⁸³ The ALJ may also bifurcate the proceeding and address compensability and notice first, and address an award, if any, in a separate proceeding.¹⁸⁴ If any party chooses to appeal the ALJ's order under s. 766.309, F.S., the appeal must be filed in the District Court of Appeal.¹⁸⁵

NICA Appropriations, Assessments, Reserves and Actuarial Soundness

NICA is a no-fault alternative to medical malpractice lawsuits for injuries which have a high cost and system impact.¹⁸⁶ The funding for the Plan is derived from an initial appropriation of \$20 million by the Legislature at the time the Plan was created¹⁸⁷ and annual assessments paid by physicians and hospitals.¹⁸⁸ In the last five years, NICA collected the following amounts in hospital and physician assessments:

- In 2019, \$26,989,960;¹⁸⁹
- In 2020, \$27,765,802;¹⁹⁰
- In 2021, \$31,799,087;¹⁹¹
- In 2022, \$35,830,483;¹⁹² and
- In 2023, \$35,076,996.¹⁹³

¹⁸¹ Section 766.309(1), F.S.

¹⁸² Section 766.303(2), F.S., only allows a civil action in place of a claim under the Plan where there is clear and convincing evidence of bad faith or malicious purpose or willful and wanton disregard of human rights, safety, or property.

¹⁸³ Section 766.309(2), F.S.

¹⁸⁴ Section 766.309(4), F.S.

¹⁸⁵ Section 766.311(1), F.S.

¹⁸⁶ The Florida Birth-Related Neurological Injury Compensation Association, *About NICA*, <https://www.nica.com/about-nica/> (last visited Feb. 13, 2024).

¹⁸⁷ Section 766.314(5)(b), F.S.

¹⁸⁸ Section 766.314(4) – (5)(a), F.S., requires non-participating physicians to pay \$250 per year, participating physicians to pay \$5,000 per year, and hospitals to pay \$50 per infant delivered during the prior year.

¹⁸⁹ Turner Consulting, Inc., *Proposed Increase in Parental Award – Section 766.31 (1) (b) (1), Florida Statutes* (Jan. 14, 2020) See also, Thomas, Howell Ferguson, P.A., NICA Financial Statements and Other Financial Information, *Years Ended June 30, 2019 and 2018 with Report of Independent Auditors*, available at <https://www.nica.com/wp-content/uploads/2021/04/2019-NICA-Audited-Financial-Statements.pdf> (last visited Feb. 13, 2024).

¹⁹⁰ *Id.* See also, Thomas, Howell Ferguson, P.A., NICA Financial Statements and Other Financial Information, *Years Ended June 30, 2020 and 2019 with Report of Independent Auditors*, available at <https://www.nica.com/wp-content/uploads/2021/04/2020-NICA-Audited-Financial-Statements.pdf> (last visited Feb. 13, 2024).

¹⁹¹ Thomas, Howell Ferguson, P.A., NICA Financial Statements and Other Financial Information, *Years Ended June 30, 2021 and 2020 with Report of Independent Auditors*, available at <https://www.nica.com/wp-content/uploads/2021/12/2021-NICA-Audited-Financial-Statements.pdf> (last visited Feb. 13, 2024).

¹⁹² Thomas, Howell Ferguson, P.A., NICA Financial Statements and Other Financial Information, *Years Ended June 30, 2022 and 2021 with Report of Independent Auditors*, available at <https://www.nica.com/wp-content/uploads/2023/03/2022-NICA-Audited-Financial-Statements-1.pdf> (last visited Feb. 13, 2024).

¹⁹³ Thomas, Howell Ferguson, P.A., NICA Financial Statements and Other Financial Information, *Years Ended June 30, 2023 and 2022 with Report of Independent Auditors*, available at <https://www.nica.com/wp-content/uploads/2023/10/06-30-2023-NICA-Audited-Financial-Statements.pdf> (last visited Feb. 13, 2024).

The NICA may invest Plan funds, subject to limitations described in s. 215.47, F.S. All income derived from investments will be credited to the Plan. The State Board of Administration (SBA) may invest and reinvest funds held on behalf of the Plan in accordance with the trust agreement approved by NICA and the SBA and within the provisions of s. 215.44-215.53, F.S.¹⁹⁴

Section 766.314, F.S., requires the OIR to maintain a \$20 million reserve in the Insurance Regulatory Trust Fund with the DFS. If the assessments collected and the appropriation of funds provided by s. 41, ch. 88-277, L.O.F., to the Plan from the trust fund are insufficient to maintain the Plan on an actuarially sound basis, the OIR is authorized to transfer an additional amount up to \$20 million to NICA from the Insurance Regulatory Trust Fund reserve.¹⁹⁵

If required to maintain the Plan on an actuarially sound basis, the OIR is authorized to require each entity licensed to issue casualty insurance, defined in s. 624.601(1)(b), (k) and (q), F.S., to pay into NICA an annual assessment determined by the OIR. The OIR is required to obtain no less than on a biennial basis, an actuarial valuation of NICA's assets and liabilities.¹⁹⁶ The OIR is authorized to increase assessments on a proportional basis as needed, if the OIR determines the Plan cannot be maintained on an actuarially sound basis.¹⁹⁷

NICA Liabilities

In 2021, an actuarial analysis of NICA was conducted using data valued as of December 31, 2021.¹⁹⁸ The actuarial study (Pinnacle study) showed the total outstanding loss and loss adjustment expenses (LAE) was \$1,017,205 which is higher than the corresponding outstanding loss and LAE, of \$602.2 million calculated as of December 31, 2019. The Pinnacle study reports the increase to the reserves is driven by three factors:¹⁹⁹

- An increase in reported and compensable claims in recent years;
- An increase in future costs due to the passage of Senate Bill 1786 in 2021; and
- An increase in future costs related to NICA no longer being considered the payor of last resort.²⁰⁰

The Pinnacle study, in its evaluation of the risk or uncertainty of actuarial central estimates determined “uncertainty is magnified by the long duration of benefits and the consequential highly leveraged impact of inflation, interest, medical technology, and life expectancy on future claims costs.”²⁰¹ Furthermore, the Pinnacle study indicates NICA is encountering an operating

¹⁹⁴ Section 766.315(5)(f)

¹⁹⁵ Section 766.314(5)(b), F.S.

¹⁹⁶ Section 766.314(7)(a), F.S. The OIR is required to prepare a statement as to the contribution rate applicable with the rate not to be greater than 0.25 percent of net direct premiums written.

¹⁹⁷ Section 766.315(7)(b), F.S.

¹⁹⁸ Pinnacle Actuarial Resources, *NICA Actuarial Review of Loss Reserves as of December 31, 2021, Including Additional Costs of the 2022 Birth/Accident Year* (Dec. 18, 2022), available at https://floir.com/docs-sf/default-source/property-and-casualty/birth-related-neurological-injury-compensation/nica-12-31-21-actuarial-report---final.pdf?sfvrsn=331d749e_4 (last visited Feb. 13, 2024).

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ *Id.* at 3.

loss on a birth year basis²⁰² and that corrective action should be considered before the underwriting losses compound to an unimaginable level.²⁰³ The Pinnacle study suggested corrective action could include, but not be limited to, assessment increases, reduction of benefits, reconsideration of NICA's status relative to Medicaid, and sunseting of the program.²⁰⁴

In late 2022, NICA announced a settlement of \$51 million²⁰⁵ in a false claims act lawsuit, *United States ex rel. Arven et al. v. Florida Birth-Related Neurological Injury Compensation Association et al.*, No. 19-cv-61053, (S.D. Fla. Nov. 14, 2022) (*Arven settlement*).²⁰⁶ The settlement resolves allegations NICA violated the False Claims Act by causing NICA participants to submit their healthcare claims to Medicaid rather than NICA, in violation of Medicaid's status as the payor of last resort under federal law.²⁰⁷ Pursuant to the terms and conditions of the settlement, NICA agreed to pay \$51 million plus interest at a rate of 3.375 percent per annum from September 13, 2022, to no later than thirty days after the effective date of the settlement agreement.²⁰⁸ NICA estimated the total cost of the settlement, including legal fees and accrued interest, at \$53 million – two million dollars more than the settlement agreement, which impacts NICA's assets and its ability to generate investment income to pay claims.²⁰⁹

In addition to the *Arven* settlement, NICA has experienced increased costs related to the 2022 changes in the Medicaid fee schedule.²¹⁰ The Pinnacle Study reports NICA estimated an increase of \$100 million to future claims costs based on the changes to the Medicaid fee schedule.²¹¹ Additionally, the Pinnacle study indicates since December 31, 2021, NICA has experienced investment losses in excess of \$250 million.²¹² However, the Pinnacle study's discounted reserve estimates reflect, as of December 31, 2021, sufficient assets to support the reserves,²¹³ and that rising interest rates may also lead to higher returns.²¹⁴

NICA Plan Benefits and Compensation

A \$100,000 cash award limit was established when the NICA statutory provisions were enacted in 1988. If the initial award of \$100,000 established for the first birth year of 1989 was adjusted

²⁰² *Id* at 3.

²⁰³ *Id* at 3.

²⁰⁴ *Id* at 3.

²⁰⁵ *Id* at 4 quoting the Pinnacle Study: “While NICA steadfastly believes it would have prevailed had this dispute gone to trials, it recognizes that litigation is inherently unpredictable. In weighing its options, NICA and its Board ultimately decided it was in the best interest of the program to not only avoid future legal expenses, but also to avoid the risk of losing the lawsuit, which could have resulted in billions of dollars in exposure and been a financially devastating outcome.”

²⁰⁶ *Id* at 4. See also, U.S. Department of Justice, Office of Public Affairs, Press Release: *Florida Birth-Related Neurological Injury Compensation Plan and Association to Pay \$51 Million to Resolve False Claims Act Allegations* (Nov. 14, 2022), <https://www.justice.gov/opa/pr/florida-birth-related-neurological-injury-compensation-plan-and-association-pay-51-million> (last visited Feb. 13, 2024).

²⁰⁷ *Id* at 4.

²⁰⁸ *Id* at 4.

²⁰⁹ *Id* at 4.

²¹⁰ *Id* at 4.

²¹¹ *Id* at 4.

²¹² *Id* at 4.

²¹³ *Id* at 4.

²¹⁴ *Id* at 5.

for inflation and assuming an annual increase of three percent, this would result in an indicated award of approximately \$250,000.²¹⁵ In 2021, the Legislature increased claim benefits.²¹⁶

The Plan pays, on behalf of a qualifying infant, the following benefits:

- Actual expenses for medically necessary and reasonable medical and hospital, habilitative and training, family residential or custodial care, professional residential, and custodial care and service, for medically necessary drugs, special equipment, and facilities, and for related travel. At a minimum, compensation must be provided for the following actual expenses:²¹⁷
 - A total annual benefit of up to \$10,000 for immediate family members who reside with the infant for psychotherapeutic services obtained from providers licensed under chs. 490 and 491, F.S.;
 - For the life of the child, providing parents or legal guardians with a reliable method of transportation for the care of the child or reimbursing the cost of upgrading an existing vehicle to accommodate the child's needs when it becomes medically necessary for wheelchair transportation. The mode of transportation must take into account the special accommodations required for the specific child. The Plan may not limit such transportation assistance based on the child's age or weight. The Plan must replace any vans purchased by the Plan every seven years or 150,000 miles, whichever comes first;²¹⁸
 - Housing assistance of up to \$100,000 for the life of the child, including home construction and modification costs;
- Periodic payments of an award to the parents or legal guardians of the infant found to have sustained a birth-related neurological injury, which beginning January 1, 2021, may not exceed \$250,000. Each January 1, thereafter, the maximum award authorized under this paragraph shall increase by three percent;²¹⁹
 - Parents or legal guardians who received an award prior to January 2, 2021, must receive a retroactive payment in an amount sufficient to bring the total award paid to the parents or legal guardians to \$250,000. This additional payment may be made in a lump sum or in periodic payments as designated by the parents or legal guardians and must be paid by July 1, 2021.
- Death benefit of \$50,000 for the infant;
 - Parents or legal guardians who received an award prior to January 2, 2021, must receive a retroactive payment in an amount sufficient to bring the total award paid to the parents or legal guardians to \$50,000. This additional payment may be made in a lump sum or in periodic payments as designated by the parents or legal guardians and must be paid by July 1, 2021.
- Reasonable expenses for filing the claim under the plan, including attorney's fees.²²⁰

²¹⁵ Turner Consulting, Inc., Consultants and Actuaries, *Proposed Increase in Parental Award-Section 766.31(b)(1)*, *Florida Statutes*, (Jan. 14, 2020) (on file with the Senate Committee on Health Policy).

²¹⁶ See SB 1786 (2021) which increased claim payouts from \$100,000 to \$250,000, plus necessary medical and maintenance expenses for the lifetime of the claimant.

²¹⁷ Section 766.31(1)(a), F.S. The Plan excludes coverage for expenses that are compensable by state or federal governments, or by private insurers. See s. 766.31(1)(b)1-4, F.S.

²¹⁸ Section 766.31(a)1, F.S.

²¹⁹ Section 766.31(d), F.S.

²²⁰ Section 766.31, F.S.

The Administrative Law Judge (ALJ) must require the Plan to immediately pay expenses previously incurred and require that future expenses be paid as incurred.²²¹

NICA Notice Requirement

Section 766.316, F.S., requires any hospital with a participating physician on its staff and each participating physician under the Plan, to provide notice to an obstetrical patient as to the limited no-fault alternative for birth-related neurological injuries. The notice must:

- Be provided on forms furnished by the association; and
- Include a clear and concise explanation of a patient's rights and limitations under the plan.

This section of statute also provides that the notice does not need to be provided to a patient when the patient has an emergency medical condition or when notice is not practicable.

III. Effect of Proposed Changes:

Federal Tax Liaison

Section 1 creates s. 17.69, F.S., to establish the position of Federal Tax Liaison within the Department of Financial Services (DFS). The Federal Tax Liaison (liaison), to be appointed by the Chief Financial Officer (CFO), reports directly to the CFO but is not otherwise under the authority of the DFS or of any employee of the DFS. In order to assist the Florida's taxpayers, the tax liaison may:

- Assist taxpayers by answering taxpayer questions;
- Direct taxpayers to the proper departments or offices within the Internal Revenue Service (IRS) in order to hasten resolution of taxpayer issues;
- Prepare recommendations for the IRS of any actions that will help resolve problems encountered by taxpayers;
- Provide information about the policies, practices, and procedures that the IRS uses to ensure compliance with the tax laws; and
- With the consent of the taxpayer, request records from the IRS to assist the liaison in responding to taxpayer inquiries.

Division of Investigative and Forensic Services

Section 2 amends s. 20.121, F.S., to:

- Rename the Division of Investigative and Forensic Services (DIFS) to the Division of Criminal Investigations (DCI) and delete provisions relating to the duties of the DIFS and the bureaus and offices in the DIFS;
- Designate DCI as a criminal justice agency with the authority to initiate and conduct investigations into matters falling under the jurisdiction of the CFO and Fire Marshal; and
- Abolish the Division of Public Assistance Fraud (DPAF). The programs and responsibilities within DPAF will be moved under the DCI (which is the DIFS as renamed by the bill).

²²¹ Section 766.31(2), F.S.

Special Risk Class

Section 3 amends s. 121.0515, F.S., to replace references to employees of the Division of State Fire Marshal with employees of the DFS, and maintains current employment effective date of July 1, 2008.

State Risk Management and Safety Programs

Section 4 amends s. 284.44, F.S., to repeal the provision requiring the Division of Risk Management to prepare quarterly reports of the total amount of salary indemnification benefits paid and the total amount of reimbursements from each agency to the State Risk Management Trust Fund for initial costs each quarter.

Workers' Compensation

Section 5 amends s. 440.13, F.S., to provide for reimbursement for emergency services and care provided when a maximum reimbursement allowance is not available. In such a case, the maximum allowance must be at 250 percent of Medicare, unless there is a contract, in which case the contract governs reimbursement. Requires the DFS to engage an actuarial services firm to begin development of maximum reimbursement provisions contained within this section. Provides an expiration date of June 30, 2026.

Florida Self-Insurers Guaranty Association

Section 6 amends s. 440.385, F.S., relating to the Florida Self-Insurers Guaranty Association (FSIGA), to require the DFS to approve, beginning July 1, 2024, all contracts entered into, and purchases made by the FSIGA, which are valued at \$100,000 or more. The DFS must approve or deny the contract within 10 days or it is deemed approved. All such contracts must be competitively procured and be awarded to the most responsible and responsive vendor. The bill provides an exemption for contracts required by law from review by the DFS.

Funeral, Cemetery, and Consumer Services

Section 7 amends s. 497.101, F.S., relating to the Board of Funeral, Cemetery, and Consumer Services (Board). The bill provides that:

- The CFO is to appoint Board members, rather than the Governor, and such appointments are subject to Senate confirmation;
- One of the funeral director members of the Board no longer must own or operate an approved cinerator facility;
- Board members may be reappointed but may not serve for more than eight consecutive years;
- Specifies the State Health Officer shall serve as long as that person holds office; however, the designee of the State Health Officer shall serve at the pleasure of the CFO;
- Provides the CFO may move any board member for malfeasance or misfeasance, neglect of duty, incompetence, substantial inability to perform official duties, commission of a crime, or other substantial cause as determined by the CFO, to evidence a lack of fitness to sit on the Board. Any vacancy created by a board member's resignation shall be filled by the CFO;
- Members of the Board are subject to the code of ethics under part III of ch. 112, F.S.;

- A Board member may not vote on any measure that would inure to his or her special private gain or loss;
- A Board member may not knowingly accept any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the DFS or Board, which is under consideration for a contract, or is licensed by the DFS;
- Provides Board members who fail to comply with the code of ethics are subject to penalties provided under ss. 112.317 and 112.3173, F.S.²²²
- All meetings of the Board are subject to the open meeting requirements of s. 286.011, F.S., and all books and records of the Board are open to the public for reasonable inspection except as otherwise provided by law; and
- Except for emergency meetings, the DFS must give notice of any Board meeting by publication on the DFS website at least seven days before the meeting. The DFS must publish its agenda at least seven days before the meeting. The agenda must contain the items to be considered in order of presentation. After the agenda has been made available, a change may be made only for good cause.

Section 8 amends s. 497.153, F.S., relating to disciplinary procedures and penalties to provide if service of an administrative complaint on a licensee by certified mail cannot be obtained at the last address provided to the DFS by the licensee, then service may be made by e-mail, delivery receipt required, sent to the most recent e-mail address provided to the DFS by the licensee in accordance with s. 497.146, F.S.

Section 9 amends s. 497.155, F.S., relating to disciplinary citations and minor violations to provide if service of a citation on a subject by certified mail cannot be obtained at the last address provided to the DFS by the subject, then service may be made by e-mail, delivery receipt required, sent to the most recent e-mail address provided to the DFS by the subject in accordance with s. 497.146, F.S.

Section 10 amends s. 497.172, F.S., relating to examinations, inspections and investigations to make investigative file information public if the department issues an emergency order.

Section 11 amends s. 497.386, F.S., relating to storage, preservation, and transportation of human remains. The bill provides:

- In the event of an emergency situation, including abandonment of any establishments or facilities licensed under ch. 497, F.S., or any medical examiner's facility, morgue or cemetery holding facility, the DFS may enter and secure such establishment, facility, or morgue during or outside normal business hours;
- The DFS may remove human remains and cremains from the establishment, facility, or morgue;

²²² Penalties under s. 112.317, F.S., for public officers, include: impeachment; removal from office; suspension from office; public censure and reprimand; forfeiture of no more than one-third of his or her salary per month for no more than 12 months; a civil penalty not to exceed \$20,000; restitution of any pecuniary benefit received due to the violation committed. Section 112.3173, F.S., provides for forfeiture of retirement benefits when a public officer or employee has been adjudicated guilty of specified felonies.

- The DFS is authorized to determine if a facility is abandoned and if there is an emergency situation;
- A licensee or licensed facility that accepts transfer of human remains and cremains from the DFS pursuant to an emergency situation or determination of abandonment, will not be held liable for the condition of such remains or cremains at the time of transfer;
- A person who violates subsection (1) or (3) of s. 497.172, F.S., commits a misdemeanor punishable as provided in ss. 775.082 or 775.083, F.S.; and
- A person who violates subsection (2) or subsection(4) of s. 497.172, F.S., commits a felony of the third degree, punishable as provided in ss. 775.082, 775.083 and 775.084, F.S.²²³

Section 12 amends s. 497.469, F.S., as it relates to fulfillment of pre-need contracts. The bill provides:

- Upon delivery of merchandise or performance of services in fulfillment of a preneed contract, either in part or in whole, a preneed licensee may withdraw the amount deposited in trust plus income earned on such amount for the merchandise delivered or services performed, when adequate documentation is submitted to the trustee;
- A certified copy of the death certificate and an acknowledgement signed by the purchaser or legally authorized person acknowledging the merchandise was delivered or services performed by the preneed licensee is the only satisfactory evidence necessary to show a preneed contract has been fulfilled; and
- A preneed licensee shall maintain documentation that supports fulfillment of a particular contract until such time as the records are examined by the DFS.

Division of Consumer Services

Surplus Lines Insurers

Section 13 amends s. 624.307, F.S., to require eligible surplus lines insurers to respond, in writing or electronically, to the Division of Consumer Services within the DFS within 14 days after receipt of a written request from the Division for documents and information concerning a consumer complaint.

This section of the bill also requires authorized insurers and eligible surplus lines insurers to file e-mail addresses with the DFS to which requests for response to consumer complaints may be directed. The insurer must designate a contact person for escalated complaint issues and must provide the name, e-mail address, and telephone number of the contact person.

Division of Insurance Agent and Agency Services

Insurance Field Representatives and Operations

Section 14 amends s. 626.171, F.S., to require the DFS to make provisions for applicants to submit cellular telephone numbers as part of the application process on a voluntary basis for

²²³ A third degree felony is punishable by up to five years imprisonment and up to a \$5,000 fine. Sections 775.082, 775.083, and 775.084, F.S. Under s. 775.084, violent career criminals, habitual felony offenders, habitual violent felony offenders or three-time felony offenders, the court may sentence such third degree felony offenders to five to 10 years, not exceeding 15 years, imprisonment.

purposes of two-factor authentication of login credentials only. A separate bill, SB 1078 (2024), proposes to exempt these phone numbers from public records requirements.

Section 15 amends s. 626.221, F.S., to add “Registered Claims Adjuster (RCA) from American Insurance College” to the list of individuals exempted from the examination requirement to become an agent or adjuster.

Section 16 amends s. 626.601, F.S., to allow the DFS to disclose confidential investigative information to the subject or the subject’s representative in order to review the details of the investigation.

Section 17 amends s. 626.7351, F.S., to add the designation of “Chartered Customer Service Representative (CCSR) from American Insurance College” to the list of criteria to qualify as a customer representative.

Public Adjusters

Section 18 amends s. 626.878, F.S., to require a licensed adjuster to identify themselves in any advertisements, solicitations or written documents based on the adjuster appointment type held.

This section also provides an adjuster who has had his or her licensed revoked or suspended may not participate in any part of an insurance claim or in the insurance claim adjusting process. A person who provides these services while the person’s license is revoked or suspended acts as an unlicensed adjuster.

Unauthorized Insurers and Surplus Lines

Section 19 amends s. 626.929, F.S., to provide a general lines agent while licensed as a surplus lines agent may appoint licenses with a single surplus license agent appointment pursuant to s. 624.501, F.S. Such an appointed agent may only originate surplus lines business and accept surplus lines business from other originating Florida-licensed general lines agents appointed and licensed as to the kinds of insurance involved and may compensate such agent. Such agent may not be appointed by or transact general lines insurance on behalf of an admitted insurer

Florida Medical Malpractice Joint Underwriting Association

Section 20 amends s. 627.351, F.S., relating to the Florida Medical Malpractice Joint Underwriting Association (FMMJUA), to require the DFS to approve, beginning July 1, 2024, all contracts entered into, and purchases made by the FMMJUA, which are valued at \$100,000 or more. The DFS must approve or deny the contract within 10 days or it is deemed approved. All such contracts must be competitively procured and be awarded to the most responsible and responsive vendor.

Guaranty Associations

Florida Insurance Guaranty Association

Section 21 amends s. 631.59, F.S., relating to the Florida Insurance Guaranty Association (FIGA), to require the DFS to approve, beginning July 1, 2024, all contracts entered into, and purchases made by the FIGA, which are valued at \$100,000 or more. The DFS must approve or deny the contract within 10 days or it is deemed approved. All such contracts must be competitively procured and be awarded to the most responsible and responsive vendor. The bill clarifies these provisions do not apply to claims defense counsel or claims vendors if contracts with all vendors which may exceed \$100,000 are provided to the DFS for prior approval.

Florida Life and Health Insurance Guaranty Association

Section 22 amends s. 631.722, F.S., relating to the Florida Life and Health Guaranty Association (FLHGA) to require the DFS to approve, beginning July 1, 2024, all contracts entered into, and purchases made by the FLHGA, which are valued at \$100,000 or more. The DFS must approve or deny the contract within 10 days or it is deemed approved. All such contracts must be competitively procured and be awarded to the most responsible and responsive vendor.

Florida Health Maintenance Organization Consumer Assistance Plan

Section 23 amends s. 631.821, F.S., relating to the Florida Health Maintenance Organization Consumer Assistance Plan (Plan), to require the DFS to approve, beginning July 1, 2024, all contracts entered into, and purchases made by the Plan, which are valued at \$100,000 or more. The DFS must approve or deny the contract within 10 days or it is deemed approved. All such contracts must be competitively procured and be awarded to the most responsible and responsive vendor.

Florida Workers' Compensation Insurance Guaranty Association

Section 24 amends s. 631.921, F.S., relating to the Florida Workers' Compensation Guaranty Association (FWCIGA), to require the DFS to approve, beginning July 1, 2024, all contracts entered into, and purchases made by the FWCIGA, which are valued at \$100,000 or more. The DFS must approve or deny the contract within 10 days or it is deemed approved. All such contracts must be competitively procured and be awarded to the most responsible and responsive vendor.

State Fire Marshal

Section 25 amends s. 633.124, F.S., to adopt the National Fire Protection Association, Inc., Standard 1126, 2021 Edition, Standard for the Use of Pyrotechnics before a Proximate Audience.

Section 26 amends s. 633.202, F.S., relating to the Florida Fire Prevention Code to provide the State Fire Marshal may not adopt an accessibility code, since accessibility is provided for under the Florida Building Code Americans with Disabilities Act (ADA) accessibility code.

Section 27 amends s. 633.206, F.S., to require the DFS to establish uniform fire safety standards for mobile food dispensing vehicles and energy storage systems.

Motor Vehicle Service Agreement Companies

Section 28 amends s. 634.041, F.S., to allow motor vehicle service agreement companies to utilize multiple contractual liability insurance policies when backing their financial obligations.

Section 29 amends s. 634.081, F.S., to allow motor vehicle service agreement companies to utilize multiple contractual liability insurance policies when backing their financial obligations.

Home Warranty Associations

Section 30 amends s. 634.3077, F.S., to provide that a home service warranty association (association) is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the ratio to net assets limitation if the association complies with the following:

- The association or, if the association is a direct or indirect wholly owned subsidiary of a parent corporation, its parent corporation has, and maintains at all times, a minimum net worth of at least \$100 million and provides the OIR with the following:
 - A copy of the association's annual audited financial statements or the audited consolidated financial statements of the association's parent corporation, prepared by an independent certified public accountant in accordance with generally accepted accounting principles, that clearly demonstrate the net worth of the association or its parent corporation to be \$100 million, and a quarterly written certification to the OIR that the association or its parent corporation continues to maintain the net worth required under this paragraph; and
 - The association's or its parent corporation's Form 10-K, Form 10-Q, or Form 20-F as filed with the United States Securities and Exchange Commission or such other documents required to be filed with a recognized stock exchange, which shall be provided on a quarterly and annual basis within 10 days after the last date each such report must be filed with the Securities and Exchange Commission, the National Association of Security Dealers Automated Quotation system, or other recognized stock exchange.

Failure to timely file the documents required under this paragraph may subject the association to suspension or revocation of its license.

If the net worth of a parent corporation is used to satisfy the net worth provisions of paragraph (a), the following must be met:

- The parent corporation must guarantee all service warranty obligations of the association, wherever written, on a form approved in advance by the OIR;
- A cancellation, termination, or modification of the guarantee does not become effective unless the parent corporation provides the OIR written notice at least 90 days before the effective date of the cancellation, termination, or modification and the OIR approves the request in writing;
- Before the effective date of the cancellation, termination, or modification of the guarantee, the association must demonstrate to the satisfaction of the OIR compliance with all applicable provisions of this part, including whether the association will meet the

requirements of this section by the purchase of contractual liability insurance, establishing required reserves, or other method allowed under this section;

- If the association or parent corporation does not demonstrate to the satisfaction of the OIR compliance with all applicable provisions of this part, the association or parent association shall immediately cease writing new and renewal business upon the effective date of the cancellation, termination, or modification; and
- The association must maintain at all times net assets of at least \$750,000.

Section 31 amends s. 634.317, F.S., to exempt a municipality, a county government, a special district, an entity operated by a municipality or county government, or an employee or agent of a municipality, county government, special district, or entity operated by a municipality or county government from the licensing and appointment requirements set forth in s. 634.317, F.S.

Bail Bonds

Section 32 amends s. 648.25, F.S., to provide the following definitions:

- “Referring bail bond agent” is the limited surety agent who is appointed with the surety company issuing the transfer bond that is to be posted in a county where the referring limited surety agent is not registered. The referring bail bond agent is the appointed agent held liable for the transfer bond, along with the issuing surety company; and
- “Transfer bond” means the appearance bond and power of attorney form posted by a limited surety agent who is registered in the county where the defendant is being held in custody, and who is appointed to represent the same surety company issuing the appearance bond as the referring bail bond agent.

Section 33 amends s. 648.26, F.S., to provide the papers, documents, reports, or any other records of an investigation (related to the regulation of bail bonds) by the DFS that are made confidential and exempt from the public records law until such investigation is completed or ceases to be active, are not confidential and exempt once the DFS or the OIR files a formal administrative complaint, emergency order, or consent order against the individual or entity.

The bill also provides the confidential and exempt investigative records may be disclosed to the subject or the subject’s representative in order to review the details of the investigation.

Section 34 amends s. 648.30, F.S., to provide bail bond agents are not required to be employed with a bail bond agency.

Section 35 s. 648.355, F.S., to remove the requirement of the submission of a full face photograph with a limited surety’s or bail bond agent’s application for license.

Section 36 amends s. 648.43, F.S., to require the license number, in addition to the name and address, of the referring bail bond agent be included on a transfer bond.

Florida Disposition of Unclaimed Property Act

Definitions

Section 37 amends s. 717.101, F.S., to provide or revise definitions for the following terms: “audit”; “audit agent”; “banking organization”; “business association”; “claimant’s representative”; “domicile”; “due diligence”; “electronic”; “financial organization”; “holder”; “intangible property”, to include virtual currency; “owner”; “person”; “record”; “unclaimed property purchase agreement”; “unclaimed property recovery agreement”; and “virtual currency”. The bill repeals the definition of “ultimate equitable owner”.

Owner’s Expression of Interest

Section 38 amends s. 717.102, F.S., to provide a presumption that property is unclaimed is rebutted by an apparent owner’s expression of interest in the property. An owner’s expression of interest in property includes:

- A record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held;
- An oral communication by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held, if the holder or its agent contemporaneously makes and preserves a record of the fact of the apparent owner’s communication;
- Presentment of a check or other instrument of payment of a dividend, interest payment, or other distribution, with respect to an account, underlying security, or interest in a business association;
- Activity directed by an apparent owner in the account in which the property is held, including accessing the account or information concerning the account, or a direction by the apparent owner to increase, decrease, or otherwise change the amount or type of property held in the account;
- A deposit into or withdrawal from an account at a financial organization, excluding an automatic deposit or withdrawal previously authorized by the apparent owner or an automatic reinvestment of dividends or interest, which does not constitute an expression of interest; or
- Any other action by the apparent owner which reasonably demonstrates to the holder that the apparent owner knows that the property exists.

The bill provides a deceased owner is incapable of expressing an interest in property.

Bank Deposits

Section 39 amends s. 717.106, F.S., to update a cross-reference.

Virtual Currency

Section 40 creates s. 717.1065, F.S., to provide:

- Any virtual currency held or owing by a banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity is presumed unclaimed unless the owner, within five years, has communicated in writing with the banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity concerning the virtual currency or otherwise indicated an interest as

evidenced by a memorandum or other record on file with the banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity; and

- A holder may not deduct from the amount of any virtual currency subject to this section any charges imposed by reason of the failure to present the instrument for encashment unless there is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose those charges and does not regularly reverse or otherwise cancel those charges with respect to the instrument.

Stock or Equity Interest in a Business Association

Section 41 amends s. 717.1101, F.S., to provide that stock or other equity interest in a business association is presumed unclaimed on the date of the earliest of the following:

- Three years after the most recent of any owner-generated activity or communication related to the account, as recorded and maintained in the holder's database and records systems sufficient enough to demonstrate the owner's continued awareness or interest in the property;
- Three years after the date of the death of the owner, as evidenced by:
 - Notice to the holder of the owner's death by an administrator, beneficiary, relative, or trustee, or by a personal representative or other legal representative of the owner's estate;
 - Receipt by the holder of a copy of the death certificate of the owner;
 - Confirmation by the holder of the owner's death through other means; or
 - Other evidence from which the holder may reasonably conclude that the owner is deceased; or
- One year after the date on which the holder receives notice under subparagraph 2. if the notice is received two years or less after the owner's death and the holder lacked knowledge of the owner's death during that period of two years or less.

Agents and Fiduciaries

Section 42 amends s. 717.112, F.S., to provide that intangible property held in a fiduciary capacity for the benefit of another person is presumed unclaimed unless the owner has within five years after it has become payable or distributable increased or decreased the principal, accepted payment of principal or income, communicated "*in writing*" concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary.

Reporting Threshold and Notice to Owners

Section 43 amends s. 717.117, F.S., effective January 1, 2025, to require holders to report owner or account information for unclaimed property valued at \$10 or more to the DFS, rather than the current threshold of \$50, and that such reporting be made electronically. The bill provides the DFS may request any other information, with the exception of traveler's checks and money orders, as prescribed by rule.

The bill provides written notice to the apparent owner must:

- Contain a heading that reads substantially as follows: "Notice. The State of Florida requires us to notify you that your property may be transferred to the custody of the Florida

Department of Financial Services if you do not contact us before (insert date that is 30 days after the date of notice)”;

- Identify the type, nature, and, except for property that does not have a fixed value, value of the property that is the subject of the notice;
- State that the property will be turned over to the custody of the DFS if no response is received within 30 days after the date of the notice;
- State that any property that is not legal tender of the United States may be sold or liquidated by the DFS;
- State that after the property is turned over to the DFS, an apparent owner seeking return of the property may file a claim with the DFS; and
- State that the property is currently with a holder and provide instructions that the apparent owner must follow to prevent the holder from reporting and paying for the property or from delivering the property to the DFS.

Reporting Requirements for Virtual Currency

Section 44 amends s. 717.119 F.S., to provide virtual currency reported on the annual report must be remitted to the DFS with the report. The holder must liquidate the virtual currency within 30 days before the filing of the report and remit the proceeds to the DFS. Upon delivery of the proceeds, the holder is relieved of all liability for any losses or damages resulting by the delivery of the virtual currency proceeds.

The bill provides a holder may not assign or otherwise transfer its obligation to report, pay, or deliver property or to comply with the provisions of this chapter, other than to a parent, subsidiary, or affiliate of the holder. Unless otherwise agreed to by the parties to a transaction, the holder’s successor by merger or consolidation, or any person or entity that acquires all or substantially all of the holder’s capital stock or assets, is responsible for fulfilling the holder’s obligations under the chapter. A holder is not prohibited from contracting with a third party for the reporting of unclaimed property, but the holder remains responsible for the complete, accurate, and timely reporting of the property.

Good Faith Payment or Delivery of Property

Section 45 amends s. 717.1201, F.S., to provide that a holder’s substantial compliance with s. 717.117(4), F.S., and good faith payment or delivery of property terminates any legal relationship between the holder and the owner and releases and discharges the holder from any and all liability to the owner regardless of whether such property is in fact abandoned property. If the holder delivers property to the DFS in good faith and thereafter any other person or state claims the property, the DFS must defend the holder against the claim and indemnify the holder against any liability on the claim, except that a holder may not be indemnified against penalties imposed by another state.

The bill provides a payment or delivery of property is made in good faith if:

- The payment or delivery was made in conjunction with an accurate and acceptable report;
- The payment or delivery was made in a reasonable attempt to comply with this chapter;
- The holder had a reasonable basis for believing, based on the facts then known, that the property was unclaimed and subject to this chapter; and

- There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.

If it appears to the DFS that, because of mistake of fact or error, a person has delivered to the DFS pursuant any property not required to be so delivered, the DFS may, within five years after such erroneous payment or delivery, refund or redeliver such money or other property to the person, provided that such money or property has not been paid or delivered to a claimant or otherwise disposed of in accordance with the chapter.

Probate Proceedings

Section 46 amends s. 717.1242, F.S., to include devisee, heir, personal representative, or other interested person of an estate among those persons who must file a claim with the DFS for any interest in unclaimed property. If such person seeks administration of the estate, of which unclaimed property makes up 50 percent or more of the assets, the DFS must be considered an interested party and provided with notice of any such proceeding as provided in the Florida Probate Code and the Florida Probate Rules.

Threshold for Small Estate Accounts

Section 47 amends s. 717.1243, F.S., to increase the threshold for small estate accounts to be accompanied with a signed affidavit from \$10,000 to \$20,000.

Tolling of 10-Year Enforcement Period

Section 48 amends s. 717.129, F.S., to provide the ten-year period of limitation on the DFS to enforce the provisions of the chapter is tolled by the earlier of the DFS's or audit agent's delivery of a notice that a holder is subject to an audit or examination or the holder's written election to enter into an unclaimed property voluntary disclosure agreement.

Investigations, Examinations and Auditor's Fees

Section 49 amends s. 717.1301, F.S., to revise the powers of the DFS in regards to enforcement of the chapter. The powers include the authority to:

- Investigate, examine, inspect, request, or otherwise gather information or evidence on claim documents from a claimant or a claimant's representative during its review of a claim;
- Audit the records of a person or the records in the possession of an agent, representative, subsidiary, or affiliate of the person subject to the chapter to determine whether the person complied with the chapter. Such records may include information to verify the completeness or accuracy of the records provided, even if such records may not identify property reportable to the DFS;
- Take testimony of a person, including the person's employee, agent, representative, subsidiary, or affiliate, to determine whether the person complied with the chapter;
- Issue an administrative subpoena to require that the records specified in paragraph (b) be made available for examination or audit and that the testimony specified in paragraph (c) be provided;
- Bring an action in a court of competent jurisdiction seeking enforcement of an administrative subpoena issued under this section, which the court shall consider under procedures that will lead to an expeditious resolution of the action; and

- Bring an administrative action or an action in a court of competent jurisdiction to enforce this chapter.

If a person is subject to reporting property under the chapter, the DFS may require the person to file a verified report that:

- States whether the person is holding property reportable under the chapter;
- Describes the property not previously reported, the property about which the DFS has inquired, or the property that is in dispute as to whether it is reportable under the chapter; and
- States the amount or value of the property.

The DFS may authorize a compliance review of a report for a specified reporting year that is limited to the contents of the report filed and all supporting documents. If the review results in a finding of a deficiency in unclaimed property due and payable, the DFS must notify the holder in writing of the amount of deficiency within one year after the authorization of the compliance review. If the holder fails to pay the deficiency within 90 days, the DFS may seek to enforce the assessment under subsection (1). The DFS is not required to conduct a review under this section before initiating an audit.

The bill provides in a contract providing for the location or collection of unclaimed property, the DFS may authorize the contractor to deduct its fees and expenses for services provided under the contract from the unclaimed property that the contractor has recovered or collected under the contract. The DFS must annually report to the CFO the total amount collected or recovered by each contractor during the previous fiscal year and the total fees and expenses deducted by each contractor.

The bill provides if any material obtained during an investigation or examination contains a holder's financial or proprietary information, such information may not be disclosed or made public after the investigation or audit is completed, except as required by a court of competent jurisdiction in the course of a judicial proceeding in which the state is a party, or pursuant to an agreement with another state allowing joint audits. Any such material may be considered a trade secret and exempt from the public records law.

The bill provides the fee for the costs of the investigation or audit shall be remitted to the DFS within 30 days after the date of notification the fee is due and owing and allows the DFS to charge interest at the rate of 12 percent per annum.

Records Retention

Section 50 amends s. 717.1311, F.S., to increase the duration holders must retain records of unclaimed property from five to 10 years.

Purchase of Unclaimed Property

Section 51 amends s. 717.1322, F.S., to remove the requirement that a person must be registered with the DFS in order to purchase unclaimed property.

Audit Reports

Section 52 amends s. 717.1333, F.S., to make conforming changes due to the revised definition of “audit agent.”

Penalties

Section 53 amends s. 717.134, F.S., to provide the penalties only apply to willful violations of the chapter.

Recovery and Purchase Agreements, Bankruptcy and Electronic Signatures

Section 54 amends s. 717.135, F.S., to remove the requirement that a purchaser must act through a representative registered with the DFS. The bill provides that an Unclaimed Property Recovery Agreement and the Unclaimed Property Purchase Agreement must contain the name, address, e-mail address, and phone number of the purchaser if a representative is not involved.

Removes the threshold of \$2,000 or less for agreements that may be signed electronically, allowing all such agreements to be signed electronically.

Provides this section does not apply to the sale and purchase of Florida-held unclaimed property accounts through a bankruptcy trustee appointed to represent a debtor’s estate in a bankruptcy proceeding in accordance with the United States Bankruptcy Code.

Registration

Section 55 amends s. 717.1400, F.S., to makes conforming changes for allowing anyone to purchase unclaimed property.

Disbursement of Proceeds and Savings Bonds

Sections 56 and 57 amend ss. 197.582 and 717.1382, F.S., respectively to conform cross-references necessitated by changes made in the bill.

Florida-Birth Related Neurological Injury Compensation Association (NICA)

Section 58 amends s. 766.302, F.S., relating to definitions, to remove the exclusion of 20 percent of the asset value from the calculation of assets and liabilities under s. 766.314(9)(c), F.S.

Section 59 amends s. 766.314, F.S., relating to assessments and plan of operation, to require NICA to review estimates to determine if all current estimates equals or exceeds 100 percent of the funds on hand and the funds which will become available to NICA within the next 12 months; NICA may not accept any new claims without the express authority of the Legislature. However, NICA is not precluded from accepting any claim if the injury occurred 18 months or more before the effective date of the suspension.

The NICA is required to make recommendations for ensuring revenue levels maintain actuarial soundness. The bill requires NICA to provide a report by July 1, 2024, to the Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives which includes all of the following:

- Options for defining actuarial soundness for NICA, including options for phase-in, if appropriate;
- Options for timing of reporting actuarial soundness and to whom it should be reported;
- Options for ensuring a revenue level to maintain actuarial soundness, including options for phase-in, if appropriate; and
- Consultation and any recommendations made in NICA's consultation with the following:
 - The Office of Insurance Regulation;
 - Hospitals;
 - Participating physicians;
 - Nonparticipating physicians;
 - Casualty insurers;
 - The Agency for Health Care Administration; and
 - Parents of current NICA participants.

Division of Law Revision

Section 60 directs the Division of Law Revision to prepare a reviser's bill for the 2025 Regular Session to change the term "Division of Investigative and Forensic Services" wherever the term appears in the Florida Statutes to "Division of Criminal Investigations."

Effective Date

Section 61 provides the bill is effective 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:

The bill is titled "an act relating to the Department of Financial Services" (DFS).

Section 19 of the bill is related to the Florida Medical Malpractice Joint Underwriting Association (FMMJUA) and requires the DFS to review and approve all contracts entered

into and all purchases made by the association valued at \$100,000 or more. Currently, the DFS has no role in the FMMJUA. Bestowing such a role to the DFS may present a constitutional single subject concern.

While the DFS has a role in the statute as to agents, i.e., individual licensees, the Office of Insurance Regulation (OIR) is the regulator of service agreement companies and Home Warranty Agreements; thus, is incongruous with the title of the bill. This may present a constitutional single subject concern.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill has both a positive and negative impact to the private sector.

Emergency services and care providers under the workers' compensation system, when a maximum reimbursement allowance is not available, will be reimbursed at 75 percent of the hospital's charge, unless there is a contract, in which case the contract governs reimbursement.

Due to lowering the aggregate reporting in Section 43 from \$50 to \$10, there may be a small impact on the total dollar value of disbursements from the Unclaimed Property Trust Fund. Currently, more than 98 percent of the value of all funds held is for accounts greater than \$50.²²⁴

Under Section 47, owners of small estate accounts may experience a positive impact as those accounts with an aggregate value of \$20,000 or less (rather than \$10,000 or less) require a signed affidavit.²²⁵

As it relates to recovery agreements and purchase agreements for claims filed by a claimant's representative or purchaser, Section 54 removes the \$2,000 or less threshold for electronic signature of the Unclaimed Property Recovery Agreement, resulting in a positive impact. The changes in s. 717.135, F.S., would allow anyone meeting the requirements to be able to purchase unclaimed property.

Adjusters may experience additional advertising costs to implement the language in Section 18.

Applicants are subject to filing and application fees under s. 624.501, F.S.

²²⁴ The Florida Department of Financial Services, *Senate Bill Analysis 1098* (Jan. 26, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment and General Government).

²²⁵ *Id.*

Applicants may experience out of pocket expenses for any fingerprint or state or federal background check required under the bill. The cost for a state and national criminal history record check is \$37.25 per name. In addition, the Florida Department of Law Enforcement (FDLE) reports Livescan Services may assess additional processing fees,²²⁶ which may require an applicant to pay additional fees.²²⁷

C. Government Sector Impact:

The bill has a significant impact on state revenues and expenditures.

Department of Financial Services

Within the Department of Financial Services (DFS), the bill makes numerous changes that will require systems and process changes in the DFS. With regards to a reduction in expenses, the DFS is:

- No longer required to publish brochures for distribution (Section 4); and
- Able to serve administrative complaints, disciplinary citations, minor violations and written notice of violation by email (Sections 8 and 9).

These changes should result in savings in terms of staff time spent towards preparing service of process and the costs related to other types of service of process.

Section 5 of the bill, as amended, requires the DFS to engage an actuarial firm to begin development of maximum reimbursement allowances but does not appropriate any funds to do so.

The DFS is authorized to adopt rules to implement provisions of the bill. In addition, the DFS will need to update all software to reflect the changes to multiple divisions contemplated in the bill. However, the cost of any technology changes or rulemaking can be absorbed within existing resources.

In order to ensure competitive procurement, Section 20 and Sections 21 – 25 of the bill requires the DFS to approve, beginning July 1, 2024, all contracts (excluding those contracts which are expressly stated as exempt) entered into, and purchases made by various associations, which are valued at \$100,000 or more within ten days. The DFS has not indicated if such review would cause additional workload upon staff.

The bill creates a new third degree felony for violation of s. 497.386, F.S., which is punishable by up to five years in prison.²²⁸ The Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any, of legislation, has not met to review the bill. A final impact, if any, is not available at this time.

²²⁶ The Florida Department of Law Enforcement, *Senate Bill Analysis 1098* (Jan. 12, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment and General Government).

²²⁷ *Id.*

²²⁸ A third degree felony is punishable by up to five years imprisonment and up to a \$5,000 fine. Sections 775.082, 775.083, and 775.084, F.S. Under s. 775.084, violent career criminals, habitual felony offenders, habitual violent felony offenders or three-time felony offenders, the court may sentence such third degree felony offenders to five to 10 years, not exceeding 15 years, imprisonment.

The cost for the DFS, local and state law enforcement agencies and the court to respond to, investigate and process any civil or criminal cases related an emergency situation in the death care business is unknown. State and local governments, as well as the court system, may experience an increase in costs should these emergency situations arise.

Florida Department of Law Enforcement

The bill may have a positive impact to the Florida Department of Law Enforcement's Operating Trust Fund as the cost for a state and national criminal history record check is \$37.25 per name submitted. The Federal Bureau of Investigation (FBI) receives \$13.25 and, pursuant to s. 943.053(3)(e), F.S., the FDLE retains \$24.²²⁹

VI. Technical Deficiencies:

Section 18 amends s. 626.878, F.S., to provide adjusters who continue to provide services after a license revocation or suspension, commit unlicensed activity. However, the section does not provide for penalties, including administrative or criminal, for such conduct. Neither does the bill contemplate enforcement of such unlicensed activity nor address with specificity the statute under which a revocation or suspension may occur.

For clarification purposes, in Section 18, lines 934 – 935 may need to be amended to provide a reference to s. 626.8697, F.S., relating to disciplinary guidelines for adjusting firm licenses (if the intent is to include adjusting firms) and s. 626.8698, F.S., which provides disciplinary guidelines for public adjusters and public adjuster apprentices, to include suspensions and revocations.

If the intent of the bill is to address and discourage unlicensed activity within this sector of licensure, language may need to be added to provide for penalties (*see* Lines 939 – 941). Such penalties could mirror those currently in s. 626.8738, F.S.

Under s. 626.8738, F.S., any person acting as a resident or nonresident public adjuster or who hold himself or herself out to be a public adjuster, without being duly licensed by the Department of Financial Services (DFS), commits a third degree felony, punishable by ss. 775.082, 775.083 or 775.084, F.S.²³⁰

Section 59 requires the Florida Birth-Related Neurological Injury Compensation Association (NICA) to provide options and recommendations to ensure actuarial soundness of the NICA to the Governor, the Chief Financial Officer, the President of the Senate and the Speaker of the House of Representatives by July 1, 2024. NICA is required to consult with a variety of stakeholders, which may cause a delay in meeting the required report deadline. In order to allow

²²⁹ The Florida Department of Law Enforcement, *Senate Bill Analysis 1098* (Jan. 12, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment and General Government).

²³⁰ A third degree felony is punishable by up to five years imprisonment and up to a \$5,000 fine. Sections 775.082, 775.083, and 775.084, F.S. Under s. 775.084, violent career criminals, habitual felony offenders, habitual violent felony offenders or three-time felony offenders, the court may sentence such third degree felony offenders to five to 10 years, not exceeding 15 years, imprisonment.

the NICA to fully address options and recommendations, the required reporting deadline may need to be extended to October 1, 2024, or December 1, 2024.

VII. Related Issues:

Criminal Justice Agency Designation

The bill merges and abolishes a division within the Department of Financial Services (DFS) and renames another division. These subunits are currently recognized as criminal justice agencies by the Federal Bureau of Investigation (FBI).²³¹ The Florida Department of Law Enforcement (FDLE) is the FBI's Criminal Justice Information Services (CJIS) Systems Agency for Florida. Any abolishment or renaming, merging of these divisions necessitates the FDLE involvement. The FDLE should be included to ensure the newly created merged and renamed division meets the criminal justice subunit designation as well as to ensure access to state and federal CJIS systems are properly authorized.²³²

Criminal History Records Checks

The FDLE recommends amending applicable sections within the bill to facilitate fingerprint based state and national criminal history records checks (Level 2).

Chapter 435, F.S., establishes two levels of background screenings that employees must undergo as a condition of employment. Level 1 is the more basic screening and involves an in-state name-based background check, employment history check, statewide criminal correspondence check through the Florida Department of Law Enforcement (FDLE), a sex offender registry check, local criminal records check, and a domestic violence check.²³³ Level 2 screenings are more thorough because they apply to positions of responsibility or trust, often with more vulnerable people, such as children, the elderly, or the disabled. Level 2 screenings require a security background investigation that includes fingerprint-based searches for statewide criminal history records through FDLE, a national criminal history records check through the FBI, and a domestic violence check. It may also include local criminal records checks. A Level 2 screening disqualifies a person from employment if the person has a conviction or unresolved arrest for any one of more than 50 criminal offenses.²³⁴

If it is the intent of the bill to require applicants and inspectors to undergo finger-print based, state and national criminal history record checks (Level 2), during the application process, the FDLE recommends stating so specifically within each applicable section of the bill. To facilitate state and national criminal history record checks, the following language should be included to ensure compliance with federal law and the United States Department of Justice (DOJ)-established criteria for the submission of fingerprints to the FBI's Criminal Justice Information Services (CJIS) Division for a national criminal history background check.²³⁵

²³¹ The Florida Department of Law Enforcement, *Senate Bill Analysis 1098* (Jan. 12, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment and General Government).

²³² *Id.*

²³³ Section 435.03, F.S.

²³⁴ Section 435.04, F.S.

²³⁵ *Id.*

An applicant must submit a full set of fingerprints to the department or to a vendor, entity, or agency authorized by s. 943.053(13). The department, vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state processing and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing.

Fees for state and federal fingerprint processing shall be borne by the applicant. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e).²³⁶

The FDLE notes that a statute cannot be approved for access to FBI criminal history record information (CHRI) unless all criterion specified within Public Law 92-544 are satisfied which includes a review of whether the population(s) (i.e., categories of individuals) being screened is clearly defined and the state agency responsible for conducting the fingerprint-based background check and receiving the CHRI from the FBI is identified within the statute(s). As written, the FDLE opines “the FBI will likely deny the request for fingerprint-based access to national criminal history record check information.”²³⁷

Definitions and Terminology

The FDLE suggest the bill contains terms which the FBI may consider overly broad. The FDLE recommends amending applicable sections within chs. 624, 626, 627, 648 and 717, F.S., to include FBI approved fingerprint language and to either define or clarify the following terms or phrases: “banking organization”; “business association”; “officer”; “director”; “includes, but is not limited to”; “manager”; “other similar term”; and “otherwise”. The FBI has advised catch-all phrases are considered overly broad and make it unclear as to who would be the subject of fingerprint-based background checks under this criterion.²³⁸

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.121, 121.0515, 284.44, 440.13, 440.385, 497.101, 497.153, 497.155, 497.172, 497.386, 624.307, 626.171, 626.221, 626.601, 626.7351, 626.878, 626.929, 627.351, , 631.59, 631.722, 631.821, 631.921, 633.124, 633.202, 633.206, 634.041, 634.081, 634.3077, 634.317, 648.25, 648.26, 648.30, 648.355, 648.43, 717.101, 717.102, 717.106, 717.1101, 717.112, 717.117, 717.119, 717.1201, 717.1242, 717.1243, 717.129, 717.1301, 717.1311, 717.1322, 717.1333, 717.134, 717.135, 717.1400, 197.582, 717.1382, 766.302 and 766.314.

This bill creates the following sections of the Florida Statutes: 17.69, 497.469 and 717.1065.

²³⁶ *Id.*

²³⁷ *Id.*

²³⁸ *Id.*

IX. Additional Information:

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

CS by Appropriations Committee on Agriculture, Environment and General Government on February 13, 2024;

The committee substitute:

- Revises the special risk provision to refer to employees of the Department of Financial Services (DFS) rather than the State Fire Marshal and retains the current effective employment date of July 1, 2008;
- Removes provisions related to My Safe Florida Home;
- As it relates to Workers' Compensation:
 - Revises provision on reimbursement for emergency services and care, without a maximum reimbursement allowance, to be 250 percent of Medicare, unless there is a contract, in which case the contract governs reimbursement;
 - Authorizes the DFS to engage an actuarial firm to being development of maximum reimbursement allowances for emergency care services;
 - Provides an expiration date of June 30, 2026; and
 - Grants rulemaking authority to DFS;
- Exempts Florida Self-Insurers Guaranty Association contracts that are required by law from DFS approval;
- Maintains Senate confirmation for Board of Funeral, Cemetery, and Consumer Services appointments;
- Adds the following death care industry provisions:
 - Makes investigative file information public if the department issues an emergency order pursuant to s. 497.156;
 - Authorizes, in the event of an emergency situation, the department to enter and secure an establishment outside of normal business hours, and remove human remains and cremains from the establishment;
 - Provides a third degree criminal penalty for violations; and
 - Provides restrictions on when a preneed licensee may withdraw funds from the amount deposited in trust;
- Removes a provision in bill related to a notice of change in policy terms;
- Provides Florida Insurance Guaranty Association legal contracts are not subject to bidding;
- Expands definition of local government employee that is exempt from the home warranty licensure requirements;
- Restores exemption for traveler's checks and money orders for unclaimed property information required to be reported;
- Removes provision increasing unclaimed property trust fund balance to \$65 million;
- Removes garnishment provision on unclaimed property;
- Revises provisions for Florida Birth-Related Neurological Injury Compensation Association (NICA) to:
 - Removes the exclusion of 20 percent of the asset value from the calculation of assets and liabilities;

- Requires NICA to review estimates to determine if all current estimates equals or exceeds 100 percent of the funds on hand and the funds which will become available within the next 12 months;
- Requires NICA to conduct a study of recommendations for ensuring a revenue level to maintain actuarial soundness;
- Provides a due date of July 1, 2024, for the NICA study and directs who shall receive the report; and
- Removes an appropriation funding associated with the creation of a position in Section 1 within the DFS.

CS by Banking and Insurance Committee on January 22, 2024:

The committee substitute:

- Creates the position of Federal Tax Liaison within the Department of Financial Services and appropriates 110,000 in rate, \$183,863 in recurring funds and \$5,067 in non-recurring funds to support the position;
- Replaces incorrect references to “association” and “board” on lines 804-813 of the bill, and inserts “department;”
- Revises the Notice of Change provision on lines 1100 and 1101 of the bill to allow the Notice to run on consecutive pages, if necessary;
- Removes Section 22 from the bill that required each insurer subject to the Florida Insurance Guaranty Association requirements to prepare a data transfer plan;
- Restores current law for the definition of “intangible property” on lines 1747 - 1750 of the bill;
- Revises the provision on lines 1925 – 1932 of the bill to add the term “virtual currency” in place of the term “instrument;”
- Provides that the changes in Section 44 of the bill become effective on January 1, 2025;
- Replaces the word “abandoned” on line 2205 of the bill with the word “unclaimed;” and;
- Restores current law on lines 2331-2344 of the bill.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
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	.	

The Appropriations Committee on Agriculture, Environment, and General Government (DiCeglie) recommended the following:

Senate Amendment (with title amendment)

Delete lines 308 - 2837
and insert:

(f) Effective July 1, 2008, the member must be employed by the Department of Law Enforcement in the crime laboratory or by the Department of Financial Services ~~Division of State Fire Marshal~~ in the forensic laboratory and meet the special criteria set forth in paragraph (3)(h).

(3) CRITERIA.—A member, to be designated as a special risk



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member, must meet the following criteria:

(h) Effective July 1, 2008, the member must be employed by the Department of Law Enforcement in the crime laboratory or by the Department of Financial Services ~~Division of State Fire Marshal~~ in the forensic laboratory in one of the following classes:

1. Forensic technologist (class code 8459);
2. Crime laboratory technician (class code 8461);
3. Crime laboratory analyst (class code 8463);
4. Senior crime laboratory analyst (class code 8464);
5. Crime laboratory analyst supervisor (class code 8466);
6. Forensic chief (class code 9602); or
7. Forensic services quality manager (class code 9603);

Section 4. Subsection (6) of section 284.44, Florida Statutes, is amended to read:

284.44 Salary indemnification costs of state agencies.—

~~(6) The Division of Risk Management shall prepare quarterly reports to the Executive Office of the Governor and the chairs of the legislative appropriations committees indicating for each state agency the total amount of salary indemnification benefits paid to claimants and the total amount of reimbursements from state agencies to the State Risk Management Trust Fund for initial costs for the previous quarter. These reports shall also include information for each state agency indicating the number of cases and amounts of initial salary indemnification costs for which reimbursement requirements were waived by the Executive Office of the Governor pursuant to this section.~~

Section 5. Subsection (12) of section 440.13, Florida Statutes, is amended to read:



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40 440.13 Medical services and supplies; penalty for
41 violations; limitations.—

42 (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM
43 REIMBURSEMENT ALLOWANCES.—

44 (a) A three-member panel is created, consisting of the
45 Chief Financial Officer, or the Chief Financial Officer's
46 designee, and two members to be appointed by the Governor,
47 subject to confirmation by the Senate, one member who, on
48 account of present or previous vocation, employment, or
49 affiliation, shall be classified as a representative of
50 employers, the other member who, on account of previous
51 vocation, employment, or affiliation, shall be classified as a
52 representative of employees. The panel shall determine statewide
53 schedules of maximum reimbursement allowances for medically
54 necessary treatment, care, and attendance provided by hospitals
55 and ambulatory surgical centers. The maximum reimbursement
56 allowances for inpatient hospital care shall be based on a
57 schedule of per diem rates, to be approved by the three-member
58 panel no later than March 1, 1994, to be used in conjunction
59 with a precertification manual as determined by the department,
60 including maximum hours in which an outpatient may remain in
61 observation status, which shall not exceed 23 hours. All
62 compensable charges for hospital outpatient care shall be
63 reimbursed at 75 percent of usual and customary charges, except
64 as otherwise provided by this subsection. Annually, the three-
65 member panel shall adopt schedules of maximum reimbursement
66 allowances for hospital inpatient care, hospital outpatient
67 care, and ambulatory surgical centers. A hospital or an
68 ambulatory surgical center shall be reimbursed either the



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agreed-upon contract price or the maximum reimbursement allowance in the appropriate schedule.

(b) Payments for outpatient physical, occupational, and speech therapy provided by hospitals shall be the schedule of maximum reimbursement allowances for these services which applies to nonhospital providers.

(c) Payments for scheduled outpatient nonemergency radiological and clinical laboratory services that are not provided in conjunction with a surgical procedure shall be the schedule of maximum reimbursement allowances for these services which applies to nonhospital providers.

(d) 1. Outpatient reimbursement for scheduled surgeries shall be 60 percent of charges.

2. Reimbursement for emergency services and care as defined in s. 395.002 which does not include a maximum reimbursement allowance must be 250 percent of Medicare, unless there is a contract, in which case the contract governs reimbursement. Upon this subparagraph taking effect, the department shall engage with an actuarial services firm to begin development of maximum reimbursement allowances for services subject to the reimbursement provisions of this subparagraph. This subparagraph expires June 30, 2026.

(e) 1. By July 1 of each year, the department shall notify carriers and self-insurers of the physician and nonhospital services schedule of maximum reimbursement allowances. The notice must include publication of this schedule of maximum reimbursement allowances on the division's website. This schedule is not subject to approval by the three-member panel and does not include reimbursement for prescription medication.



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2. Subparagraph 1. shall take effect January 1, following the July 1, 2024, notice of the physician and nonhospital services schedule of maximum reimbursement allowances that the department provides to carriers and self-insurers.

(f) Maximum reimbursement for a physician licensed under chapter 458 or chapter 459 shall be 110 percent of the reimbursement allowed by Medicare, using appropriate codes and modifiers or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater.

(g) Maximum reimbursement for surgical procedures shall be 140 percent of the reimbursement allowed by Medicare or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater.

(h) As to reimbursement for a prescription medication, the reimbursement amount for a prescription shall be the average wholesale price plus \$4.18 for the dispensing fee. For repackaged or relabeled prescription medications dispensed by a dispensing practitioner as provided in s. 465.0276, the fee schedule for reimbursement shall be 112.5 percent of the average wholesale price, plus \$8.00 for the dispensing fee. For purposes of this subsection, the average wholesale price shall be calculated by multiplying the number of units dispensed times the per-unit average wholesale price set by the original manufacturer of the underlying drug dispensed by the practitioner, based upon the published manufacturer's average wholesale price published in the Medi-Span Master Drug Database as of the date of dispensing. All pharmaceutical claims submitted for repackaged or relabeled prescription medications must include the National Drug Code of the original



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manufacturer. Fees for pharmaceuticals and pharmaceutical services shall be reimbursable at the applicable fee schedule amount except where the employer or carrier, or a service company, third party administrator, or any entity acting on behalf of the employer or carrier directly contracts with the provider seeking reimbursement for a lower amount.

(i) Reimbursement for all fees and other charges for such treatment, care, and attendance, including treatment, care, and attendance provided by any hospital or other health care provider, ambulatory surgical center, work-hardening program, or pain program, must not exceed the amounts provided by the uniform schedule of maximum reimbursement allowances as determined by the panel or as otherwise provided in this section. This subsection also applies to independent medical examinations performed by health care providers under this chapter. In determining the uniform schedule, the panel shall first approve the data which it finds representative of prevailing charges in the state for similar treatment, care, and attendance of injured persons. Each health care provider, health care facility, ambulatory surgical center, work-hardening program, or pain program receiving workers' compensation payments shall maintain records verifying their usual charges. In establishing the uniform schedule of maximum reimbursement allowances, the panel must consider:

1. The levels of reimbursement for similar treatment, care, and attendance made by other health care programs or third-party providers;

2. The impact upon cost to employers for providing a level of reimbursement for treatment, care, and attendance which will



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ensure the availability of treatment, care, and attendance required by injured workers; and

3. The financial impact of the reimbursement allowances upon health care providers and health care facilities, including trauma centers as defined in s. 395.4001, and its effect upon their ability to make available to injured workers such medically necessary remedial treatment, care, and attendance. The uniform schedule of maximum reimbursement allowances must be reasonable, must promote health care cost containment and efficiency with respect to the workers' compensation health care delivery system, and must be sufficient to ensure availability of such medically necessary remedial treatment, care, and attendance to injured workers.

(j) In addition to establishing the uniform schedule of maximum reimbursement allowances, the panel shall:

1. Take testimony, receive records, and collect data to evaluate the adequacy of the workers' compensation fee schedule, nationally recognized fee schedules and alternative methods of reimbursement to health care providers and health care facilities for inpatient and outpatient treatment and care.

2. Survey health care providers and health care facilities to determine the availability and accessibility of workers' compensation health care delivery systems for injured workers.

3. Survey carriers to determine the estimated impact on carrier costs and workers' compensation premium rates by implementing changes to the carrier reimbursement schedule or implementing alternative reimbursement methods.

4. Submit recommendations on or before January 15, 2017, and biennially thereafter, to the President of the Senate and



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the Speaker of the House of Representatives on methods to improve the workers' compensation health care delivery system.

The department, as requested, shall provide data to the panel, including, but not limited to, utilization trends in the workers' compensation health care delivery system. The department shall provide the panel with an annual report regarding the resolution of medical reimbursement disputes and any actions pursuant to subsection (8). The department shall provide administrative support and service to the panel to the extent requested by the panel. The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection. For prescription medication purchased under the requirements of this subsection, a dispensing practitioner shall not possess such medication unless payment has been made by the practitioner, the practitioner's professional practice, or the practitioner's practice management company or employer to the supplying manufacturer, wholesaler, distributor, or drug repackager within 60 days of the dispensing practitioner taking possession of that medication.

Section 6. Present subsections (9) through (13) of section 440.385, Florida Statutes, are redesignated as subsections (10) through (14), respectively, and a new subsection (9) is added to that section, to read:

440.385 Florida Self-Insurers Guaranty Association, Incorporated.—

(9) CONTRACTS AND PURCHASES.—

(a) After July 1, 2024, all contracts entered into, and all purchases made by, the association pursuant to this section



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which are valued at or more than \$100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than \$100,000 require competition through a formal bid solicitation conducted by the association. The association must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the association contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the association must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department via electronic delivery.

(d) Contracts that are required by law are exempt from this section.

Section 7. Present subsection (7) of section 497.101, Florida Statutes, is redesignated as subsection (11), subsections (1) through (4) are amended, and a new subsection (7) and subsections (8), (9), and (10) are added to that



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section, to read:

497.101 Board of Funeral, Cemetery, and Consumer Services;
membership; appointment; terms.—

(1) The Board of Funeral, Cemetery, and Consumer Services is created within the Department of Financial Services and shall consist of 10 members, 9 of whom shall be appointed by ~~the Governor from nominations made by~~ the Chief Financial Officer and confirmed by the Senate. ~~The Chief Financial Officer shall nominate one to three persons for each of the nine vacancies on the board, and the Governor shall fill each vacancy on the board by appointing one of the persons nominated by the Chief Financial Officer to fill that vacancy. If the Governor objects to each of the nominations for a vacancy, she or he shall inform the Chief Financial Officer in writing. Upon notification of an objection by the Governor, the Chief Financial Officer shall submit one to three additional nominations for that vacancy until the vacancy is filled.~~ One member must be the State Health Officer or her or his designee.

(2) Two members of the board must be funeral directors licensed under part III of this chapter who are associated with a funeral establishment. One member of the board must be a funeral director licensed under part III of this chapter who is associated with a funeral establishment licensed under part III of this chapter which has a valid preneed license issued pursuant to this chapter ~~and who owns or operates a cinerator facility approved under chapter 403 and licensed under part VI of this chapter.~~ Two members of the board must be persons whose primary occupation is associated with a cemetery company licensed pursuant to this chapter. Two members of the board must



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be consumers who are residents of this state, have never been licensed as funeral directors or embalmers, are not connected with a cemetery or cemetery company licensed pursuant to this chapter, and are not connected with the death care industry or the practice of embalming, funeral directing, or direct disposition. One of the two consumer members must be at least 60 years of age. One member of the board must be a consumer who is a resident of this state; is licensed as a certified public accountant under chapter 473; has never been licensed as a funeral director or an embalmer; is not a principal or an employee of any licensee licensed under this chapter; and does not otherwise have control, as defined in s. 497.005, over any licensee licensed under this chapter. One member of the board must be a principal of a monument establishment licensed under this chapter as a monument builder. One member must be the State Health Officer or her or his designee. There may not be two or more board members who are principals or employees of the same company or partnership or group of companies or partnerships under common control.

(3) Board members shall be appointed for terms of 4 years and may be reappointed; however, a member may not serve for more than 8 consecutive years., and The State Health Officer shall serve as long as that person holds that office. The designee of the State Health Officer shall serve at the pleasure of the Chief Financial Officer Governor.

(4) The Chief Financial Officer Governor may suspend and the Senate may remove any board member for malfeasance or misfeasance, neglect of duty, incompetence, substantial inability to perform official duties, commission of a crime, or



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other substantial cause as determined by the Chief Financial Officer ~~Governor or Senate, as applicable,~~ to evidence a lack of fitness to sit on the board. A board member shall be deemed to have resigned her or his board membership, and that position shall be deemed vacant, upon the failure of the member to attend three consecutive meetings of the board or at least half of the meetings of the board during any 12-month period, unless the Chief Financial Officer determines that there was good and adequate justification for the absences and that such absences are not likely to continue. Any vacancy so created shall be filled as provided in subsection (1).

(7) Members of the board are subject to the code of ethics under part III of chapter 112. For purposes of applying part III of chapter 112 to activities of the members of the board, those persons are considered public officers, and the department is considered their agency. A board member may not vote on any measure that would inure to his or her special private gain or loss and, in accordance with s. 112.3143(2), may not vote on any measure that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of his or her relative or business associate. Before the vote is taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in



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the minutes.

(8) In accordance with ss. 112.3148 and 112.3149, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the department or the board, which is under consideration for a contract, or which is licensed by the department.

(9) A board member who fails to comply with subsection (7) or subsection (8) is subject to the penalties provided under ss. 112.317 and 112.3173.

(10) (a) All meetings of the board are subject to the requirements of s. 286.011, and all books and records of the board are open to the public for reasonable inspection except as otherwise provided by s. 497.172 or other applicable law.

(b) Except for emergency meetings, the department shall give notice of any board meeting by publication on the department's website at least 7 days before the meeting. The department shall publish a meeting agenda on its website at least 7 days before the meeting. The agenda must contain the items to be considered, in order of presentation. After the agenda has been made available, a change may be made only for good cause, as determined by the person designated to preside, and must be stated in the record. Notification of such change must be at the earliest practicable time.

Section 8. Paragraph (a) of subsection (4) of section 497.153, Florida Statutes, is amended to read:

497.153 Disciplinary procedures and penalties.—

(4) ACTION AFTER PROBABLE CAUSE FOUND.—



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(a) Service of an administrative complaint may be in person by department staff or any person authorized to make service of process under the Florida Rules of Civil Procedure. Service upon a licensee may in the alternative be made by certified mail, return receipt requested, to the last known address of record provided by the licensee to the department. If service by certified mail cannot be made at the last address provided by the licensee to the department, service may be made by e-mail, delivery receipt required, sent to the most recent e-mail address provided by the licensee to the department in accordance with s. 497.146.

Section 9. Paragraph (e) of subsection (1) of section 497.155, Florida Statutes, is amended to read:

497.155 Disciplinary citations and minor violations.—

(1) CITATIONS.—

(e) Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the subject's last known address in accordance with s. 497.146. If service by certified mail cannot be made at the last address provided by the subject to the department, service may be made by e-mail, delivery receipt required, sent to the most recent e-mail address provided by the subject to the department in accordance with s. 497.146.

Section 10. Paragraph (d) of subsection (3) of section 497.172, Florida Statutes, is amended to read:

497.172 Public records exemptions; public meetings exemptions.—

(3) EXAMINATIONS, INSPECTIONS, AND INVESTIGATIONS.—

(d) Information made confidential and exempt pursuant to



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this subsection may be disclosed by the department as follows:

1. To the probable cause panel of the board, for the purpose of probable cause proceedings pursuant to s. 497.153.

2. To any law enforcement agency or other government agency in the performance of its official duties and responsibilities.

3. If the department uncovers information of immediate and serious concern to the public health, safety, or welfare, it may disseminate such information as it deems necessary for the public health, safety, or welfare.

4. If the department issues an emergency order pursuant to s. 497.156.

Section 11. Present subsection (5) of section 497.386, Florida Statutes, is redesignated as subsection (6), a new subsection (5) and subsection (7) are added to that section, and present subsection (5) of that section is amended, to read:

497.386 Storage, preservation, and transportation of human remains.—

(5) In the event of an emergency situation, including the abandonment of any establishments or facilities licensed under this chapter or any medical examiner's facility, morgue, or cemetery holding facility, the department may enter and secure such establishment, facility, or morgue during or outside of normal business hours, and remove human remains and cremains from the establishment, facility, or morgue. For purposes of this subsection, the department shall determine if a facility is abandoned and if there is an emergency situation. A licensee or licensed facility that accepts transfer of human remains and cremains from the department pursuant to this subsection may not be held liable for the condition of any human remains or



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cremains at the time of transfer.

(6) A person who violates subsection (1) or subsection (3)
~~any provision of this section~~ commits a misdemeanor of the first
degree, punishable as provided in s. 775.082 or s. 775.083.

(7) A person who violates subsection (2) or subsection (4)
commits a felony of the third degree, punishable as provided in
s. 775.082, s. 775.083, or s. 775.084.

Section 12. Section 497.469, Florida Statutes, is created
to read:

497.469 Fulfillment of preneed contracts.—

(1) Upon delivery of merchandise or performance of services
in fulfillment of a preneed contract, either in part or in
whole, a preneed licensee may withdraw the amount deposited in
trust plus income earned on such amount for the merchandise
delivered or services performed, when adequate documentation is
submitted to the trustee.

(2) All of the following documentation is the only
satisfactory evidence to show that a preneed contract has been
fulfilled:

(a) Certified copy of death certificate.

(b) Acknowledgment signed by the purchaser or legally
authorized person, acknowledging that merchandise was delivered
or services performed by the preneed licensee.

(3) The preneed licensee shall maintain documentation that
supports fulfillment of a particular contract until such records
are examined by the department.

Section 13. Present paragraphs (c) and (d) of subsection
(10) of section 624.307, Florida Statutes, are redesignated as
paragraphs (d) and (e), respectively, a new paragraph (c) is



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added to that subsection, and paragraph (b) of that subsection is amended, to read:

624.307 General powers; duties.—

(10)

(b) Any person licensed or issued a certificate of authority or made an eligible surplus lines insurer by the department or the office shall respond, in writing or electronically, to the division within 14 days after receipt of a written request for documents and information from the division concerning a consumer complaint. The response must address the issues and allegations raised in the complaint and include any requested documents concerning the consumer complaint not subject to attorney-client or work-product privilege. The division may impose an administrative penalty for failure to comply with this paragraph of up to \$5,000 per violation upon any entity licensed by the department or the office and up to \$1,000 per violation by any individual licensed by the department or the office.

(c) Each insurer issued a certificate of authority or made an eligible surplus lines insurer shall file with the department an e-mail address to which requests for response to consumer complaints shall be directed pursuant to paragraph (b). Such insurer shall also designate a contact person for escalated complaint issues and shall provide the name, e-mail address, and telephone number of such person. A licensee of the department, including an agency or a firm, may elect to designate an e-mail address to which requests for response to consumer complaints shall be directed pursuant to paragraph (b). If a licensee, including an agency or a firm, elects not to designate an e-mail



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address, the department shall direct requests for response to
consumer complaints to the e-mail of record for the licensee in
the department's licensing system. An insurer or a licensee,
including an agency or a firm, may change designated contact
information at any time by submitting the new information to the
department using the method designated by rule by the
department.

Section 14. Subsection (2) of section 626.171, Florida
Statutes, is amended to read:

626.171 Application for license as an agent, customer
representative, adjuster, service representative, or reinsurance
intermediary.—

(2) In the application, the applicant shall set forth:

(a) His or her full name, age, social security number,
residence address, business address, mailing address, contact
telephone numbers, including a business telephone number, and e-
mail address.

(b) A statement indicating the method the applicant used or
is using to meet any required prelicensing education, knowledge,
experience, or instructional requirements for the type of
license applied for.

(c) Whether he or she has been refused or has voluntarily
surrendered or has had suspended or revoked a license to solicit
insurance by the department or by the supervising officials of
any state.

(d) Whether any insurer or any managing general agent
claims the applicant is indebted under any agency contract or
otherwise and, if so, the name of the claimant, the nature of
the claim, and the applicant's defense thereto, if any.



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(e) Proof that the applicant meets the requirements for the type of license for which he or she is applying.

(f) The applicant's gender (male or female).

(g) The applicant's native language.

(h) The highest level of education achieved by the applicant.

(i) The applicant's race or ethnicity (African American, white, American Indian, Asian, Hispanic, or other).

(j) Such other or additional information as the department may deem proper to enable it to determine the character, experience, ability, and other qualifications of the applicant to hold himself or herself out to the public as an insurance representative.

However, the application must contain a statement that an applicant is not required to disclose his or her race or ethnicity, gender, or native language, that he or she will not be penalized for not doing so, and that the department will use this information exclusively for research and statistical purposes and to improve the quality and fairness of the examinations. The department shall make provisions for applicants to submit cellular telephone numbers as part of the application process on a voluntary basis only for the purpose of two-factor authentication of secure login credentials.

Section 15. Paragraph (j) of subsection (2) of section 626.221, Florida Statutes, is amended to read:

626.221 Examination requirement; exemptions.—

(2) However, an examination is not necessary for any of the following:



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(j) An applicant for license as an all-lines adjuster who has the designation of Accredited Claims Adjuster (ACA) from a regionally accredited postsecondary institution in this state; Certified All Lines Adjuster (CALA) from Kaplan Financial Education; Associate in Claims (AIC) from the Insurance Institute of America; Professional Claims Adjuster (PCA) from the Professional Career Institute; Professional Property Insurance Adjuster (PPIA) from the HurriClaim Training Academy; Certified Adjuster (CA) from ALL LINES Training; Certified Claims Adjuster (CCA) from AE21 Incorporated; Claims Adjuster Certified Professional (CACP) from WebCE, Inc.; Accredited Insurance Claims Specialist (AICS) from Encore Claim Services; Professional in Claims (PIC) from 2021 Training, LLC; Registered Claims Adjuster (RCA) from American Insurance College; or Universal Claims Certification (UCC) from Claims and Litigation Management Alliance (CLM) whose curriculum has been approved by the department and which includes comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard department testing for the all-lines adjuster license. The department shall adopt rules establishing standards for the approval of curriculum.

Section 16. Subsection (6) of section 626.601, Florida Statutes, is amended to read:

626.601 Improper conduct; inquiry; fingerprinting.—

(6) The complaint and any information obtained pursuant to the investigation by the department or office are confidential and are exempt from s. 119.07 unless the department or office files a formal administrative complaint, emergency order, or consent order against the individual or entity. This subsection



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does not prevent the department or office from disclosing the complaint or such information as it deems necessary to conduct the investigation, to update the complainant as to the status and outcome of the complaint, to review the details of the investigation with the individual or entity being investigated or its representative, or to share such information with any law enforcement agency or other regulatory body.

Section 17. Subsection (3) of section 626.7351, Florida Statutes, is amended to read:

626.7351 Qualifications for customer representative's license.—The department may ~~shall~~ not grant or issue a license as customer representative to any individual found by it to be untrustworthy or incompetent, or who does not meet each of the following qualifications:

(3) Within 4 years preceding the date that the application for license was filed with the department, the applicant has earned the designation of Accredited Advisor in Insurance (AAI), Associate in General Insurance (AINS), or Accredited Customer Service Representative (ACSR) from the Insurance Institute of America; the designation of Certified Insurance Counselor (CIC) from the Society of Certified Insurance Service Counselors; the designation of Certified Professional Service Representative (CPSR) from the National Foundation for CPSR; the designation of Certified Insurance Service Representative (CISR) from the Society of Certified Insurance Service Representatives; the designation of Certified Insurance Representative (CIR) from All-Lines Training; the designation of Chartered Customer Service Representative (CCSR) from American Insurance College; the designation of Professional Customer Service Representative



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(PCSR) from the Professional Career Institute; the designation of Insurance Customer Service Representative (ICSR) from Statewide Insurance Associates LLC; the designation of Registered Customer Service Representative (RCSR) from a regionally accredited postsecondary institution in the state whose curriculum is approved by the department and includes comprehensive analysis of basic property and casualty lines of insurance and testing which demonstrates mastery of the subject; or a degree from an accredited institution of higher learning approved by the department when the degree includes a minimum of 9 credit hours of insurance instruction, including specific instruction in the areas of property, casualty, and inland marine insurance. The department shall adopt rules establishing standards for the approval of curriculum.

Section 18. Section 626.878, Florida Statutes, is amended to read:

626.878 Rules; code of ethics.—

(1) An adjuster shall subscribe to the code of ethics specified in the rules of the department. The rules shall implement the provisions of this part and specify the terms and conditions of contracts, including a right to cancel, and require practices necessary to ensure fair dealing, prohibit conflicts of interest, and ensure preservation of the rights of the claimant to participate in the adjustment of claims.

(2) A person licensed as an adjuster must identify himself or herself in any advertisement, solicitation, or written document based on the adjuster appointment type held.

(3) An adjuster who has had his or her license revoked or suspended may not participate in any part of an insurance claim



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or in the insurance claims adjusting process, including
estimating, completing, filing, negotiating, appraising,
mediating, umpiring, or effecting settlement of a claim for loss
or damage covered under an insurance contract. A person who
provides these services while the person's license is revoked or
suspended acts as an unlicensed adjuster.

Section 19. Subsection (1) of section 626.929, Florida
Statutes, is amended, and subsection (4) is added to that
section, to read:

626.929 Origination, acceptance, placement of surplus lines
business.—

(1) A licensed and appointed general lines agent while also
licensed and appointed as a surplus lines agent under this part
may originate surplus lines business and may accept surplus
lines business from any other originating Florida-licensed
general lines agent appointed and licensed as to the kinds of
insurance involved and may compensate such agent therefor.

(4) A general lines agent while licensed as a surplus lines
agent under this part may appoint these licenses with a single
surplus license agent appointment pursuant to s. 624.501. Such
agent may only originate surplus lines business and accept
surplus lines business from other originating Florida-licensed
general lines agents appointed and licensed as to the kinds of
insurance involved and may compensate such agent therefor. Such
agent may not be appointed by or transact general lines
insurance on behalf of an admitted insurer.

Section 20. Paragraphs (j) is added to subsection (4) of
section 627.351, Florida Statutes, to read:

627.351 Insurance risk apportionment plans.—



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(4) MEDICAL MALPRACTICE RISK APPORTIONMENT; ASSOCIATION
CONTRACTS AND PURCHASES.—

(j)1. After July 1, 2024, all contracts entered into, and
all purchases made by, the association pursuant to this
subsection which are valued at or more than \$100,000 must first
be approved by the department. The department has 10 days to
approve or deny a contract or purchase upon electronic receipt
of the approval request. The contract or purchase is
automatically approved if the department is nonresponsive.

2. All contracts and purchases valued at or more than
\$100,000 require competition through a formal bid solicitation
conducted by the association. The association must undergo a
formal bid solicitation process by a minimum of three vendors.
The formal bid solicitation process must include all of the
following:

a. The time and date for the receipt of bids, the
proposals, and whether the association contemplates renewal of
the contract, including the price for each year for which the
contract may be renewed.

b. All the contractual terms and conditions applicable to
the procurement.

3. Evaluation of bids by the association must include
consideration of the total cost for each year of the contract,
including renewal years, as submitted by the vendor. The
association must award the contract to the most responsible and
responsive vendor. Any formal bid solicitation conducted by the
association must be made available, upon request, to the
department by electronic delivery.

Section 21. Subsection (5) is added to section 631.59,



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Florida Statutes, to read:

631.59 Duties and powers of department and office;
association contracts and purchases.—

(5)(a) After July 1, 2024, all contracts entered into, and all purchases made by, the association pursuant to this section which are valued at or more than \$100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than \$100,000 require competition through a formal bid solicitation conducted by the association. The association must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the association contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the association must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department via electronic delivery.

(d) Paragraphs (b) and (c) do not apply to claims defense



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counsel or claims vendors if contracts with all vendors which may exceed \$100,000 are provided to the department for prior approval in accordance with paragraph (a).

Section 22. Subsection (6) is added to section 631.722, Florida Statutes, to read:

631.722 Powers and duties of department and office;
association contracts and purchases.-

(6) (a) After July 1, 2024, all contracts entered into, and all purchases made by, the association pursuant to this section which are valued at or more than \$100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than \$100,000 require competition through a formal bid solicitation conducted by the association. The association must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the association contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the association must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and



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responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department via electronic delivery.

Section 23. Subsection (5) is added to section 631.821, Florida Statutes, to read:

631.821 Powers and duties of the department; board contracts and purchases.—

(5) (a) After July 1, 2024, all contracts entered into, and all purchases made by, the board pursuant to this section which are valued at or more than \$100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than \$100,000 require competition through a formal bid solicitation conducted by the board. The board must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the board contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the board must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The plan must award the contract to the most responsible and responsive



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vendor. Any formal bid solicitation conducted by the board must be made available, upon request, to the department via electronic delivery.

Section 24. Section 631.921, Florida Statutes, is amended to read:

631.921 Department powers; board contracts and purchases.—

(1) The corporation shall be subject to examination by the department. By March 1 of each year, the board of directors shall cause a financial report to be filed with the department for the immediately preceding calendar year in a form approved by the department.

(2)(a) After July 1, 2024, all contracts entered into, and all purchases made by, the board pursuant to this section which are valued at or more than \$100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than \$100,000 require competition through a formal bid solicitation conducted by the board. The board must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the board contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.



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(c) Evaluation of bids by the board must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department via electronic delivery.

Section 25. Paragraph (b) of subsection (3) of section 633.124, Florida Statutes, is amended to read:

633.124 Penalty for violation of law, rule, or order to cease and desist or for failure to comply with corrective order.—

(3)

(b) A person who initiates a pyrotechnic display within any structure commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, unless:

1. The structure has a fire protection system installed in compliance with s. 633.334.

2. The owner of the structure has authorized in writing the pyrotechnic display.

3. If the local jurisdiction requires a permit for the use of a pyrotechnic display in an occupied structure, such permit has been obtained and all conditions of the permit complied with or, if the local jurisdiction does not require a permit for the use of a pyrotechnic display in an occupied structure, the person initiating the display has complied with National Fire Protection Association, Inc., Standard 1126, 2021 ~~2001~~ Edition, Standard for the Use of Pyrotechnics before a Proximate Audience.



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Section 26. Subsection (2) of section 633.202, Florida Statutes, is amended to read:

633.202 Florida Fire Prevention Code.—

(2) The State Fire Marshal shall adopt the current edition of the National Fire Protection Association's Standard 1, Fire Prevention Code but may not adopt a building, mechanical, accessibility, or plumbing code. The State Fire Marshal shall adopt the current edition of the Life Safety Code, NFPA 101, current editions, by reference. The State Fire Marshal may modify the selected codes and standards as needed to accommodate the specific needs of the state. Standards or criteria in the selected codes shall be similarly incorporated by reference. The State Fire Marshal shall incorporate within sections of the Florida Fire Prevention Code provisions that address uniform firesafety standards as established in s. 633.206. The State Fire Marshal shall incorporate within sections of the Florida Fire Prevention Code provisions addressing regional and local concerns and variations.

Section 27. Paragraph (b) of subsection (1) of section 633.206, Florida Statutes, is amended to read:

633.206 Uniform firesafety standards.—The Legislature hereby determines that to protect the public health, safety, and welfare it is necessary to provide for firesafety standards governing the construction and utilization of certain buildings and structures. The Legislature further determines that certain buildings or structures, due to their specialized use or to the special characteristics of the person utilizing or occupying these buildings or structures, should be subject to firesafety standards reflecting these special needs as may be appropriate.



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(1) The department shall establish uniform firesafety standards that apply to:

(b) All new, existing, and proposed hospitals, nursing homes, assisted living facilities, adult family-care homes, correctional facilities, public schools, transient public lodging establishments, public food service establishments, mobile food dispensing vehicles, elevators, migrant labor camps, mobile home parks, lodging parks, recreational vehicle parks, recreational camps, residential and nonresidential child care facilities, facilities for the developmentally disabled, motion picture and television special effects productions, tunnels, energy storage systems, and self-service gasoline stations, of which standards the State Fire Marshal is the final administrative interpreting authority.

In the event there is a dispute between the owners of the buildings specified in paragraph (b) and a local authority requiring a more stringent uniform firesafety standard for sprinkler systems, the State Fire Marshal shall be the final administrative interpreting authority and the State Fire Marshal's interpretation regarding the uniform firesafety standards shall be considered final agency action.

Section 28. Paragraph (b) of subsection (8) of section 634.041, Florida Statutes, is amended to read:

634.041 Qualifications for license.—To qualify for and hold a license to issue service agreements in this state, a service agreement company must be in compliance with this part, with applicable rules of the commission, with related sections of the Florida Insurance Code, and with its charter powers and must



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comply with the following:

(8)

(b) A service agreement company does not have to establish and maintain an unearned premium reserve if it secures and maintains contractual liability insurance in accordance with the following:

1. Coverage of 100 percent of the claim exposure is obtained from an insurer or insurers approved by the office, which hold ~~holds~~ a certificate of authority under s. 624.401 to do business within this state, or secured through a risk retention groups ~~group~~, which are ~~is~~ authorized to do business within this state under s. 627.943 or s. 627.944. Such insurers ~~insurer~~ or risk retention groups ~~group~~ must maintain a surplus as regards policyholders of at least \$15 million.

2. If the service agreement company does not meet its contractual obligations, the contractual liability insurance policy binds its issuer to pay or cause to be paid to the service agreement holder all legitimate claims and cancellation refunds for all service agreements issued by the service agreement company while the policy was in effect. This requirement also applies to those service agreements for which no premium has been remitted to the insurer.

3. If the issuer of the contractual liability policy is fulfilling the service agreements covered by the contractual liability policy and the service agreement holder cancels the service agreement, the issuer must make a full refund of unearned premium to the consumer, subject to the cancellation fee provisions of s. 634.121(3). The sales representative and agent must refund to the contractual liability policy issuer



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their unearned pro rata commission.

4. The policy may not be canceled, terminated, or nonrenewed by the insurer or the service agreement company unless a 90-day written notice thereof has been given to the office by the insurer before the date of the cancellation, termination, or nonrenewal.

5. The service agreement company must provide the office with the claims statistics.

6. A policy issued in compliance with this paragraph may either pay 100 percent of claims as they are incurred, or pay 100 percent of claims due in the event of the failure of the service agreement company to pay such claims when due.

All funds or premiums remitted to an insurer by a motor vehicle service agreement company under this part shall remain in the care, custody, and control of the insurer and shall be counted as an asset of the insurer; provided, however, this requirement does not apply when the insurer and the motor vehicle service agreement company are affiliated companies and members of an insurance holding company system. If the motor vehicle service agreement company chooses to comply with this paragraph but also maintains a reserve to pay claims, such reserve shall only be considered an asset of the covered motor vehicle service agreement company and may not be simultaneously counted as an asset of any other entity.

Section 29. Subsection (5) of section 634.081, Florida Statutes, is amended to read:

634.081 Suspension or revocation of license; grounds.—

(5) The office shall suspend or revoke the license of a



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company if it finds that the ratio of gross written premiums written to net assets exceeds 10 to 1 unless the company has in excess of \$750,000 in net assets and is utilizing contractual liability insurance which cedes 100 percent of the service agreement company's claims liabilities to the contractual liability insurers ~~insurer~~ or is utilizing contractual liability insurance which reimburses the service agreement company for 100 percent of its paid claims. However, if a service agreement company has been licensed by the office in excess of 10 years, is in compliance with all applicable provisions of this part, and has net assets at all times in excess of \$3 million that comply with the provisions of part II of chapter 625, such company may not exceed a ratio of gross written premiums written to net assets of 15 to 1.

Section 30. Present subsection (5) of section 634.3077, Florida Statutes, is redesignated as subsection (6), a new subsection (5) is added to that section, and subsection (3) of that section is amended, to read:

634.3077 Financial requirements.—

(3) An association may ~~shall~~ not be required to set up an unearned premium reserve if it has purchased contractual liability insurance which demonstrates to the satisfaction of the office that 100 percent of its claim exposure is covered by such insurance. Such contractual liability insurance shall be obtained from an insurer or insurers that hold ~~holds~~ a certificate of authority to do business within the state or from an insurer or insurers approved by the office as financially capable of meeting the obligations incurred pursuant to the policy. For purposes of this subsection, the contractual



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liability policy shall contain the following provisions:

(a) In the event that the home warranty association is unable to fulfill its obligation under its contracts issued in this state for any reason, including insolvency, bankruptcy, or dissolution, the contractual liability insurer will pay losses and unearned premiums under such plans directly to persons making claims under such contracts.

(b) The insurer issuing the policy shall assume full responsibility for the administration of claims in the event of the inability of the association to do so.

(c) The policy may not be canceled or not renewed by ~~either~~ the insurer or the association unless 60 days' written notice thereof has been given to the office by the insurer before the date of such cancellation or nonrenewal.

(d) The contractual liability insurance policy shall insure all home warranty contracts that were issued while the policy was in effect whether or not the premium has been remitted to the insurer.

(5) An association licensed under this part is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the ratio to net assets limitation of this section if the association complies with the following:

(a) The association or, if the association is a direct or indirect wholly owned subsidiary of a parent corporation, its parent corporation has, and maintains at all times, a minimum net worth of at least \$100 million and provides the office with the following:

1. A copy of the association's annual audited financial



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statements or the audited consolidated financial statements of
the association's parent corporation, prepared by an independent
certified public accountant in accordance with generally
accepted accounting principles, which clearly demonstrate the
net worth of the association or its parent corporation to be
\$100 million, and a quarterly written certification to the
office that the association or its parent corporation continues
to maintain the net worth required under this paragraph.

2. The association's or its parent corporation's Form 10-K,
Form 10-Q, or Form 20-F as filed with the United States
Securities and Exchange Commission or such other documents
required to be filed with a recognized stock exchange, which
shall be provided on a quarterly and annual basis within 10 days
after the last date each such report must be filed with the
Securities and Exchange Commission, the National Association of
Securities Dealers Automated Quotations system, or other
recognized stock exchange.

Failure to timely file the documents required under this
paragraph may, at the discretion of the office, subject the
association to suspension or revocation of its license under
this part.

(b) If the net worth of a parent corporation is used to
satisfy the net worth provisions of paragraph (a), the following
requirements must be met:

1. The parent corporation must guarantee all service
warranty obligations of the association, wherever written, on a
form approved in advance by the office. A cancellation,
termination, or modification of the guarantee does not become



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effective unless the parent corporation provides the office
written notice at least 90 days before the effective date of the
cancellation, termination, or modification and the office
approves the request in writing. Before the effective date of
the cancellation, termination, or modification of the guarantee,
the association must demonstrate to the satisfaction of the
office compliance with all applicable provisions of this part,
including whether the association will meet the requirements of
this section by the purchase of contractual liability insurance,
establishing required reserves, or other method allowed under
this section. If the association or parent corporation does not
demonstrate to the satisfaction of the office compliance with
all applicable provisions of this part, the association or
parent association shall immediately cease writing new and
renewal business upon the effective date of the cancellation,
termination, or modification.

2. The association must maintain at all times net assets of
at least \$750,000.

Section 31. Section 634.317, Florida Statutes, is amended
to read:

634.317 License and appointment required.—No person may
solicit, negotiate, or effectuate home warranty contracts for
remuneration in this state unless such person is licensed and
appointed as a sales representative. A licensed and appointed
sales representative shall be directly responsible and
accountable for all acts of the licensee's employees. A
municipality, a county government, a special district, an entity
operated by a municipality or county government, or an employee
or agent of a municipality, county government, special district,



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or entity operated by a municipality or county government is exempt from the licensing and appointing requirements of this section.

Section 32. Present subsection (9) of section 648.25, Florida Statutes, is redesignated as subsection (10), and a new subsection (9) and subsection (11) are added to that section, to read:

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

(9) “Referring bail bond agent” is the limited surety agent who is appointed with the surety company issuing the transfer bond that is to be posted in a county where the referring limited surety agent is not registered. The referring bail bond agent is the appointed agent held liable for the transfer bond, along with the issuing surety company.

(11) “Transfer bond” means the appearance bond and power of attorney form posted by a limited surety agent who is registered in the county where the defendant is being held in custody, and who is appointed to represent the same surety company issuing the appearance bond as the referring bail bond agent.

Section 33. Subsection (3) of section 648.26, Florida Statutes, is amended to read:

648.26 Department of Financial Services; administration.—

(3) The papers, documents, reports, or any other investigatory records of the department are confidential and exempt from s. 119.07(1) until such investigation is completed or ceases to be active, unless the department or office files a formal administrative complaint, emergency order, or consent order against the individual or entity. For the purpose of this section, an investigation is considered active while the



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investigation is being conducted by the department with a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department is proceeding with reasonable dispatch and there is good faith belief that action may be initiated by the department or other administrative or law enforcement agency. This subsection does not prevent the department or office from disclosing the content of a complaint or such information as it deems necessary to conduct the investigation, to update the complainant as to the status and outcome of the complaint, to review the details of the investigation with the subject or the subject's representative, or to share such information with any law enforcement agency or other regulatory body.

Section 34. Paragraph (a) of subsection (1) of section 648.30, Florida Statutes, is amended to read:

648.30 Licensure and appointment required; prohibited acts; penalties.—

(1)(a) A person or entity may not act in the capacity of a bail bond agent or bail bond agency or perform any of the functions, duties, or powers prescribed for bail bond agents or bail bond agencies under this chapter unless that person or entity is qualified, licensed, and appointed as provided in this chapter ~~and employed by a bail bond agency.~~

Section 35. Subsection (1) of section 648.355, Florida Statutes, is amended to read:

648.355 Limited surety agents and professional bail bond agents; qualifications.—

(1) The applicant shall furnish, with the application for



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license, a complete set of the applicant's fingerprints in accordance with s. 626.171(4) ~~and a recent credential-sized, fullface photograph of the applicant.~~ The department may not issue a license under this section until the department has received a report from the Department of Law Enforcement and the Federal Bureau of Investigation relative to the existence or nonexistence of a criminal history report based on the applicant's fingerprints.

Section 36. Subsection (3) of section 648.43, Florida Statutes, is amended to read:

648.43 Power of attorney; approval by office; filing of copies; notification of transfer bond.—

(3) Every bail bond agent who executes or countersigns a transfer bond shall indicate in writing on the bond the name, and address, and license number of the referring bail bond agent.

Section 37. Section 717.101, Florida Statutes, is amended to read:

717.101 Definitions.—As used in this chapter, unless the context otherwise requires:

(1) "Aggregate" means the amounts reported for owners of unclaimed property of less than \$50 or where there is no name for the individual or entity listed on the holder's records, regardless of the amount to be reported.

(2) "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.

(3) "Audit" means an action or proceeding to examine and verify a person's records, books, accounts, and other documents



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to ascertain and determine compliance with this chapter.

(4) "Audit agent" means a person with whom the department enters into a contract with to conduct an audit or examination. The term includes an independent contractor of the person and each individual participating in the audit on behalf of the person or contractor.

(5)~~(3)~~ "Banking organization" means any and all banks, trust companies, private bankers, savings banks, industrial banks, safe-deposit companies, savings and loan associations, credit unions, and investment companies in this state, organized under or subject to the laws of this state or of the United States, including entities organized under 12 U.S.C. s. 611, but does not include Federal Reserve Banks. The term also includes any corporation, business association, or other organization that:

(a) Is a wholly or partially owned subsidiary of any banking, banking corporation, or bank holding company that performs any or all of the functions of a banking organization; or

(b) Performs functions pursuant to the terms of a contract with any banking organization ~~state or national bank, international banking entity or similar entity, trust company, savings bank, industrial savings bank, land bank, safe-deposit company, private bank, or any organization otherwise defined by law as a bank or banking organization.~~

(6)~~(4)~~ "Business association" means any for-profit or nonprofit corporation other than a public corporation; joint stock company; investment company; unincorporated association or association of two or more individuals for business purposes,



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whether or not for profit; partnership; joint venture; limited liability company; sole proprietorship; business trust; trust company; land bank; safe-deposit company; safekeeping depository; financial organization; insurance company; federally chartered entity; utility company; or other business entity, whether or not for profit corporation (other than a public corporation), joint stock company, investment company, business trust, partnership, limited liability company, or association of two or more individuals for business purposes, whether for profit or not for profit.

(7)(5) "Claimant" means the person on whose behalf a claim is filed.

(8) "Claimant's representative" means an attorney who is a member in good standing of The Florida Bar, a certified public accountant licensed in this state, or private investigator who is duly licensed to do business in this state, registered with the department, and authorized by the claimant to claim unclaimed property on the claimant's behalf. The term does not include a person acting in a representative capacity, such as a personal representative, guardian, trustee, or attorney, whose representation is not contingent upon the discovery or location of unclaimed property; provided, however, that any agreement entered into for the purpose of evading s. 717.135 is invalid and unenforceable.

(9)(6) "Credit balance" means an account balance in the customer's favor.

(10)(7) "Department" means the Department of Financial Services.

(11)(8) "Domicile" means the state of incorporation for a



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corporation; the state of filing for a business association,
other than a corporation, whose formation or organization
requires a filing with a state; the state of organization for a
business association, other than a corporation, whose formation
or organization does not require a filing with a state; or the
state of home office for a federally chartered entity ~~incorporated~~
~~under the laws of a state, or, for an unincorporated business~~
~~association, the state where the business association is~~
~~organized.~~

(12) ~~(9)~~ "Due diligence" means the use of reasonable and
prudent methods under particular circumstances to locate
apparent owners of inactive accounts using the taxpayer
identification number or social security number, if known, which
may include, but are not limited to, using a nationwide
database, cross-indexing with other records of the holder,
mailing to the last known address unless the last known address
is known to be inaccurate, providing written notice as described
in this chapter by electronic mail if an apparent owner has
elected such delivery, or engaging a licensed agency or company
capable of conducting such search and providing updated
addresses.

(13) "Electronic" means relating to technology having
electrical, digital, magnetic, wireless, optical,
electromagnetic, or similar capabilities.

(14) ~~(10)~~ "Financial organization" means a ~~state or federal~~
savings association, savings and loan association, savings bank,
industrial bank, bank, banking organization, trust company,
international bank agency, cooperative bank, building and loan
association, or credit union.



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(15)~~(11)~~ "Health care provider" means any state-licensed entity that provides and receives payment for health care services. These entities include, but are not limited to, hospitals, outpatient centers, physician practices, and skilled nursing facilities.

(16)~~(12)~~ "Holder" means:

(a) A person, wherever organized or domiciled, who is in possession or control or has custody of property or the rights to property belonging to another; is indebted to another on an obligation; or is obligated to hold for the account of, or to deliver or pay to, the owner, property subject to this chapter; or

~~(a) In possession of property belonging to another;~~

~~(b) A trustee in case of a trust; or~~

~~(c) Indebted to another on an obligation.~~

(17)~~(13)~~ "Insurance company" means an association, corporation, or fraternal or mutual benefit organization, whether for profit or not for profit, which is engaged in providing insurance coverage.

(18)~~(14)~~ "Intangible property" includes, by way of illustration and not limitation:

(a) Moneys, checks, virtual currency, drafts, deposits, interest, dividends, and income.

(b) Credit balances, customer overpayments, security deposits and other instruments as defined by chapter 679, refunds, unpaid wages, unused airline tickets, and unidentified remittances.

(c) Stocks, and other intangible ownership interests in business associations.



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(d) Moneys deposited to redeem stocks, bonds, bearer bonds, original issue discount bonds, coupons, and other securities, or to make distributions.

(e) Amounts due and payable under the terms of insurance policies.

(f) Amounts distributable from a trust or custodial fund established under a plan to provide any health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefit.

(19)~~(15)~~ "Last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail. For the purposes of identifying, reporting, and remitting property to the department which is presumed to be unclaimed, "last known address" includes any partial description of the location of the apparent owner sufficient to establish the apparent owner was a resident of this state at the time of last contact with the apparent owner or at the time the property became due and payable.

(20)~~(16)~~ "Lawful charges" means charges against dormant accounts that are authorized by statute for the purpose of offsetting the costs of maintaining the dormant account.

(21)~~(17)~~ "Managed care payor" means a health care plan that has a defined system of selecting and limiting health care providers as evidenced by a managed care contract with the health care providers. These plans include, but are not limited to, managed care health insurance companies and health maintenance organizations.

(22)~~(18)~~ "Owner" means a person, or the person's legal



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representative, entitled to receive or having a legal or
equitable interest in or claim against property subject to this
chapter; a depositor in the case of a deposit; a beneficiary in
the case of a trust or a deposit in trust; or a payee in the
case of a negotiable instrument or other intangible property a
~~depositor in the case of a deposit, a beneficiary in the case of~~
~~a trust or a deposit in trust, or a payee in the case of other~~
~~intangible property, or a person having a legal or equitable~~
~~interest in property subject to this chapter or his or her legal~~
~~representative.~~

(23) "Person" means an individual; estate; business
association; corporation; firm; association; joint adventure;
partnership; government or governmental subdivision, agency, or
instrumentality; or any other legal or commercial entity.

(24)~~(19)~~ "Public corporation" means a corporation created
by the state, founded and owned in the public interest,
supported by public funds, and governed by those deriving their
power from the state.

(25) "Record" means information that is inscribed on a
tangible medium or that is stored in an electronic or other
medium and is retrievable in perceivable form.

(26)~~(20)~~ "Reportable period" means the calendar year ending
December 31 of each year.

(27)~~(21)~~ "State," when applied to a part of the United
States, includes any state, district, commonwealth, territory,
insular possession, and any other area subject to the
legislative authority of the United States.

(28)~~(22)~~ "Trust instrument" means a trust instrument as
defined in s. 736.0103.



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~~(23) "Ultimate equitable owner" means a natural person who, directly or indirectly, owns or controls an ownership interest in a corporation, a foreign corporation, an alien business organization, or any other form of business organization, regardless of whether such natural person owns or controls such ownership interest through one or more natural persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.~~

(29) "Unclaimed Property Purchase Agreement" means the form adopted by the department pursuant to s. 717.135 which must be used, without modification or amendment, by a claimant's representative to purchase unclaimed property from an owner.

(30) "Unclaimed Property Recovery Agreement" means the form adopted by the department pursuant to s. 717.135 which must be used, without modification or amendment, by a claimant's representative to obtain an owner's consent and authority to recover unclaimed property on the owner's behalf.

(31)~~(24)~~ "United States" means any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

(32)~~(25)~~ "Utility" means a person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

(33) (a) "Virtual currency" means digital units of exchange that:



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1. Have a centralized repository or administrator;
2. Are decentralized and have no centralized repository or
administrator; or
3. May be created or obtained by computing or manufacturing
effort.
(b) The term does not include any of the following:
1. Digital units that:
a. Are used solely within online gaming platforms;
b. Have no market or application outside of the online
gaming platforms in sub-subparagraph a.;
c. Cannot be converted into, or redeemed for, fiat currency
or virtual currency; and
d. Can or cannot be redeemed for real-world goods,
services, discounts, or purchases.
2. Digital units that can be redeemed for:
a. Real-world goods, services, discounts, or purchases as
part of a customer affinity or rewards program with the issuer
or other designated merchants; or
b. Digital units in another customer affinity or rewards
program, but cannot be converted into, or redeemed for, fiat
currency or virtual currency.
3. Digital units used as part of prepaid cards.
Section 38. Subsections (3) and (4) are added to section
717.102, Florida Statutes, to read:
717.102 Property presumed unclaimed; general rule.—
(3) A presumption that property is unclaimed is rebutted by
an apparent owner's expression of interest in the property. An
owner's expression of interest in property includes:
(a) A record communicated by the apparent owner to the



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holder or agent of the holder concerning the property or the
account in which the property is held;

(b) An oral communication by the apparent owner to the
holder or agent of the holder concerning the property or the
account in which the property is held, if the holder or its
agent contemporaneously makes and preserves a record of the fact
of the apparent owner's communication;

(c) Presentment of a check or other instrument of payment
of a dividend, interest payment, or other distribution, with
respect to an account, underlying security, or interest in a
business association;

(d) Activity directed by an apparent owner in the account
in which the property is held, including accessing the account
or information concerning the account, or a direction by the
apparent owner to increase, decrease, or otherwise change the
amount or type of property held in the account;

(e) A deposit into or withdrawal from an account at a
financial organization, excluding an automatic deposit or
withdrawal previously authorized by the apparent owner or an
automatic reinvestment of dividends or interest, which does not
constitute an expression of interest; or

(f) Any other action by the apparent owner which reasonably
demonstrates to the holder that the apparent owner knows that
the property exists.

(4) A deceased owner is incapable of expressing an interest
in property.

Section 39. Subsection (5) of section 717.106, Florida
Statutes, is amended to read:

717.106 Bank deposits and funds in financial



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organizations.—

(5) If the documents establishing a deposit described in subsection (1) state the address of a beneficiary of the deposit, and the account has a value of at least \$50, notice shall be given to the beneficiary as provided for notice to the apparent owner under s. 717.117(6) ~~s. 717.117(4)~~. This subsection shall apply to accounts opened on or after October 1, 1990.

Section 40. Section 717.1065, Florida Statutes, is created to read:

717.1065 Virtual currency.—

(1) Any virtual currency held or owing by a banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity is presumed unclaimed unless the owner, within 5 years, has communicated in writing with the banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity concerning the virtual currency or otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity.

(2) A holder may not deduct from the amount of any virtual currency subject to this section any charges imposed by reason of the virtual currency unless there is a valid and enforceable written contract between the holder and the owner of the virtual currency pursuant to which the holder may impose those charges and the holder does not regularly reverse or otherwise cancel those charges with respect to the virtual currency.

Section 41. Paragraph (a) of subsection (1) of section



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717.1101, Florida Statutes, is amended to read:

717.1101 Unclaimed equity and debt of business associations.—

(1)(a) Stock or other equity interest in a business association is presumed unclaimed on the date of ~~3 years after~~ the earliest of the following:

1. Three years after ~~The date of~~ the most recent of any owner-generated activity or communication related to the account, as recorded and maintained in the holder's database and records systems sufficient enough to demonstrate the owner's continued awareness or interest in the property ~~dividend, stock split, or other distribution unclaimed by the apparent owner;~~

2. Three years after the date of the death of the owner, as evidenced by: ~~The date of a statement of account or other notification or communication that was returned as undeliverable; or~~

a. Notice to the holder of the owner's death by an administrator, beneficiary, relative, or trustee, or by a personal representative or other legal representative of the owner's estate;

b. Receipt by the holder of a copy of the death certificate of the owner;

c. Confirmation by the holder of the owner's death through other means; or

d. Other evidence from which the holder may reasonably conclude that the owner is deceased; or

3. One year after the date on which the holder receives notice under subparagraph 2. if the notice is received 2 years or less after the owner's death and the holder lacked knowledge



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of the owner's death during that period of 2 years or less ~~The~~
~~date the holder discontinued mailings, notifications, or~~
~~communications to the apparent owner.~~

Section 42. Subsection (1) of section 717.112, Florida
Statutes, is amended to read:

717.112 Property held by agents and fiduciaries.—

(1) ~~Except as provided in ss. 717.1125 and 733.816,~~ All
intangible property and any income or increment thereon held in
a fiduciary capacity for the benefit of another person,
including property held by an attorney in fact or an agent,
except as provided in ss. 717.1125 and 733.816, is presumed
unclaimed unless the owner has within 5 years after it has
become payable or distributable increased or decreased the
principal, accepted payment of principal or income, communicated
in writing concerning the property, or otherwise indicated an
interest as evidenced by a memorandum or other record on file
with the fiduciary.

Section 43. Effective January 1, 2025, section 717.117,
Florida Statutes, is amended to read:

717.117 Report of unclaimed property.—

(1) Every person holding funds or other property, tangible
or intangible, presumed unclaimed and subject to custody as
unclaimed property under this chapter shall report to the
department ~~on such forms as the department may prescribe by~~
~~rule. In lieu of forms, a report identifying 25 or more~~
~~different apparent owners must be submitted by the holder~~ via
electronic medium as the department may prescribe by rule. The
report must include:

(a) Except for traveler's checks and money orders, the



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name, social security number or taxpayer identification number, ~~and~~ date of birth, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property which is presumed unclaimed and which has a value of \$10 ~~\$50~~ or more.

(b) For unclaimed funds that ~~which~~ have a value of \$10 ~~\$50~~ or more held or owing under any life or endowment insurance policy or annuity contract, the identifying information required to be provided under paragraph (a) for both ~~full name, taxpayer identification number or social security number, date of birth, if known, and last known address of~~ the insured or annuitant and ~~of~~ the beneficiary according to records of the insurance company holding or owing the funds.

(c) For all tangible property held in a safe-deposit box or other safekeeping repository, a description of the property and the place where the property is held and may be inspected by the department, and any amounts owing to the holder. Contents of a safe-deposit box or other safekeeping repository which consist of documents or writings of a private nature and which have little or no apparent value shall not be presumed unclaimed.

(d) The nature or type of property, any accounting or ~~and~~ identifying number associated with the property, a if any, or description of the property, and the amount appearing from the records to be due. Items of value less than \$10 ~~under \$50~~ each may be reported in the aggregate.

(e) The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property.

(f) Any other information the department may prescribe by



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rule as necessary for the administration of this chapter.

(2) If the total value of all presumed unclaimed property, whether tangible or intangible, held by a person is less than \$10, a zero balance report may be filed for that reporting period

~~(f) Any person or business association or public corporation holding funds presumed unclaimed and having a total value of \$10 or less may file a zero balance report for that reporting period. The balance brought forward to the new reporting period is zero.~~

~~(g) Such other information as the department may prescribe by rule as necessary for the administration of this chapter.~~

(3)~~(h)~~ Credit balances, customer overpayments, security deposits, and refunds having a value of less than \$10 may ~~shall~~ not be presumed unclaimed.

(4)~~(2)~~ If the holder of property presumed unclaimed and subject to custody as unclaimed property is a successor holder or if the holder has changed the holder's name while in possession of the property, the holder must ~~shall~~ file with the holder's report all known names and addresses of each prior holder of the property. Compliance with this subsection means the holder exercises reasonable and prudent efforts to determine the names of all prior holders.

(5)~~(3)~~ The report must be filed before May 1 of each year. The report applies ~~shall apply~~ to the preceding calendar year. Upon written request by any person required to file a report, and upon a showing of good cause, the department may extend the reporting date. The department may impose and collect a penalty of \$10 per day up to a maximum of \$500 for the failure to timely



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report, if an extension was not provided or if the holder of the property failed ~~the failure~~ to include in a report information required by this chapter which was in the holder's possession at the time of reporting. The penalty must ~~shall~~ be remitted to the department within 30 days after the date of the notification to the holder that the penalty is due and owing. As necessary for proper administration of this chapter, the department may waive any penalty due with appropriate justification. ~~On written request by any person required to file a report and upon a showing of good cause, the department may postpone the reporting date.~~ The department must provide information contained in a report filed with the department to any person requesting a copy of the report or information contained in a report, to the extent the information requested is not confidential, within 45 days after the department determines that the report ~~has been processed and added to the unclaimed property database subsequent to a determination that the report~~ is accurate and acceptable and that the reported property is the same as the remitted property.

(6) ~~(4)~~ Holders of inactive accounts having a value of \$50 or more shall use due diligence to locate and notify apparent owners that the entity is holding unclaimed property available for them to recover. Not more than 120 days and not less than 60 days prior to filing the report required by this section, the holder in possession of property presumed unclaimed and subject to custody as unclaimed property under this chapter shall send written notice by first-class United States mail to the apparent owner at the apparent owner's last known address from the holder's records or from other available sources, or via



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electronic mail if the apparent owner has elected this method of delivery, informing the apparent owner that the holder is in possession of property subject to this chapter, if the holder has in its records a mailing or electronic ~~an~~ address for the apparent owner which the holder's records do not disclose to be inaccurate. These two means of contact are not mutually exclusive; if the mailing address is determined to be inaccurate, electronic mail may be used if so elected by the apparent owner.

(7) The written notice to the apparent owner required under this section must:

(a) Contain a heading that reads substantially as follows: "Notice. The State of Florida requires us to notify you that your property may be transferred to the custody of the Florida Department of Financial Services if you do not contact us before (insert date that is at least 30 days after the date of the notice)."

(b) Identify the type, nature, and, except for property that does not have a fixed value, value of the property that is the subject of the notice.

(c) State that the property will be turned over to the custody of the department as unclaimed property if no response to this letter is received.

(d) State that any property that is not legal tender of the United States may be sold or liquidated by the department.

(e) State that after the property is turned over to the department, an apparent owner seeking return of the property may file a claim with the department.

(f) State that the property is currently with a holder and



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provide instructions that the apparent owner must follow to prevent the holder from reporting and paying for the property or from delivering the property to the department.

(8)~~(5)~~ Any holder of intangible property may file with the department a petition for determination that the property is unclaimed requesting the department to accept custody of the property. The petition shall state any special circumstances that exist, contain the information required by subsection (4)~~(2)~~, and show that a diligent search has been made to locate the owner. If the department finds that the proof of diligent search is satisfactory, it shall give notice as provided in s. 717.118 and accept custody of the property.

(9)~~(6)~~ Upon written request by any entity or person required to file a report, stating such entity's or person's justification for such action, the department may place that entity or person in an inactive status as an unclaimed property "holder."

(10)~~(7)~~ (a) This section does not apply to the unclaimed patronage refunds as provided for by contract or through bylaw provisions of entities organized under chapter 425 or that are exempt from ad valorem taxation pursuant to s. 196.2002.

(b) This section does not apply to intangible property held, issued, or owing by a business association subject to the jurisdiction of the United States Surface Transportation Board or its successor federal agency if the apparent owner of such intangible property is a business association. The holder of such property does not have any obligation to report, to pay, or to deliver such property to the department.

(c) This section does not apply to credit balances,



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overpayments, refunds, or outstanding checks owed by a health care provider to a managed care payor with whom the health care provider has a managed care contract, provided that the credit balances, overpayments, refunds, or outstanding checks become due and owing pursuant to the managed care contract.

(11)~~(8)~~(a) As used in this subsection, the term "property identifier" means the descriptor used by the holder to identify the unclaimed property.

(b) Social security numbers and property identifiers contained in reports required under this section, held by the department, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) This exemption applies to social security numbers and property identifiers held by the department before, on, or after the effective date of this exemption.

Section 44. Present subsections (4), (5), and (6) of section 717.119, Florida Statutes, are redesignated as subsections (5), (6), and (7), respectively, and a new subsection (4) and subsection (8) are added to that section, to read:

717.119 Payment or delivery of unclaimed property.—

(4) All virtual currency reported under this chapter on the annual report filing required in s. 717.117 shall be remitted to the department with the report. The holder shall liquidate the virtual currency and remit the proceeds to the department. The liquidation must occur within 30 days before the filing of the report. Upon delivery of the virtual currency proceeds to the department, the holder is relieved of all liability of every kind in accordance with the provisions of s. 717.1201 to every



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person for any losses or damages resulting to the person by the delivery to the department of the virtual currency proceeds.

(8) A holder may not assign or otherwise transfer its obligation to report, pay, or deliver property or to comply with the provisions of this chapter, other than to a parent, subsidiary, or affiliate of the holder.

(a) Unless otherwise agreed to by the parties to a transaction, the holder's successor by merger or consolidation, or any person or entity that acquires all or substantially all of the holder's capital stock or assets, is responsible for fulfilling the holder's obligation to report, pay, or deliver property or to comply with the duties of this chapter regarding the transfer of property owed to the holder's successor and being held for an owner resulting from the merger, consolidation, or acquisition.

(b) This subsection does not prohibit a holder from contracting with a third party for the reporting of unclaimed property, but the holder remains responsible to the department for the complete, accurate, and timely reporting of the property.

Section 45. Section 717.1201, Florida Statutes, is amended to read:

717.1201 Custody by state; holder ~~relieved from~~ liability; reimbursement of holder paying claim; reclaiming for owner; ~~defense of holder;~~ payment of safe-deposit box or repository charges.—

(1) Upon the good faith payment or delivery of property to the department, the state assumes custody and responsibility for the safekeeping of property. Any person who pays or delivers



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property to the department in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim then existing or which thereafter may arise or be made in respect to the property.

(a) A holder's substantial compliance with s. 717.117(4) and good faith payment or delivery of property to the department terminates any legal relationship between the holder and the owner with respect to the property reported and releases and discharges the holder from any and all liability to the owner, the owner's heirs, personal representatives, successors, or assigns by reason of such payment or delivery, regardless of whether such property is in fact and in law unclaimed property, and such delivery and payment may be plead as a bar to recovery and are a conclusive defense in any suit or action brought by the owner, the owner's heirs, personal representatives, successors, and assigns or any claimant against the holder by reason of such delivery or payment.

(b) If the holder pays or delivers property to the department in good faith and thereafter any other person claims the property from the holder paying or delivering, or another state claims the money or property under that state's laws relating to escheat or abandoned or unclaimed property, the department, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim, except that a holder may not be indemnified against penalties imposed by another state.

(2) For the purposes of this section, a payment or delivery of property is made in good faith if:

(a) The payment or delivery was made in conjunction with an



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accurate and acceptable report.

(b) The payment or delivery was made in a reasonable attempt to comply with this chapter.

(c) The holder had a reasonable basis for believing, based on the facts then known, that the property was unclaimed and subject to this chapter.

(d) There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.

(3)~~(2)~~ Any holder who has paid money to the department pursuant to this chapter may make payment to any person appearing to be entitled to payment and, upon filing proof that the payee is entitled thereto, the department shall forthwith repay the holder without deduction of any fee or other charges. If repayment is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be repaid under this subsection upon filing proof that the instrument was duly presented and that the payee is entitled to payment. The holder shall be repaid for payment made under this subsection even if the payment was made to a person whose claim was barred under s. 717.129(1).

(4)~~(3)~~ Any holder who has delivered property, including a certificate of any interest in a business association, other than money to the department pursuant to this chapter may reclaim the property if still in the possession of the department, without payment of any fee or other charges, upon filing proof that the owner has claimed the property from the holder.

(5)~~(4)~~ The department may accept an affidavit of the holder



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1751 stating the facts that entitle the holder to recover money and
1752 property under this section as sufficient proof.

1753 ~~(5) If the holder pays or delivers property to the~~
1754 ~~department in good faith and thereafter any other person claims~~
1755 ~~the property from the holder paying or delivering, or another~~
1756 ~~state claims the money or property under that state's laws~~
1757 ~~relating to escheat or abandoned or unclaimed property, the~~
1758 ~~department, upon written notice of the claim, shall defend the~~
1759 ~~holder against the claim and indemnify the holder against any~~
1760 ~~liability on the claim.~~

1761 ~~(6) For the purposes of this section, "good faith" means~~
1762 ~~that:~~

1763 ~~(a) Payment or delivery was made in a reasonable attempt to~~
1764 ~~comply with this chapter.~~

1765 ~~(b) The person delivering the property was not a fiduciary~~
1766 ~~then in breach of trust in respect to the property and had a~~
1767 ~~reasonable basis for believing, based on the facts then known to~~
1768 ~~that person, that the property was unclaimed for the purposes of~~
1769 ~~this chapter.~~

1770 ~~(c) There is no showing that the records pursuant to which~~
1771 ~~the delivery was made did not meet reasonable commercial~~
1772 ~~standards of practice in the industry.~~

1773 (6) ~~(7)~~ Property removed from a safe-deposit box or other
1774 safekeeping repository is received by the department subject to
1775 the holder's right under this subsection to be reimbursed for
1776 the actual cost of the opening and to any valid lien or contract
1777 providing for the holder to be reimbursed for unpaid rent or
1778 storage charges. The department shall make the reimbursement to
1779 the holder out of the proceeds remaining after the deduction of



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the department's selling cost.

(7) If it appears to the satisfaction of the department that, because of some mistake of fact, error in calculation, or erroneous interpretation of a statute, a person has paid or delivered to the department pursuant to any provision of this chapter any money or other property not required by this chapter to be so paid or delivered, the department may, within 5 years after such erroneous payment or delivery, refund or redeliver such money or other property to the person, provided that such money or property has not been paid or delivered to a claimant or otherwise disposed of in accordance with this chapter.

Section 46. Present subsection (2) of section 717.1242, Florida Statutes, is redesignated as subsection (3), a new subsection (2) is added to that section, and subsection (1) of that section is amended, to read:

717.1242 Restatement of jurisdiction of the circuit court sitting in probate and the department.—

(1) It is and has been the intent of the Legislature that, pursuant to s. 26.012(2)(b), circuit courts have jurisdiction of proceedings relating to the settlement of the estates of decedents and other jurisdiction usually pertaining to courts of probate. It is and has been the intent of the Legislature that, pursuant to this chapter ~~s. 717.124~~, the department determines the merits of claims and entitlements to ~~for~~ property paid or delivered to the department under this chapter. Consistent with this legislative intent, any ~~estate or~~ beneficiary, devisee, heir, personal representative, or other interested person, as those terms are defined in s. 731.201, of an estate seeking to obtain property paid or delivered to the department under this



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chapter must file a claim with the department as provided in s. 717.124.

(2) If a beneficiary, devisee, heir, personal representative, or other interested person, as those terms are defined in s. 731.201, of an estate seeks administration of the estate, of which unclaimed property makes up 50 percent or more of the assets, the department is considered an interested party and must be provided with notice of any such proceeding as provided in the Florida Probate Code and the Florida Probate Rules.

Section 47. Subsection (4) of section 717.1243, Florida Statutes, is amended to read:

717.1243 Small estate accounts.—

(4) This section ~~only~~ applies only if all of the unclaimed property held by the department on behalf of the owner has an aggregate value of \$20,000 ~~\$10,000~~ or less and no probate proceeding is pending.

Section 48. Subsection (2) of section 717.129, Florida Statutes, is amended to read:

717.129 Periods of limitation.—

(2) The department may not commence an action or proceeding to enforce this chapter with respect to the reporting, payment, or delivery of property or any other duty of a holder under this chapter ~~may be commenced by the department with respect to any duty of a holder under this chapter~~ more than 10 years after the duty arose. The period of limitation established under this subsection is tolled by the earlier of the department's or audit agent's delivery of a notice that a holder is subject to an audit or examination under s. 717.1301



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or the holder's written election to enter into an unclaimed property voluntary disclosure agreement.

Section 49. Section 717.1301, Florida Statutes, is amended to read:

717.1301 Investigations; examinations; subpoenas.—

(1) To carry out the chapter's purpose of protecting the interest of missing owners through the safeguarding of their property and to administer and enforce this chapter, the department may:

(a) Investigate, examine, inspect, request, or otherwise gather information or evidence on claim documents from a claimant or a claimant's representative during its review of a claim.

(b) Audit the records of a person or the records in the possession of an agent, representative, subsidiary, or affiliate of the person subject to this chapter to determine whether the person complied with this chapter. Such records may include information to verify the completeness or accuracy of the records provided, even if such records may not identify property reportable to the department.

(c) Take testimony of a person, including the person's employee, agent, representative, subsidiary, or affiliate, to determine whether the person complied with this chapter.

(d) Issue an administrative subpoena to require that the records specified in paragraph (b) be made available for examination or audit and that the testimony specified in paragraph (c) be provided.

(e) Bring an action in a court of competent jurisdiction seeking enforcement of an administrative subpoena issued under



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this section, which the court shall consider under procedures that will lead to an expeditious resolution of the action.

(f) Bring an administrative action or an action in a court of competent jurisdiction to enforce this chapter.

(2) If a person is subject to reporting property under this chapter, the department may require the person to file a verified report in a form prescribed by the department. The verified report must:

(a) State whether the person is holding property reportable under this chapter;

(b) Describe the property not previously reported, the property about which the department has inquired, or the property that is in dispute as to whether it is reportable under this chapter; and

(c) State the amount or value of the property.

(3) The department may authorize a compliance review of a report for a specified reporting year. The review must be limited to the contents of the report filed, as required by s. 717.117 and subsection (2), and all supporting documents related to the reports. If the review results in a finding of a deficiency in unclaimed property due and payable to the department, the department shall notify the holder in writing of the amount of deficiency within 1 year after the authorization of the compliance review. If the holder fails to pay the deficiency within 90 days, the department may seek to enforce the assessment under subsection (1). The department is not required to conduct a review under this section before initiating an audit.

(4) Notwithstanding any other provision of law, in a



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contract providing for the location or collection of unclaimed property, the department may authorize the contractor to deduct its fees and expenses for services provided under the contract from the unclaimed property that the contractor has recovered or collected under the contract. The department shall annually report to the Chief Financial Officer the total amount collected or recovered by each contractor during the previous fiscal year and the total fees and expenses deducted by each contractor.

~~(1) The department may make investigations and examinations within or outside this state of claims, reports, and other records as it deems necessary to administer and enforce the provisions of this chapter. In such investigations and examinations the department may administer oaths, examine witnesses, issue subpoenas, and otherwise gather evidence. The department may request any person who has not filed a report under s. 717.117 to file a verified report stating whether or not the person is holding any unclaimed property reportable or deliverable under this chapter.~~

~~(2) Subpoenas for witnesses whose evidence is deemed material to any investigation or examination under this section may be issued by the department under seal of the department, or by any court of competent jurisdiction, commanding such witnesses to appear before the department at a time and place named and to bring such books, records, and documents as may be specified or to submit such books, records, and documents to inspection. Such subpoenas may be served by an authorized representative of the department.~~

~~(3) If any person shall refuse to testify, produce books, records, and documents, or otherwise refuse to obey a subpoena~~



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~~issued under this section, the department may present its
petition to a court of competent jurisdiction in or for the
county in which such person resides or has its principal place
of business, whereupon the court shall issue its rule nisi
requiring such person to obey forthwith the subpoena issued by
the department or show cause for failing to obey said subpoena.
Unless said person shows sufficient cause for failing to obey
the subpoena, the court shall forthwith direct such person to
obey the same subject to such punishment as the court may direct
including, but not limited to, the restraint, by injunction or
by appointment of a receiver, of any transfer, pledge,
assignment, or other disposition of such person's assets or any
concealment, alteration, destruction, or other disposition of
subpoenaed books, records, or documents as the court deems
appropriate, until such person has fully complied with such
subpoena and the department has completed its investigation or
examination. The department is entitled to the summary procedure
provided in s. 51.011, and the court shall advance the cause on
its calendar. Costs incurred by the department to obtain an
order granting, in whole or in part, its petition shall be taxed
against the subpoenaed person, and failure to comply with such
order shall be a contempt of court.~~

~~(4) Witnesses shall be entitled to the same fees and
mileage as they may be entitled by law for attending as
witnesses in the circuit court, except where such examination or
investigation is held at the place of business or residence of
the witness.~~

(5) The material compiled by the department in an
investigation or examination under this chapter is confidential



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until the investigation or examination is complete. If any such material contains a holder's financial or proprietary information, it may not be disclosed or made public by the department after the investigation or audit is completed, except as required by a court of competent jurisdiction in the course of a judicial proceeding in which the state is a party, or pursuant to an agreement with another state allowing joint audits. Such material may be considered a trade secret and exempt from s. 119.07(1) as provided for in s. 119.0715. The records, data, and information gathered ~~material compiled~~ by the department in an investigation or audit ~~examination~~ under this chapter remain ~~remains~~ confidential ~~after the department's investigation or examination is complete~~ if the department has submitted the material or any part of it to any law enforcement agency or other administrative agency for further investigation or for the filing of a criminal or civil prosecution and such investigation has not been completed or become inactive.

(6) If an investigation or an audit ~~examination~~ of the records of any person results in the disclosure of property reportable and deliverable under this chapter, the department may assess the cost of the investigation or audit ~~the examination~~ against the holder ~~at the rate of \$100 per 8-hour day for each investigator or examiner. Such fee shall be calculated on an hourly basis and shall be rounded to the nearest hour. The person shall also pay the travel expense and per diem subsistence allowance provided for state employees in s. 112.061. The person shall not be required to pay a per diem fee and expenses of an examination or investigation which shall consume more than 30 worker-days in any one year unless such~~



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~~examination or investigation is due to fraudulent practices of the person, in which case such person shall be required to pay the entire cost regardless of time consumed.~~ The fee for the costs of the investigation or audit shall be remitted to the department within 30 days after the date of the notification that the fee is due and owing. Any person who fails to pay the fee within 30 days after the date of the notification that the fee is due and owing shall pay to the department interest at the rate of 12 percent per annum on such fee from the date of the notification.

Section 50. Subsection (1) of section 717.1311, Florida Statutes, is amended to read:

717.1311 Retention of records.—

(1) Every holder required to file a report under s. 717.117 shall maintain a record of the specific type of property, amount, name, and last known address of the owner for 10 5 years after the property becomes reportable, except to the extent that a shorter time is provided in subsection (2) or by rule of the department.

Section 51. Paragraph (j) of subsection (1) and subsection (3) of section 717.1322, Florida Statutes, are amended to read:

717.1322 Administrative and civil enforcement.—

(1) The following acts are violations of this chapter and constitute grounds for an administrative enforcement action by the department in accordance with the requirements of chapter 120 and for civil enforcement by the department in a court of competent jurisdiction:

(j) Requesting or receiving compensation for notifying a person of his or her unclaimed property or assisting another



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person in filing a claim for unclaimed property, unless the person is an attorney licensed to practice law in this state, a Florida-certified public accountant, or a private investigator licensed under chapter 493, or entering into, or making a solicitation to enter into, an agreement to file a claim for unclaimed property owned by another, ~~or a contract or agreement to purchase unclaimed property,~~ unless such person is registered with the department under this chapter and an attorney licensed to practice law in this state in the regular practice of her or his profession, a Florida-certified public accountant who is acting within the scope of the practice of public accounting as defined in chapter 473, or a private investigator licensed under chapter 493. This paragraph does not apply to a person who has been granted a durable power of attorney to convey and receive all of the real and personal property of the owner, is the court-appointed guardian of the owner, has been employed as an attorney or qualified representative to contest the department's denial of a claim, or has been employed as an attorney to probate the estate of the owner or an heir or legatee of the owner.

(3) A claimant's representative ~~registrant~~ is subject to civil enforcement and the disciplinary actions specified in subsection (2) for violations of subsection (1) by an agent or employee of the registrant's employer if the claimant's representative ~~registrant~~ knew or should have known that such agent or employee was violating any provision of this chapter.

Section 52. Subsection (1) of section 717.1333, Florida Statutes, is amended to read:

717.1333 Evidence; estimations; audit reports and



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worksheets, investigator ~~examiner's worksheets, investigative~~
reports and worksheets, other related documents.—

(1) In any proceeding involving a holder under ss. 120.569
and 120.57 in which an audit agent ~~auditor, examiner,~~ or
investigator acting under authority of this chapter is available
for cross-examination, any official written report, worksheet,
or other related paper, or copy thereof, compiled, prepared,
drafted, or otherwise made or received by the audit agent
~~auditor, examiner,~~ or investigator, after being duly
authenticated by the audit agent ~~auditor, examiner,~~ or
investigator, may be admitted as competent evidence upon the
oath of the audit agent ~~auditor, examiner,~~ or investigator that
the report, worksheet, or related paper was prepared or received
as a result of an audit, examination, or investigation of the
books and records of the person audited, examined, or
investigated, or the agent thereof.

Section 53. Subsections (1) and (2) of section 717.134,
Florida Statutes, are amended to read:

717.134 Penalties and interest.—

(1) For any person who willfully fails to render any report
required under this chapter, the department may impose and
collect a penalty of \$500 per day up to a maximum of \$5,000 and
25 percent of the value of property not reported until an
appropriate ~~a~~ report is provided ~~rendered for any person who~~
~~willfully fails to render any report required under this~~
~~chapter.~~ Upon a holder's showing of good cause, the department
may waive said penalty or any portion thereof. If the holder
acted in good faith and without negligence, the department shall
waive the penalty provided herein.



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(2) For any person who willfully refuses to pay or deliver unclaimed property to the department as required under this chapter, the department may impose and collect a penalty of \$500 per day up to a maximum of \$5,000 and 25 percent of the value of property not paid or delivered until the property is paid or delivered ~~for any person who willfully refuses to pay or deliver abandoned property to the department as required under this chapter.~~

Section 54. Section 717.135, Florida Statutes, is amended to read:

717.135 Recovery agreements and purchase agreements for claims filed by a claimant's representative or a purchaser; fees and costs, or total net gain.—

(1) In order to protect the interests of owners of unclaimed property, the department shall adopt by rule a form entitled "Unclaimed Property Recovery Agreement" and a form entitled "Unclaimed Property Purchase Agreement."

(2) The Unclaimed Property Recovery Agreement and the Unclaimed Property Purchase Agreement must include and disclose all of the following:

(a) The total dollar amount of unclaimed property accounts claimed or sold.

(b) The total percentage of all authorized fees and costs to be paid to the claimant's representative or the percentage of the value of the property to be paid as net gain to the purchaser ~~purchasing claimant's representative.~~

(c) The total dollar amount to be deducted and received from the claimant as fees and costs by the claimant's representative or the total net dollar amount to be received by



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2099 the purchaser ~~purchasing claimant's representative~~.

2100 (d) The net dollar amount to be received by the claimant or
2101 the seller.

2102 (e) For each account claimed, the unclaimed property
2103 account number.

2104 (f) For the Unclaimed Property Purchase Agreement, a
2105 statement that the amount of the purchase price will be remitted
2106 to the seller by the purchaser within 30 days after the
2107 execution of the agreement by the seller.

2108 (g) The name, address, e-mail address, phone number, and
2109 license number of the claimant's representative, or the name,
2110 address, e-mail address, and phone number of the purchaser.

2111 (h)1. The manual signature of the claimant or seller and
2112 the date signed, affixed on the agreement by the claimant or
2113 seller.

2114 2. Notwithstanding any other provision of this chapter to
2115 the contrary, the department may allow an apparent owner, who is
2116 also the claimant or seller, to sign the agreement
2117 electronically ~~for claims of \$2,000 or less~~. All electronic
2118 signatures on the Unclaimed Property Recovery Agreement and the
2119 Unclaimed Property Purchase Agreement must be affixed on the
2120 agreement by the claimant or seller using the specific,
2121 exclusive eSignature product and protocol authorized by the
2122 department.

2123 (i) The social security number or taxpayer identification
2124 number of the claimant or seller, if a number has been issued to
2125 the claimant or seller.

2126 (j) The total fees and costs, or the total discount in the
2127 case of a purchase agreement, which may not exceed 30 percent of



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the claimed amount. In the case of a recovery agreement, if the total fees and costs exceed 30 percent, the fees and costs shall be reduced to 30 percent and the net balance shall be remitted directly by the department to the claimant. In the case of a purchase agreement, if the total net gain of the purchaser exceeds 30 percent, the claim will be denied.

(3) For an Unclaimed Property Purchase Agreement form, proof that the purchaser has made payment must be filed with the department along with the claim. If proof of payment is not provided, the claim is void.

(4) A claimant's representative or a purchaser must use the Unclaimed Property Recovery Agreement or the Unclaimed Property Purchase Agreement as the exclusive means of entering into an agreement or a contract with a claimant or seller to file a claim with the department.

(5) Fees and costs may be owed or paid to, or received by, a claimant's representative or a purchaser only after a filed claim has been approved and if the claimant's representative used an agreement authorized by this section.

(6) A claimant's representative or a purchaser may not use or distribute any other agreement of any type, conveyed by any method, with respect to the claimant or seller which relates, directly or indirectly, to unclaimed property accounts held by the department or the Chief Financial Officer other than the agreements authorized by this section. Any engagement, authorization, recovery, or fee agreement that is not authorized by this section is void. A claimant's representative or a purchaser is subject to administrative and civil enforcement under s. 717.1322 if he or she uses an agreement that is not



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authorized by this section and if the agreement is used to
apply, directly or indirectly, to unclaimed property held by
this state. This subsection does not prohibit lawful
nonagreement, noncontractual, or advertising communications
between or among the parties.

(7) The Unclaimed Property Recovery Agreement ~~and the~~
~~Unclaimed Property Purchase Agreement~~ may not contain language
that makes the agreement irrevocable or that creates an
assignment of any portion of unclaimed property held by the
department.

(8) When a claim is approved, the department may pay any
additional account that is owned by the claimant but has not
been claimed at the time of approval, provided that a subsequent
claim has not been filed or is not pending for the claimant at
the time of approval.

(9) This section does not supersede s. 717.1241.

(10) This section does not apply to the sale and purchase
of Florida-held unclaimed property accounts through a bankruptcy
trustee appointed to represent a debtor's estate in a bankruptcy
proceeding in accordance with the United States Bankruptcy Code.

Section 55. Subsections (1), (2), and (3) of section
717.1400, Florida Statutes, are amended to read:

717.1400 Registration.—

(1) In order to file claims as a claimant's representative,
~~acquire ownership of or entitlement to unclaimed property,~~
receive a distribution of fees and costs from the department,
and obtain unclaimed property dollar amounts and numbers of
reported shares of stock held by the department, a private
investigator holding a Class "C" individual license under



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chapter 493 must register with the department on such form as the department prescribes by rule and must be verified by the applicant. To register with the department, a private investigator must provide:

(a) A legible copy of the applicant's Class "A" business license under chapter 493 or that of the applicant's firm or employer which holds a Class "A" business license under chapter 493.

(b) A legible copy of the applicant's Class "C" individual license issued under chapter 493.

(c) The business address and telephone number of the applicant's private investigative firm or employer.

(d) The names of agents or employees, if any, who are designated to act on behalf of the private investigator, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the private investigator's firm or employer which holds a Class "A" business license under chapter 493.

(2) In order to file claims as a claimant's representative, ~~acquire ownership of or entitlement to unclaimed property,~~ receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts and numbers of reported shares of stock held by the department, a Florida-certified public accountant must register with the department on such form as the department prescribes by rule and must be



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verified by the applicant. To register with the department, a Florida-certified public accountant must provide:

(a) The applicant's Florida Board of Accountancy number.

(b) A legible copy of the applicant's current driver license showing the full name and current address of such person. If a current driver license is not available, another form of identification showing the full name and current address of such person or persons shall be filed with the department.

(c) The business address and telephone number of the applicant's public accounting firm or employer.

(d) The names of agents or employees, if any, who are designated to act on behalf of the Florida-certified public accountant, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the accountant's public accounting firm employer.

(3) In order to file claims as a claimant's representative, ~~acquire ownership of or entitlement to unclaimed property,~~ receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts and numbers of reported shares of stock held by the department, an attorney licensed to practice in this state must register with the department on such form as the department prescribes by rule and must be verified by the applicant. To register with the department, such attorney must provide:

(a) The applicant's Florida Bar number.



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(b) A legible copy of the applicant's current driver license showing the full name and current address of such person. If a current driver license is not available, another form of identification showing the full name and current address of such person or persons shall be filed with the department.

(c) The business address and telephone number of the applicant's firm or employer.

(d) The names of agents or employees, if any, who are designated to act on behalf of the attorney, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the attorney's firm or employer.

Section 56. Paragraph (a) of subsection (2) of section 197.582, Florida Statutes, is amended to read:

197.582 Disbursement of proceeds of sale.—

(2)(a) If the property is purchased for an amount in excess of the statutory bid of the certificateholder, the surplus must be paid over and disbursed by the clerk as set forth in subsections (3), (5), and (6). If the opening bid included the homestead assessment pursuant to s. 197.502(6)(c), that amount must be treated as surplus and distributed in the same manner. The clerk shall distribute the surplus to the governmental units for the payment of any lien of record held by a governmental unit against the property, including any tax certificates not incorporated in the tax deed application and omitted taxes, if



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any. If there remains a balance of undistributed funds, the balance must be retained by the clerk for the benefit of persons described in s. 197.522(1)(a), except those persons described in s. 197.502(4)(h), as their interests may appear. The clerk shall mail notices to such persons notifying them of the funds held for their benefit at the addresses provided in s. 197.502(4). Such notice constitutes compliance with the requirements of s. 717.117(6) ~~s. 717.117(4)~~. Any service charges and costs of mailing notices shall be paid out of the excess balance held by the clerk. Notice must be provided in substantially the following form:

NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE

CLERK OF COURT

.... COUNTY, FLORIDA

Tax Deed #.....

Certificate #.....

Property Description:

Pursuant to chapter 197, Florida Statutes, the above property was sold at public sale on ...(date of sale)..., and a surplus of \$...(amount)... (subject to change) will be held by this office for 120 days beginning on the date of this notice to benefit the persons having an interest in this property as described in section 197.502(4), Florida Statutes, as their interests may appear (except for those persons described in section 197.502(4)(h), Florida Statutes).

To the extent possible, these funds will be used to satisfy in full each claimant with a senior mortgage or lien in the property before distribution of any funds to any junior mortgage or lien claimant or to the former property owner. To be



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considered for funds when they are distributed, you must file a notarized statement of claim with this office within 120 days of this notice. If you are a lienholder, your claim must include the particulars of your lien and the amounts currently due. Any lienholder claim that is not filed within the 120-day deadline is barred.

A copy of this notice must be attached to your statement of claim. After the office examines the filed claim statements, it will notify you if you are entitled to any payment.

Dated:

Clerk of Court

Section 57. Subsection (1) of section 717.1382, Florida Statutes, is amended to read:

717.1382 United States savings bond; unclaimed property; escheatment; procedure.—

(1) Notwithstanding any other provision of law, a United States savings bond in possession of the department or registered to a person with a last known address in the state, including a bond that is lost, stolen, or destroyed, is presumed abandoned and unclaimed 5 years after the bond reaches maturity and no longer earns interest and shall be reported and remitted to the department by the financial institution or other holder in accordance with ss. 717.117(1) and (5) ~~ss. 717.117(1) and (3)~~ and 717.119, if the department is not in possession of the bond.

Section 58. Paragraph (c) of subsection (10) of section 766.302, Florida Statutes, is amended to read:

766.302 Definitions; ss. 766.301-766.316.—As used in ss. 766.301-766.316, the term:

(10) "Family residential or custodial care" means care



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normally rendered by trained professional attendants which is beyond the scope of child care duties, but which is provided by family members. Family members who provide nonprofessional residential or custodial care may not be compensated under this act for care that falls within the scope of child care duties and other services normally and gratuitously provided by family members. Family residential or custodial care shall be performed only at the direction and control of a physician when such care is medically necessary. Reasonable charges for expenses for family residential or custodial care provided by a family member shall be determined as follows:

~~(c) The award of family residential or custodial care as defined in this section shall not be included in the current estimates for purposes of s. 766.314(9)(c).~~

Section 59. Paragraph (c) of subsection (9) of section 766.314, Florida Statutes, is amended, and subsection (10) is added to that section, to read:

766.314 Assessments; plan of operation.—

(9)

(c) If the total of all current estimates equals or exceeds 100 ~~80~~ percent of the funds on hand and the funds that will become available to the association within the next 12 months from all sources described in subsection (4) ~~subsections (4) and paragraphs (5)(a) (5) and paragraph (7)(a)~~, the association may not accept any new claims without express authority from the Legislature. Nothing in This section does not preclude ~~precludes~~ the association from accepting any claim if the injury occurred 18 months or more before the effective date of this suspension. Within 30 days after the effective date of this suspension, the



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association shall notify the Governor, the Speaker of the House of Representatives, the President of the Senate, the Office of Insurance Regulation, the Agency for Health Care Administration, and the Department of Health of this suspension.

(10) (a) By July 1, 2024, the association shall provide a report to the Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives which includes all of the following:

1. Options for defining actuarial soundness for the association, including options for phase-in, if appropriate.

2. Options for timing of reporting actuarial soundness and to whom it should be reported.

3. Options for ensuring a revenue level to maintain actuarial soundness, including options for phase-in, if appropriate.

(b) Any recommendations made in the report must be in consultation with appropriate stakeholders, including, but not limited to, any of the following:

1. The Office of Insurance Regulation.

2. Hospitals.

3. Participating physicians.

4. Nonparticipating physicians.

5. Casualty insurers.

6. The Agency for Health Care Administration.

7. Parents of current NICA participants.

Section 60. The Division of Law Revision is directed to prepare a reviser's bill for the 2025 Regular Session of the Legislature to change the term "Division of Investigative and Forensic Services" wherever the term appears in the Florida



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Statutes to "Division of Criminal Investigations."

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

And the title is amended as follows:

Delete lines 19 - 237

and insert:

amending s. 284.44, F.S.; deleting provisions relating to certain quarterly reports prepared by the Division of Risk Management; amending s. 440.13, F.S.; providing the reimbursement schedule requirements for emergency services and care under workers' compensation under certain circumstances; requiring the department to engage with an actuarial services firm under certain circumstances; providing for future expiration; authorizing the department to adopt rules; amending s. 440.385, F.S.; providing requirements for certain contracts entered into and purchases made by the Florida Self-Insurers Guaranty Association, Incorporated; providing duties of the department and the association relating to these contracts and purchases; providing that certain contracts are exempt from certain provisions; amending s. 497.101, F.S.; revising the requirements for appointing and nominating members of the Board of Funeral, Cemetery, and Consumer Services; revising the members' terms; revising the authority to remove board members; providing for appointments to fill vacancies on the board; providing that board members are subject to the code of ethics under part III of ch. 112, F.S.;



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2418 providing requirements for board members' conduct;
2419 specifying prohibited acts; providing penalties;
2420 providing requirements for board meetings, books, and
2421 records; requiring notices of board meetings;
2422 providing requirements for board meetings; amending s.
2423 497.153, F.S.; authorizing service by e-mail of
2424 administrative complaints against certain licensees
2425 under certain circumstances; amending s. 497.155,
2426 F.S.; authorizing service of citations by e-mail under
2427 certain circumstances; amending s. 497.172, F.S.;
2428 revising the information made confidential and exempt
2429 which may be disclosed by the department; amending s.
2430 497.386, F.S.; authorizing the department to take
2431 certain actions in the event of an emergency
2432 situation; requiring the department to make certain
2433 determinations; prohibiting a licensee or licensed
2434 facility that accepts the transfer of human remains
2435 and cremains from being liable for the condition of
2436 human remains and cremains under certain
2437 circumstances; revising criminal penalties for
2438 violations of provisions related to storage,
2439 preservation, and transportation of human remains and
2440 cremains; creating s. 497.469, F.S.; authorizing a
2441 preneed licensee to withdraw a specified amount
2442 deposited into trust under certain circumstances;
2443 providing that certain documentation is the only
2444 satisfactory evidence to show that a preneed contract
2445 has been fulfilled; requiring a preneed licensee to
2446 maintain certain documentation for a specified



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2447 timeframe; amending s. 624.307, F.S.; requiring
2448 eligible surplus lines insurers to respond to the
2449 department or the Office of Insurance Regulation after
2450 receipt of requests for documents and information
2451 concerning consumer complaints; providing penalties
2452 for failure to comply; requiring authorized insurers
2453 and eligible surplus lines insurers to file e-mail
2454 addresses with the department and to designate contact
2455 persons for specified purposes; authorizing changes of
2456 designated contact information; amending s. 626.171,
2457 F.S.; requiring the department to make provisions for
2458 certain insurance license applicants to submit
2459 cellular telephone numbers for a specified purpose;
2460 amending s. 626.221, F.S.; providing a qualification
2461 for an all-lines adjuster license; amending s.
2462 626.601, F.S.; revising construction; amending s.
2463 626.7351, F.S.; providing a qualification for a
2464 customer representative's license; amending s.
2465 626.878, F.S.; providing duties and prohibited acts
2466 for adjusters; amending s. 626.929, F.S.; specifying
2467 that licensed and appointed general lines agents,
2468 rather than general lines agents, may engage in
2469 certain activities while also licensed and appointed
2470 as surplus lines agents; authorizing general lines
2471 agents that are also licensed as surplus lines agents
2472 to make certain appointments; authorizing such agents
2473 to originate specified business and accept specified
2474 business; prohibiting such agents from being appointed
2475 by a certain insurer or transacting certain insurance;



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2476 amending s. 627.351, F.S.; providing requirements for
2477 certain contracts entered into and purchases made by
2478 the Florida Joint Underwriting Association; providing
2479 duties of the department and the association regarding
2480 such contracts and purchases; amending s. 631.59,
2481 F.S.; providing requirements for certain contracts
2482 entered into and purchases made by the Florida
2483 Insurance Guaranty Association, Incorporated;
2484 providing duties of the department and the association
2485 regarding such contracts and purchases; providing
2486 applicability; amending ss. 631.722, 631.821, and
2487 631.921, F.S.; providing requirements for certain
2488 contracts entered into and purchases made by the
2489 Florida Life and Health Insurance Guaranty
2490 Association, the board of directors of the Florida
2491 Health Maintenance Organization Consumer Assistance
2492 Plan, and the board of directors of the Florida
2493 Workers' Compensation Insurance Guaranty Association,
2494 respectively; providing duties of the department and
2495 of the associations and boards regarding such
2496 contracts and purchases; amending s. 633.124, F.S.;
2497 updating the edition of a manual for the use of
2498 pyrotechnics; amending s. 633.202, F.S.; revising the
2499 duties of the State Fire Marshal; amending s. 633.206,
2500 F.S.; revising the requirements for uniform firesafety
2501 standards established by the department; amending s.
2502 634.041, F.S.; specifying the conditions under which
2503 service agreement companies do not have to establish
2504 and maintain unearned premium reserves; amending s.



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2505 634.081, F.S.; specifying the conditions under which
2506 service agreement companies' licenses are not
2507 suspended or revoked under certain circumstances;
2508 amending s. 634.3077, F.S.; specifying requirements
2509 for certain contractual liability insurance obtained
2510 by home warranty associations; providing that such
2511 associations are not required to establish unearned
2512 premium reserves or maintain contractual liability
2513 insurance; authorizing such associations to allow
2514 their premiums to exceed certain limitations under
2515 certain circumstances; amending s. 634.317, F.S.;
2516 providing that certain entities and their employees
2517 and agents are exempt from certain licensing and
2518 appointment requirements; amending s. 648.25, F.S.;
2519 defining terms; amending s. 648.26, F.S.; revising the
2520 circumstances under which investigatory records of the
2521 department are confidential and exempt from public
2522 records requirements; revising construction; amending
2523 s. 648.30, F.S.; revising circumstances under which a
2524 person or entity may act in the capacity of a bail
2525 bond agent or bail bond agency and perform certain
2526 functions, duties, and powers; amending s. 648.355,
2527 F.S.; revising the requirements for limited surety
2528 agents and professional bail bond agents license
2529 applications; amending s. 648.43, F.S.; revising
2530 requirements for bail bond agents to execute and
2531 countersign transfer bonds; amending s. 717.101, F.S.;
2532 defining and revising terms; amending s. 717.102,
2533 F.S.; providing a rebuttal to a presumption of



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2534 unclaimed property; providing requirements for such
2535 rebuttal; amending s. 717.106, F.S.; conforming a
2536 cross-reference; creating s. 717.1065, F.S.; providing
2537 circumstances under which virtual currency held or
2538 owing by banking organizations is not presumed
2539 unclaimed; prohibiting virtual currency holders from
2540 deducting certain charges from the amount of certain
2541 virtual currency under certain circumstances;
2542 providing an exception; amending s. 717.1101, F.S.;
2543 revising the date on which stocks and other equity
2544 interests in business associations are presumed
2545 unclaimed; amending s. 717.112, F.S.; providing that
2546 certain intangible property held by attorneys in fact
2547 and by agents in a fiduciary capacity are presumed
2548 unclaimed under certain circumstances; revising the
2549 requirements for claiming such property; amending s.
2550 717.117, F.S.; deleting the paper option for reports
2551 by holders of unclaimed funds and property; revising
2552 the requirements for reporting the owners of unclaimed
2553 property and funds; authorizing the department to
2554 extend reporting dates under certain circumstances;
2555 revising the circumstances under which the department
2556 may impose and collect penalties; requiring holders of
2557 certain inactive accounts to notify apparent owners;
2558 revising the manner of sending such notices; providing
2559 requirements for such notices; amending s. 717.119,
2560 F.S.; requiring certain virtual currency to be
2561 remitted to the department; providing requirements for
2562 the liquidation of such virtual currency; providing



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2563 that holders of such virtual currency are relieved of
2564 all liability upon delivery of the virtual currency to
2565 the department; prohibiting holders from assigning or
2566 transferring certain obligations or from complying
2567 with certain provisions; providing that certain
2568 entities are responsible for meeting holders'
2569 obligations and complying with certain provisions
2570 under certain circumstances; providing construction;
2571 amending s. 717.1201, F.S.; providing that good faith
2572 payments and deliveries of property to the department
2573 relieve holders of all liability; authorizing the
2574 department to refund and redeliver certain money and
2575 property under certain circumstances; amending s.
2576 717.1242, F.S.; revising legislative intent; providing
2577 circumstances under which the department is considered
2578 an interested party in probate proceedings; amending
2579 s. 717.1243, F.S.; revising applicability of certain
2580 provisions relating to unclaimed small estate
2581 accounts; amending s. 717.129, F.S.; revising the
2582 requirements and the tolling for the periods of
2583 limitation relating to duties of holders of unclaimed
2584 funds and property; amending s. 717.1301, F.S.;
2585 revising the department's authorities on the
2586 disposition of unclaimed funds and property for
2587 specified purposes; prohibiting certain materials from
2588 being disclosed or made public under certain
2589 circumstances; revising the basis for the department's
2590 cost assessment against holders of unclaimed funds and
2591 property; amending s. 717.1311, F.S.; revising the



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2592 recordkeeping requirements for funds and property
2593 holders; amending s. 717.1322, F.S.; revising acts
2594 that are violations of specified provisions and
2595 constitute grounds for administrative enforcement
2596 actions and civil enforcement by the department;
2597 providing that claimants' representatives, rather than
2598 registrants, are subject to civil enforcement and
2599 disciplinary actions for certain violations; amending
2600 s. 717.1333, F.S.; conforming provisions to changes
2601 made by the act; amending s. 717.134, F.S.; conforming
2602 provisions to changes made by the act; amending s.
2603 717.135, F.S.; revising the information that certain
2604 agreements relating to unclaimed property must
2605 disclose; applying certain provisions relating to such
2606 agreements to purchasers; deleting a requirement for
2607 Unclaimed Property Purchase Agreements; providing
2608 nonapplicability; amending s. 717.1400, F.S.; deleting
2609 a circumstance under which certain persons must
2610 register with the department; amending ss. 197.582 and
2611 717.1382, F.S.; conforming cross-references; amending
2612 s. 766.302, F.S.; revising the manner reasonable
2613 charges for expenses for family residential or
2614 custodial care are determined; amending s. 766.314,
2615 F.S.; revising the prohibition relating to accepting
2616 new claims to the Florida Birth-Related Neurological
2617 Injury Compensation Plan; providing that such plan
2618 does not constitute the exclusive remedy for certain
2619 persons; requiring the Florida Birth-Related
2620 Neurological Injury Compensation Association to submit



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2621 a specified report to the Governor, the Chief
2622 Financial Officer, and the Legislature; requiring
2623 recommendations made in the report to be in
2624 consultation with specified stakeholders; providing a
2625 directive to the Division of Law Revision; providing
2626 effective dates.

By the Committee on Banking and Insurance; and Senator DiCeglie

597-02370-24

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1 A bill to be entitled
 2 An act relating to the Department of Financial
 3 Services; creating s. 17.69, F.S.; creating the
 4 federal tax liaison position within the department;
 5 providing the purpose of the position; requiring the
 6 Chief Financial Officer to appoint the federal tax
 7 liaison; providing that such liaison reports to the
 8 Chief Financial Officer but is not under the authority
 9 of the department or any employee of the department;
 10 authorizing the federal tax liaison to perform certain
 11 actions; amending s. 20.121, F.S.; renaming the
 12 Division of Investigative and Forensic Services in the
 13 Department of Financial Services as the Division of
 14 Criminal Investigations; deleting provisions relating
 15 to duties of such division and to bureaus and offices
 16 in such division; abolishing the Division of Public
 17 Assistance Fraud; amending s. 121.0515, F.S.; revising
 18 requirements for the Special Risk Class membership;
 19 amending s. 215.5586, F.S.; revising legislative
 20 intent; revising requirements for My Safe Florida Home
 21 Program mitigation inspections and mitigation grants;
 22 providing additional requirements for applications for
 23 inspections and mitigation grants; deleting provisions
 24 relating to matching fund grants; revising
 25 improvements for which grants may be used; providing a
 26 timeframe for finalizing construction and requesting a
 27 final inspection or an extension; providing that grant
 28 applications are deemed abandoned under a specified
 29 circumstance; authorizing the department to request

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

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30 additional information; providing that applications
 31 are deemed withdrawn under a specified circumstance;
 32 amending s. 284.44, F.S.; deleting provisions relating
 33 to certain quarterly reports prepared by the Division
 34 of Risk Management; amending s. 440.13, F.S.;
 35 providing the reimbursement schedule requirements for
 36 emergency services and care under workers'
 37 compensation under certain circumstances; amending s.
 38 440.385, F.S.; providing requirements for certain
 39 contracts entered into and purchases made by the
 40 Florida Self-Insurers Guaranty Association,
 41 Incorporated; providing duties of the department and
 42 the association relating to these contracts and
 43 purchases; amending s. 497.101, F.S.; revising the
 44 requirements for appointing and nominating members of
 45 the Board of Funeral, Cemetery, and Consumer Services;
 46 revising the members' terms; revising the authority to
 47 remove board members; providing for vacancy
 48 appointments; providing that board members are subject
 49 to the code of ethics under part III of ch. 112, F.S.;
 50 providing requirements for board members' conduct;
 51 specifying prohibited acts; providing penalties;
 52 providing requirements for board meetings, books, and
 53 records; requiring notices of board meetings;
 54 providing requirements for board meetings; amending s.
 55 497.153, F.S.; authorizing service by e-mail of
 56 administrative complaints against certain licensees
 57 under certain circumstances; amending s. 497.155,
 58 F.S.; authorizing service of citations by e-mail under

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59 certain circumstances; amending s. 624.155, F.S.;
 60 deleting a cross-reference; amending s. 624.307, F.S.;
 61 requiring eligible surplus lines insurers to respond
 62 to the department or the Office of Insurance
 63 Regulation after receipt of requests for documents and
 64 information concerning consumer complaints; providing
 65 penalties for failure to comply; requiring authorized
 66 insurers and eligible surplus lines insurers to file
 67 e-mail addresses with the department and to designate
 68 contact persons for specified purposes; authorizing
 69 changes of designated contact information; amending s.
 70 626.171, F.S.; requiring the department to make
 71 provisions for certain insurance license applicants to
 72 submit cellular telephone numbers for a specified
 73 purpose; amending s. 626.221, F.S.; providing a
 74 qualification for an all-lines adjuster license;
 75 amending s. 626.601, F.S.; revising construction;
 76 amending s. 626.7351, F.S.; providing a qualification
 77 for a customer representative's license; amending s.
 78 626.878, F.S.; providing duties and prohibited acts
 79 for adjusters; amending s. 626.929, F.S.; specifying
 80 that licensed and appointed general lines agents,
 81 rather than general lines agents, may engage in
 82 certain activities while also licensed and appointed
 83 as surplus lines agents; authorizing general lines
 84 agents that are also licensed as surplus lines agents
 85 to make certain appointments; authorizing such agents
 86 to originate specified business and accept specified
 87 business; prohibiting such agents from being appointed

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88 by a certain insurer or transacting certain insurance;
 89 amending s. 627.351, F.S.; providing requirements for
 90 certain contracts entered into and purchases made by
 91 the Florida Joint Underwriting Association; providing
 92 duties of the department and the association regarding
 93 such contracts and purchases; amending s. 627.43141,
 94 F.S.; providing requirements for a certain notice of
 95 change in insurance renewal policy terms; amending s.
 96 627.70152, F.S.; deleting a cross-reference; amending
 97 s. 631.59, F.S.; providing requirements for certain
 98 contracts entered into and purchases made by the
 99 Florida Insurance Guaranty Association, Incorporated;
 100 providing duties of the department and the association
 101 regarding such contracts and purchases; amending ss.
 102 631.722, 631.821, and 631.921, F.S.; providing
 103 requirements for certain contracts entered into and
 104 purchases made by the Florida Life and Health
 105 Insurance Guaranty Association, the board of directors
 106 of the Florida Health Maintenance Organization
 107 Consumer Assistance Plan, and the board of directors
 108 of the Florida Workers' Compensation Insurance
 109 Guaranty Association, respectively; providing duties
 110 of the department and of the associations and boards
 111 regarding such contracts and purchases; amending s.
 112 633.124, F.S.; updating the edition of a manual for
 113 the use of pyrotechnics; amending s. 633.202, F.S.;
 114 revising the duties of the State Fire Marshal;
 115 amending s. 633.206, F.S.; revising the requirements
 116 for uniform firesafety standards established by the

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117 department; amending s. 634.041, F.S.; specifying the
 118 conditions under which service agreement companies do
 119 not have to establish and maintain unearned premium
 120 reserves; amending s. 634.081, F.S.; specifying the
 121 conditions under which service agreement companies'
 122 licenses are not suspended or revoked under certain
 123 circumstances; amending s. 634.3077, F.S.; specifying
 124 requirements for certain contractual liability
 125 insurance obtained by home warranty associations;
 126 providing that such associations are not required to
 127 establish unearned premium reserves or maintain
 128 contractual liability insurance; authorizing such
 129 associations to allow their premiums to exceed certain
 130 limitations under certain circumstances; amending s.
 131 634.317, F.S.; providing that agents and employees of
 132 municipal and county government are exempt from sales
 133 representative licenses and appointments under certain
 134 circumstances; amending s. 648.25, F.S.; providing
 135 definitions; amending s. 648.26, F.S.; revising the
 136 circumstances under which investigatory records of the
 137 department are confidential and exempt from public
 138 records requirements; revising construction; amending
 139 s. 648.30, F.S.; revising circumstances under which a
 140 person or entity may act in the capacity of a bail
 141 bond agent or bail bond agency and perform certain
 142 functions, duties, and powers; amending s. 648.355,
 143 F.S.; revising the requirements for limited surety
 144 agents and professional bail bond agents license
 145 applications; amending s. 648.43, F.S.; revising

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146 requirements for bail bond agents to execute and
 147 countersign transfer bonds; amending s. 717.101, F.S.;
 148 defining and revising terms; amending s. 717.102,
 149 F.S.; providing a rebuttal to a presumption of
 150 unclaimed property; providing requirements for such
 151 rebuttal; amending s. 717.106, F.S.; conforming a
 152 cross-reference; creating s. 717.1065, F.S.; providing
 153 circumstances under which virtual currency held or
 154 owing by banking organizations is not presumed
 155 unclaimed; prohibiting virtual currency holders from
 156 deducting certain charges from the amount of certain
 157 virtual currency under certain circumstances;
 158 providing an exception; amending s. 717.1101, F.S.;
 159 revising the date on which stocks and other equity
 160 interests in business associations are presumed
 161 unclaimed; amending s. 717.112, F.S.; providing that
 162 certain intangible property held by attorneys in fact
 163 and by agents in a fiduciary capacity are presumed
 164 unclaimed under certain circumstances; revising the
 165 requirements for claiming such property; amending s.
 166 717.117, F.S.; deleting the paper option for reports
 167 by holders of unclaimed funds and property; revising
 168 the requirements for reporting the owners of unclaimed
 169 property and funds; authorizing the department to
 170 extend reporting dates under certain circumstances;
 171 revising the circumstances under which the department
 172 may impose and collect penalties; requiring holders of
 173 certain inactive accounts to notify apparent owners;
 174 revising the manner of sending such notices; providing

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175 requirements for such notices; amending s. 717.119,
 176 F.S.; requiring certain virtual currency to be
 177 remitted to the department; providing requirements for
 178 the liquidation of such virtual currency; providing
 179 that holders of such virtual currency are relieved of
 180 all liability upon delivery of the virtual currency to
 181 the department; prohibiting holders from assigning or
 182 transferring certain obligations or from complying
 183 with certain provisions; providing that certain
 184 entities are responsible for meeting holders'
 185 obligations and complying with certain provisions
 186 under certain circumstances; providing construction;
 187 amending s. 717.1201, F.S.; providing that good faith
 188 payments and deliveries of property to the department
 189 relieve holders of all liability; authorizing the
 190 department to refund and redeliver certain money and
 191 property under certain circumstances; amending s.
 192 717.123, F.S.; revising the maximum amount that the
 193 department shall retain from funds of unclaimed
 194 property to make certain payment; amending s.
 195 717.1242, F.S.; revising legislative intent; providing
 196 circumstances under which the department is considered
 197 an interested party in probate proceedings; amending
 198 s. 717.1243, F.S.; revising applicability of certain
 199 provisions relating to unclaimed small estate
 200 accounts; amending s. 717.1245, F.S.; specifying the
 201 fees, costs, and compensation that persons filing
 202 petitions for writ of garnishment of unclaimed
 203 property must pay; requiring such persons to file

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204 claims with the department under a specified
 205 circumstance; amending s. 717.129, F.S.; revising the
 206 requirements and the tolling for the periods of
 207 limitation relating to duties of holders of unclaimed
 208 funds and property; amending s. 717.1301, F.S.;
 209 revising the department's authorities on the
 210 disposition of unclaimed funds and property for
 211 specified purposes; prohibiting certain materials from
 212 being disclosed or made public under certain
 213 circumstances; revising the basis for the department's
 214 cost assessment against holders of unclaimed funds and
 215 property; amending s. 717.1311, F.S.; revising the
 216 recordkeeping requirements for funds and property
 217 holders; amending s. 717.1322, F.S.; revising acts
 218 that are violations of specified provisions and
 219 constitute grounds for administrative enforcement
 220 actions and civil enforcement by the department;
 221 providing that claimants' representatives, rather than
 222 registrants, are subject to civil enforcement and
 223 disciplinary actions for certain violations; amending
 224 s. 717.1333, F.S.; conforming provisions to changes
 225 made by the act; amending s. 717.134, F.S.; conforming
 226 provisions to changes made by the act; amending s.
 227 717.135, F.S.; revising the information that certain
 228 agreements relating to unclaimed property must
 229 disclose; applying certain provisions relating to such
 230 agreements to purchasers; deleting a requirement for
 231 Unclaimed Property Purchase Agreements; providing
 232 nonapplicability; amending s. 717.1400, F.S.; deleting

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233 a circumstance under which certain persons must
 234 register with the department; amending ss. 197.582 and
 235 717.1382, F.S.; conforming cross-references; providing
 236 a directive to the Division of Law Revision; providing
 237 an appropriation; providing effective dates.

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

241 Section 1. Section 17.69, Florida Statutes, is created to
 242 read:

243 17.69 Federal tax liaison.-

244 (1) The federal tax liaison position is created within the
 245 department. The purpose of the position is to assist the
 246 taxpayers of this state as provided in subsection (3).

247 (2) The Chief Financial Officer shall appoint the federal
 248 tax liaison. The federal tax liaison reports directly to the
 249 Chief Financial Officer but is not otherwise under the authority
 250 of the department or of any employee of the department.

251 (3) The federal tax liaison may do all of the following:

252 (a) Assist taxpayers by answering taxpayer questions.

253 (b) Direct taxpayers to the proper departments or offices
 254 within the Internal Revenue Service in order to hasten
 255 resolution of taxpayer issues.

256 (c) Prepare recommendations for the Internal Revenue
 257 Service of any actions that will help resolve problems
 258 encountered by taxpayers.

259 (d) Provide information about the policies, practices, and
 260 procedures that the Internal Revenue Service uses to ensure
 261 compliance with the tax laws.

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262 (e) With the consent of the taxpayer, request records from
 263 the Internal Revenue Service to assist the liaison in responding
 264 to taxpayer inquiries.

265 Section 2. Present paragraphs (g) through (n) of subsection
 266 (2) of section 20.121, Florida Statutes, are redesignated as
 267 paragraphs (f) through (m), respectively, and paragraph (e) and
 268 present paragraph (f) of that subsection are amended, to read:
 269 20.121 Department of Financial Services.—There is created a
 270 Department of Financial Services.

271 (2) DIVISIONS.—The Department of Financial Services shall
 272 consist of the following divisions and office:

273 (e) The Division of Criminal Investigations ~~Investigative~~
 274 ~~and Forensic Services~~, which shall function as a criminal
 275 justice agency for purposes of ss. 943.045-943.08. The division
 276 may initiate and conduct investigations into any matter under
 277 the jurisdiction of the Chief Financial Officer and Fire Marshal
 278 within or outside of this state as it deems necessary. ~~If,~~
 279 ~~during an investigation, the division has reason to believe that~~
 280 ~~any criminal law of this state or the United States has or may~~
 281 ~~have been violated, it shall refer any records tending to show~~
 282 ~~such violation to state law enforcement and, if applicable,~~
 283 ~~federal prosecutorial agencies and shall provide investigative~~
 284 ~~assistance to those agencies as appropriate. The division shall~~
 285 ~~include the following bureaus and office:~~

286 ~~1. The Bureau of Forensic Services;~~

287 ~~2. The Bureau of Fire, Arson, and Explosives~~
 288 ~~Investigations;~~

289 ~~3. The Office of Fiscal Integrity, which shall have a~~
 290 ~~separate budget;~~

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291 ~~4. The Bureau of Insurance Fraud; and~~
 292 ~~5. The Bureau of Workers' Compensation Fraud.~~
 293 ~~(f) The Division of Public Assistance Fraud, which shall~~
 294 ~~function as a criminal justice agency for purposes of ss.~~
 295 ~~943.045-943.08. The division shall conduct investigations~~
 296 ~~pursuant to s. 414.411 within or outside of the state as it~~
 297 ~~deems necessary. If, during an investigation, the division has~~
 298 ~~reason to believe that any criminal law of the state has or may~~
 299 ~~have been violated, it shall refer any records supporting such~~
 300 ~~violation to state or federal law enforcement or prosecutorial~~
 301 ~~agencies and shall provide investigative assistance to those~~
 302 ~~agencies as required.~~

303 Section 3. Paragraph (f) of subsection (2) and paragraph
 304 (h) of subsection (3) of section 121.0515, Florida Statutes, are
 305 amended to read:

306 121.0515 Special Risk Class.—
 307 (2) MEMBERSHIP.—
 308 (f) Effective July 1, 2024 ~~2008~~, the member must be
 309 employed by the Department of Law Enforcement in the crime
 310 laboratory or by the Division of Criminal Investigations State
 311 ~~Fire Marshal~~ in the forensic laboratory and meet the special
 312 criteria set forth in paragraph (3) (h).
 313 (3) CRITERIA.—A member, to be designated as a special risk
 314 member, must meet the following criteria:
 315 (h) Effective July 1, 2024 ~~2008~~, the member must be
 316 employed by the Department of Law Enforcement in the crime
 317 laboratory or by the Division of Criminal Investigations State
 318 ~~Fire Marshal~~ in the forensic laboratory in one of the following
 319 classes:

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320 1. Forensic technologist (class code 8459);
 321 2. Crime laboratory technician (class code 8461);
 322 3. Crime laboratory analyst (class code 8463);
 323 4. Senior crime laboratory analyst (class code 8464);
 324 5. Crime laboratory analyst supervisor (class code 8466);
 325 6. Forensic chief (class code 9602); or
 326 7. Forensic services quality manager (class code 9603);
 327 Section 4. Section 215.5586, Florida Statutes, is amended
 328 to read:

329 215.5586 My Safe Florida Home Program.—There is established
 330 within the Department of Financial Services the My Safe Florida
 331 Home Program. The department shall provide fiscal
 332 accountability, contract management, and strategic leadership
 333 for the program, consistent with this section. This section does
 334 not create an entitlement for property owners or obligate the
 335 state in any way to fund the inspection or retrofitting of
 336 residential property in this state. Implementation of this
 337 program is subject to annual legislative appropriations. It is
 338 the intent of the Legislature that, subject to the availability
 339 of funds, the My Safe Florida Home Program provide licensed
 340 inspectors to perform inspections for eligible homes ~~owners of~~
 341 ~~site-built, single-family, residential properties~~ and grants to
 342 fund hurricane mitigation projects for those homes eligible
 343 ~~applicants~~. The department shall implement the program in such a
 344 manner that the total amount of funding requested by accepted
 345 applications, whether for inspections, grants, or other services
 346 or assistance, does not exceed the total amount of available
 347 funds. If, after applications are processed and approved, funds
 348 remain available, the department may accept applications up to

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the available amount. The program shall develop and implement a comprehensive and coordinated approach for hurricane damage mitigation that may include the following:

(1) HURRICANE MITIGATION INSPECTIONS.—

(a) To be eligible for a hurricane mitigation inspection, all of the following criteria must be met:

1. The home must be a single-family, detached residential property or a townhouse, as defined in s. 481.203.

2. The home must be site-built and owner-occupied.

3. The homeowner must have been granted a homestead exemption on the home under chapter 196.

(b) An application for an inspection must contain a signed or electronically verified statement made under penalty of perjury that the applicant has submitted only a single inspection application and must have attached documents demonstrating that the applicant meets the requirements of paragraph (a). An applicant may submit a new inspection application if all of the following criteria are met:

1. The original application has already been denied or withdrawn.

2. The program's eligibility requirements or applicant's qualifications have changed since the original application date.

3. The applicant reasonably believes that the home will be eligible under the new requirements or qualifications.

(c) An applicant who meets the requirements of paragraph (a) may apply for and receive an inspection without also applying for a grant pursuant to subsection (2) and without meeting the requirements of paragraph (2) (a).

(d)(a) Licensed inspectors are to provide home inspections

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of eligible homes ~~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. ~~An inspector may inspect a townhouse as defined in s. 481.203 to determine if opening protection mitigation as listed in paragraph (2)(c) would provide improvements to mitigate hurricane damage.~~

(e)(b) The Department of Financial Services shall contract with wind certification entities to provide hurricane mitigation inspections. The inspections provided to homeowners, at a minimum, must include:

1. A home inspection and report that summarizes the results and identifies recommended improvements a homeowner may take to mitigate hurricane damage.

2. A range of cost estimates regarding the recommended mitigation improvements.

3. Information regarding estimated premium discounts, correlated to the current mitigation features and the recommended mitigation improvements identified by the inspection.

(f)(e) To qualify for selection by the department as a wind certification entity to provide hurricane mitigation inspections, the entity must, at a minimum, meet the following requirements:

1. Use hurricane mitigation inspectors who are licensed or certified as:

a. A building inspector under s. 468.607;

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407 b. A general, building, or residential contractor under s.
 408 489.111;
 409 c. A professional engineer under s. 471.015;
 410 d. A professional architect under s. 481.213; or
 411 e. A home inspector under s. 468.8314 and who have
 412 completed at least 3 hours of hurricane mitigation training
 413 approved by the Construction Industry Licensing Board, which
 414 training must include hurricane mitigation techniques,
 415 compliance with the uniform mitigation verification form, and
 416 completion of a proficiency exam.

417 2. Use hurricane mitigation inspectors who also have
 418 undergone drug testing and a background screening. The
 419 department may conduct criminal record checks of inspectors used
 420 by wind certification entities. Inspectors must submit a set of
 421 fingerprints to the department for state and national criminal
 422 history checks and must pay the fingerprint processing fee set
 423 forth in s. 624.501. The fingerprints must be sent by the
 424 department to the Department of Law Enforcement and forwarded to
 425 the Federal Bureau of Investigation for processing. The results
 426 must be returned to the department for screening. The
 427 fingerprints must be taken by a law enforcement agency,
 428 designated examination center, or other department-approved
 429 entity.

430 3. Provide a quality assurance program including a
 431 reinspection component.

432 ~~(d) An application for an inspection must contain a signed~~
 433 ~~or electronically verified statement made under penalty of~~
 434 ~~perjury that the applicant has submitted only a single~~
 435 ~~application for that home.~~

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436 ~~(e) The owner of a site-built, single-family, residential~~
 437 ~~property or townhouse as defined in s. 481.203, for which a~~
 438 ~~homestead exemption has been granted, may apply for and receive~~
 439 ~~an inspection without also applying for a grant pursuant to~~
 440 ~~subsection (2) and without meeting the requirements of paragraph~~
 441 ~~(2)(a).~~

442 (2) HURRICANE MITIGATION GRANTS.—Financial grants must
 443 ~~shall be used to encourage single-family, site-built, owner-~~
 444 ~~occupied, residential property owners to retrofit eligible homes~~
 445 based on the recommendations made in a hurricane mitigation
 446 inspection their properties to make the homes them less
 447 vulnerable to hurricane damage.

448 (a) ~~For a homeowner~~ To be eligible for a grant, all of the
 449 following criteria must be met:

450 1. The home must be a single-family, detached residential
 451 property or a townhouse, as defined in s. 481.203.

452 2. The home must be site-built and owner-occupied.

453 3.1- The homeowner must have been granted a homestead
 454 exemption on the home under chapter 196.

455 4.2- The home must be a dwelling with an insured value of
 456 \$700,000 or less. Homeowners who are low-income persons, as
 457 defined in s. 420.0004(11), are exempt from this requirement.

458 5.3- The home must undergo an acceptable hurricane
 459 mitigation inspection as provided in subsection (1).

460 6.4- The building permit application for initial
 461 construction of the home must have been made before January 1,
 462 2008.

463 7.5- The homeowner must agree to make his or her home
 464 available for inspection once a mitigation project is completed.

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(b)1. An application for a grant must contain a signed or electronically verified statement made under penalty of perjury that the applicant has submitted only a single grant application and must have attached documents demonstrating that the applicant meets the requirements of ~~this~~ paragraph (a).

2. An applicant may submit a new grant application if all of the following criteria are met:

a. The original application has already been denied or withdrawn.

b. The program's eligibility requirements or applicant's qualifications have changed since the original application date.

c. The applicant reasonably believes that the home will be eligible under the new requirements or qualifications.

(c)(b) All grants must be matched on the basis of \$1 provided by the applicant for \$2 provided by the state up to a maximum state contribution of \$10,000 toward the actual cost of the mitigation project.

(d)(e) The program shall require create a process in which ~~contractors agree to participate and homeowners select from a list of participating contractors. All~~ mitigation work to must be based upon the securing of all required local permits and inspections, and the work must be performed by properly licensed contractors. The program shall approve only a homeowner grant application that includes an acknowledged statement from the homeowner containing the name and state license number of the contractor the homeowner intends to use for the mitigation work. The program must electronically verify that the contractor's state license number is accurate and up to date before grant approval Hurricane mitigation inspectors qualifying for the

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~~program may also participate as mitigation contractors as long as the inspectors meet the department's qualifications and certification requirements for mitigation contractors.~~

~~(d) Matching fund grants shall also be made available to local governments and nonprofit entities for projects that will reduce hurricane damage to single-family, site-built, owner-occupied, residential property. The department shall liberally construe those requirements in favor of availing the state of the opportunity to leverage funding for the My Safe Florida Home Program with other sources of funding.~~

(e) When recommended by a hurricane mitigation inspection, grants for eligible homes may be used for the following improvements:

1. Opening protection, including windows, skylights, exterior doors, and garage doors.

2. Exterior doors, including garage doors.

3. Reinforcing roof-to-wall connections.

4. Improving the strength of roof-deck attachments.

5. Secondary Water Resistance (SWR) barrier for roof.

(f) When recommended by a hurricane mitigation inspection, grants for townhouses, as defined in s. 481.203, may only be used for opening protection.

(g) The department may require that improvements be made to all openings, including exterior doors and garage doors, as a condition of reimbursing a homeowner approved for a grant. The department may adopt, by rule, the maximum grant allowances for any improvement allowable under paragraph (e) or this paragraph.

~~(g) Grants may be used on a previously inspected existing structure or on a rebuild. A rebuild is defined as a site-built,~~

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~~single-family dwelling under construction to replace a home that was destroyed or significantly damaged by a hurricane and deemed unlivable by a regulatory authority. The homeowner must be a low-income homeowner as defined in paragraph (h), must have had a homestead exemption for that home before the hurricane, and must be intending to rebuild the home as that homeowner's homestead.~~

(h) Low-income homeowners, as defined in s. 420.0004(11), who otherwise meet the requirements of this subsection paragraphs (a), (c), (e), and (g) are eligible for a grant of up to \$10,000 and are not required to provide a matching amount to receive the grant. The program may accept a certification directly from a low-income homeowner that the homeowner meets the requirements of s. 420.0004(11) if the homeowner provides such certification in a signed or electronically verified statement made under penalty of perjury.

(i) The department shall develop a process that ensures the most efficient means to collect and verify grant applications to determine eligibility and may direct hurricane mitigation inspectors to collect and verify grant application information or use the Internet or other electronic means to collect information and determine eligibility.

(j) Homeowners must finalize construction and request a final inspection, or request an extension for an additional 6 months, within 1 year after grant approval. If the homeowners fail to comply, the application shall be deemed abandoned and the grant money reverts back to the department.

(3) REQUESTS FOR INFORMATION.—The department may request that the applicant provide additional information. An

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application shall be deemed withdrawn by the applicant if the department does not receive a response to its request for additional information within 60 days after the notification of any apparent errors or omissions.

(4)(3) EDUCATION, CONSUMER AWARENESS, AND OUTREACH.—

(a) The department may undertake a statewide multimedia public outreach and advertising campaign to inform consumers of the availability and benefits of hurricane inspections and of the safety and financial benefits of residential hurricane damage mitigation. The department may seek out and use local, state, federal, and private funds to support the campaign.

(b) The program may develop brochures for distribution to Citizens Property Insurance Corporation, and other licensed entities or nonprofits that work with the department to educate the public on the benefits of the program ~~general contractors, roofing contractors, and real estate brokers and sales associates who are licensed under part I of chapter 475 which provide information on the benefits to homeowners of residential hurricane damage mitigation.~~ Citizens Property Insurance Corporation is encouraged to distribute the brochure to policyholders of the corporation. ~~Contractors are encouraged to distribute the brochures to homeowners at the first meeting with a homeowner who is considering contracting for home or roof repair or contracting for the construction of a new home. Real estate brokers and sales associates are encouraged to distribute the brochure to clients before the purchase of a home.~~ The brochures may be made available electronically.

(5)(4) FUNDING.—The department may seek out and leverage local, state, federal, or private funds to enhance the financial

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resources of the program.

(6)~~(5)~~ RULES.—The Department of Financial Services shall adopt rules pursuant to ss. 120.536(1) and 120.54 to govern the program; implement the provisions of this section; including rules governing hurricane mitigation inspections and grants, mitigation contractors, and training of inspectors and contractors; and carry out the duties of the department under this section.

(7)~~(6)~~ HURRICANE MITIGATION INSPECTOR LIST.—The department shall develop and maintain as a public record a current list of hurricane mitigation inspectors authorized to conduct hurricane mitigation inspections pursuant to this section.

(8)~~(7)~~ CONTRACT MANAGEMENT.—

(a) The department may contract with third parties for grants management, inspection services, contractor services for low-income homeowners, information technology, educational outreach, and auditing services. Such contracts are considered direct costs of the program and are not subject to administrative cost limits. The department shall contract with providers that have a demonstrated record of successful business operations in areas directly related to the services to be provided and shall ensure the highest accountability for use of state funds, consistent with this section.

(b) The department shall implement a quality assurance and reinspection program that determines whether mitigation initial inspections and mitigation projects ~~home improvements~~ are completed in a manner consistent with the intent of the program. The department may use valid random sampling in order to perform the quality assurance portion of the program.

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(9)~~(8)~~ INTENT.—It is the intent of the Legislature that grants made to residential property owners under this section shall be considered disaster-relief assistance within the meaning of s. 139 of the Internal Revenue Code of 1986, as amended.

(10)~~(9)~~ REPORTS.—The department shall make an annual report on the activities of the program that shall account for the use of state funds and indicate the number of inspections requested, the number of inspections performed, the number of grant applications received, the number and value of grants approved, and the estimated average annual amount of insurance premium discounts and total estimated annual amount of insurance premium discounts homeowners received from insurers as a result of mitigation funded through the program. The report must be delivered to the President of the Senate and the Speaker of the House of Representatives by February 1 of each year.

Section 5. Subsection (6) of section 284.44, Florida Statutes, is amended to read:

284.44 Salary indemnification costs of state agencies.—

~~(6) The Division of Risk Management shall prepare quarterly reports to the Executive Office of the Governor and the chairs of the legislative appropriations committees indicating for each state agency the total amount of salary indemnification benefits paid to claimants and the total amount of reimbursements from state agencies to the State Risk Management Trust Fund for initial costs for the previous quarter. These reports shall also include information for each state agency indicating the number of cases and amounts of initial salary indemnification costs for which reimbursement requirements were waived by the Executive~~

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~~Office of the Governor pursuant to this section.~~

Section 6. Paragraph (a) of subsection (12) of section 440.13, Florida Statutes, is amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

(12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM REIMBURSEMENT ALLOWANCES.—

(a) A three-member panel is created, consisting of the Chief Financial Officer, or the Chief Financial Officer's designee, and two members to be appointed by the Governor, subject to confirmation by the Senate, one member who, on account of present or previous vocation, employment, or affiliation, shall be classified as a representative of employers, the other member who, on account of previous vocation, employment, or affiliation, shall be classified as a representative of employees. The panel shall determine statewide schedules of maximum reimbursement allowances for medically necessary treatment, care, and attendance provided by hospitals and ambulatory surgical centers. The maximum reimbursement allowances for inpatient hospital care shall be based on a schedule of per diem rates, to be approved by the three-member panel no later than March 1, 1994, to be used in conjunction with a precertification manual as determined by the department, including maximum hours in which an outpatient may remain in observation status, which shall not exceed 23 hours. All compensable charges for hospital outpatient care shall be reimbursed at 75 percent of usual and customary charges, except as otherwise provided by this subsection. Annually, the three-member panel shall adopt schedules of maximum reimbursement

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allowances for hospital inpatient care, hospital outpatient care, and ambulatory surgical centers. A hospital or an ambulatory surgical center shall be reimbursed either the agreed-upon contract price or the maximum reimbursement allowance in the appropriate schedule. Reimbursement for emergency services and care, as defined in s. 395.002, without a maximum reimbursement allowance must be at 75 percent of the hospital's charge, unless there is a contract, in which case the contract governs reimbursement.

The department, as requested, shall provide data to the panel, including, but not limited to, utilization trends in the workers' compensation health care delivery system. The department shall provide the panel with an annual report regarding the resolution of medical reimbursement disputes and any actions pursuant to subsection (8). The department shall provide administrative support and service to the panel to the extent requested by the panel. For prescription medication purchased under the requirements of this subsection, a dispensing practitioner shall not possess such medication unless payment has been made by the practitioner, the practitioner's professional practice, or the practitioner's practice management company or employer to the supplying manufacturer, wholesaler, distributor, or drug repackager within 60 days of the dispensing practitioner taking possession of that medication.

Section 7. Present subsections (9) through (13) of section 440.385, Florida Statutes, are redesignated as subsections (10) through (14), respectively, and a new subsection (9) is added to that section, to read:

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697 440.385 Florida Self-Insurers Guaranty Association,
698 Incorporated.—

699 (9) CONTRACTS AND PURCHASES.—

700 (a) After July 1, 2024, all contracts entered into, and all
701 purchases made by, the association pursuant to this section
702 which are valued at or more than \$100,000 must first be approved
703 by the department. The department has 10 days to approve or deny
704 the contract or purchase upon electronic receipt of the approval
705 request. The contract or purchase is automatically approved if
706 the department is nonresponsive.

707 (b) All contracts and purchases valued at or more than
708 \$100,000 require competition through a formal bid solicitation
709 conducted by the association. The association must undergo a
710 formal bid solicitation process. The formal bid solicitation
711 process must include all of the following:

712 1. The time and date for the receipt of bids, the
713 proposals, and whether the association contemplates renewal of
714 the contract, including the price for each year for which the
715 contract may be renewed.

716 2. All the contractual terms and conditions applicable to
717 the procurement.

718 (c) Evaluation of bids by the association must include
719 consideration of the total cost for each year of the contract,
720 including renewal years, as submitted by the vendor. The
721 association must award the contract to the most responsible and
722 responsive vendor. Any formal bid solicitation conducted by the
723 association must be made available, upon request, to the
724 department via electronic delivery.

725 Section 8. Present subsection (7) of section 497.101,

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726 Florida Statutes, is redesignated as subsection (11),
727 subsections (1) through (4) are amended, and a new subsection
728 (7) and subsections (8), (9), and (10) are added to that
729 section, to read:

730 497.101 Board of Funeral, Cemetery, and Consumer Services;
731 membership; appointment; terms.—

732 (1) The Board of Funeral, Cemetery, and Consumer Services
733 is created within the Department of Financial Services and shall
734 consist of 10 members, 9 of whom shall be appointed by the
735 Governor ~~from nominations made by the Chief Financial Officer~~
736 ~~and confirmed by the Senate. The Chief Financial Officer shall~~
737 ~~nominate one to three persons for each of the nine vacancies on~~
738 ~~the board, and the Governor shall fill each vacancy on the board~~
739 ~~by appointing one of the persons nominated by the Chief~~
740 ~~Financial Officer to fill that vacancy. If the Governor objects~~
741 ~~to each of the nominations for a vacancy, she or he shall inform~~
742 ~~the Chief Financial Officer in writing. Upon notification of an~~
743 ~~objection by the Governor, the Chief Financial Officer shall~~
744 ~~submit one to three additional nominations for that vacancy~~
745 ~~until the vacancy is filled.~~ One member must be the State Health
746 Officer or her or his designee.

747 (2) Two members of the board must be funeral directors
748 licensed under part III of this chapter who are associated with
749 a funeral establishment. One member of the board must be a
750 funeral director licensed under part III of this chapter who is
751 associated with a funeral establishment licensed under part III
752 of this chapter which has a valid preneed license issued
753 pursuant to this chapter ~~and who owns or operates a cinerator~~
754 ~~facility approved under chapter 403 and licensed under part VI~~

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of this chapter. Two members of the board must be persons whose primary occupation is associated with a cemetery company licensed pursuant to this chapter. Two members of the board must be consumers who are residents of this state, have never been licensed as funeral directors or embalmers, are not connected with a cemetery or cemetery company licensed pursuant to this chapter, and are not connected with the death care industry or the practice of embalming, funeral directing, or direct disposition. One of the two consumer members must be at least 60 years of age. One member of the board must be a consumer who is a resident of this state; is licensed as a certified public accountant under chapter 473; has never been licensed as a funeral director or an embalmer; is not a principal or an employee of any licensee licensed under this chapter; and does not otherwise have control, as defined in s. 497.005, over any licensee licensed under this chapter. One member of the board must be a principal of a monument establishment licensed under this chapter as a monument builder. One member must be the State Health Officer or her or his designee. There may not be two or more board members who are principals or employees of the same company or partnership or group of companies or partnerships under common control.

(3) Board members shall be appointed for terms of 4 years and may be reappointed; however, a member may not serve for more than 8 consecutive years. ~~and~~ The State Health Officer shall serve as long as that person holds that office. The designee of the State Health Officer shall serve at the pleasure of the Chief Financial Officer ~~Governor~~.

(4) The Chief Financial Officer ~~Governor~~ may suspend and

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~~the Senate~~ may remove any board member for malfeasance or misfeasance, neglect of duty, incompetence, substantial inability to perform official duties, commission of a crime, or other substantial cause as determined by the Chief Financial Officer ~~Governor or Senate, as applicable~~, to evidence a lack of fitness to sit on the board. A board member shall be deemed to have resigned her or his board membership, and that position shall be deemed vacant, upon the failure of the member to attend three consecutive meetings of the board or at least half of the meetings of the board during any 12-month period, unless the Chief Financial Officer determines that there was good and adequate justification for the absences and that such absences are not likely to continue. Any vacancy so created shall be filled as provided in subsection (1).

(7) Members of the board are subject to the code of ethics under part III of chapter 112. For purposes of applying part III of chapter 112 to activities of the members of the board, those persons are considered public officers, and the department is considered their agency. A board member may not vote on any measure that would inure to his or her special private gain or loss and, in accordance with s. 112.3143(2), may not vote on any measure that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of his or her relative or business associate. Before the vote is taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose

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the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(8) In accordance with ss. 112.3148 and 112.3149, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the department or the board, which is under consideration for a contract, or which is licensed by the department.

(9) A board member who fails to comply with subsection (7) or subsection (8) is subject to the penalties provided under ss. 112.317 and 112.3173.

(10) (a) All meetings of the board are subject to the requirements of s. 286.011, and all books and records of the board are open to the public for reasonable inspection except as otherwise provided by s. 497.172 or other applicable law.

(b) Except for emergency meetings, the department shall give notice of any board meeting by publication on the department's website at least 7 days before the meeting. The department shall publish a meeting agenda on its website at least 7 days before the meeting. The agenda must contain the items to be considered, in order of presentation. After the agenda has been made available, a change may be made only for good cause, as determined by the person designated to preside, and must be stated in the record. Notification of such change must be at the earliest practicable time.

Section 9. Paragraph (a) of subsection (4) of section

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497.153, Florida Statutes, is amended to read:

497.153 Disciplinary procedures and penalties.—

(4) ACTION AFTER PROBABLE CAUSE FOUND.—

(a) Service of an administrative complaint may be in person by department staff or any person authorized to make service of process under the Florida Rules of Civil Procedure. Service upon a licensee may in the alternative be made by certified mail, return receipt requested, to the last known address of record provided by the licensee to the department. If service by certified mail cannot be made at the last address provided by the licensee to the department, service may be made by e-mail, delivery receipt required, sent to the most recent e-mail address provided by the licensee to the department in accordance with s. 497.146.

Section 10. Paragraph (e) of subsection (1) of section 497.155, Florida Statutes, is amended to read:

497.155 Disciplinary citations and minor violations.—

(1) CITATIONS.—

(e) Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the subject's last known address in accordance with s. 497.146. If service by certified mail cannot be made at the last address provided by the subject to the department, service may be made by e-mail, delivery receipt required, sent to the most recent e-mail address provided by the subject to the department in accordance with s. 497.146.

Section 11. Paragraph (a) of subsection (3) of section 624.155, Florida Statutes, is amended to read:

624.155 Civil remedy.—

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871 (3) (a) As a condition precedent to bringing an action under
 872 this section, the department and the authorized insurer must
 873 have been given 60 days' written notice of the violation. Notice
 874 to the authorized insurer must be provided by the department to
 875 the e-mail address designated by the insurer ~~under s. 624.422.~~

876 Section 12. Present paragraphs (c) and (d) of subsection
 877 (10) of section 624.307, Florida Statutes, are redesignated as
 878 paragraphs (d) and (e), respectively, a new paragraph (c) is
 879 added to that subsection, and paragraph (b) of that subsection
 880 is amended, to read:

881 624.307 General powers; duties.-

882 (10)

883 (b) Any person licensed or issued a certificate of
 884 authority or made an eligible surplus lines insurer by the
 885 department or the office shall respond, in writing or
 886 electronically, to the division within 14 days after receipt of
 887 a written request for documents and information from the
 888 division concerning a consumer complaint. The response must
 889 address the issues and allegations raised in the complaint and
 890 include any requested documents concerning the consumer
 891 complaint not subject to attorney-client or work-product
 892 privilege. The division may impose an administrative penalty for
 893 failure to comply with this paragraph of up to \$5,000 per
 894 violation upon any entity licensed by the department or the
 895 office and up to \$1,000 per violation by any individual licensed
 896 by the department or the office.

897 (c) Each insurer issued a certificate of authority or made
 898 an eligible surplus lines insurer shall file with the department
 899 an e-mail address to which requests for response to consumer

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900 complaints shall be directed pursuant to paragraph (b). Such
 901 insurer shall also designate a contact person for escalated
 902 complaint issues and shall provide the name, e-mail address, and
 903 telephone number of such person. A licensee of the department,
 904 including an agency or a firm, may elect to designate an e-mail
 905 address to which requests for response to consumer complaints
 906 shall be directed pursuant to paragraph (b). If a licensee,
 907 including an agency or a firm, elects not to designate an e-mail
 908 address, the department shall direct requests for response to
 909 consumer complaints to the e-mail of record for the licensee in
 910 the department's licensing system. An insurer or a licensee,
 911 including an agency or a firm, may change designated contact
 912 information at any time by submitting the new information to the
 913 department using the method designated by rule by the
 914 department.

915 Section 13. Subsection (2) of section 626.171, Florida
 916 Statutes, is amended to read:

917 626.171 Application for license as an agent, customer
 918 representative, adjuster, service representative, or reinsurance
 919 intermediary.-

920 (2) In the application, the applicant shall set forth:

921 (a) His or her full name, age, social security number,
 922 residence address, business address, mailing address, contact
 923 telephone numbers, including a business telephone number, and e-
 924 mail address.

925 (b) A statement indicating the method the applicant used or
 926 is using to meet any required prelicensing education, knowledge,
 927 experience, or instructional requirements for the type of
 928 license applied for.

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(c) Whether he or she has been refused or has voluntarily surrendered or has had suspended or revoked a license to solicit insurance by the department or by the supervising officials of any state.

(d) Whether any insurer or any managing general agent claims the applicant is indebted under any agency contract or otherwise and, if so, the name of the claimant, the nature of the claim, and the applicant's defense thereto, if any.

(e) Proof that the applicant meets the requirements for the type of license for which he or she is applying.

(f) The applicant's gender (male or female).

(g) The applicant's native language.

(h) The highest level of education achieved by the applicant.

(i) The applicant's race or ethnicity (African American, white, American Indian, Asian, Hispanic, or other).

(j) Such other or additional information as the department may deem proper to enable it to determine the character, experience, ability, and other qualifications of the applicant to hold himself or herself out to the public as an insurance representative.

However, the application must contain a statement that an applicant is not required to disclose his or her race or ethnicity, gender, or native language, that he or she will not be penalized for not doing so, and that the department will use this information exclusively for research and statistical purposes and to improve the quality and fairness of the examinations. The department shall make provisions for

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applicants to submit cellular telephone numbers as part of the application process on a voluntary basis for purpose of two-factor authentication of secure login credentials only.

Section 14. Paragraph (j) of subsection (2) of section 626.221, Florida Statutes, is amended to read:

626.221 Examination requirement; exemptions.—

(2) However, an examination is not necessary for any of the following:

(j) An applicant for license as an all-lines adjuster who has the designation of Accredited Claims Adjuster (ACA) from a regionally accredited postsecondary institution in this state; Certified All Lines Adjuster (CALA) from Kaplan Financial Education; Associate in Claims (AIC) from the Insurance Institute of America; Professional Claims Adjuster (PCA) from the Professional Career Institute; Professional Property Insurance Adjuster (PPIA) from the HurriClaim Training Academy; Certified Adjuster (CA) from ALL LINES Training; Certified Claims Adjuster (CCA) from AE21 Incorporated; Claims Adjuster Certified Professional (CACP) from WebCE, Inc.; Accredited Insurance Claims Specialist (AICS) from Encore Claim Services; Professional in Claims (PIC) from 2021 Training, LLC; Registered Claims Adjuster (RCA) from American Insurance College; or Universal Claims Certification (UCC) from Claims and Litigation Management Alliance (CLM) whose curriculum has been approved by the department and which includes comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard department testing for the all-lines adjuster license. The department shall adopt rules establishing standards for the approval of curriculum.

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987 Section 15. Subsection (6) of section 626.601, Florida
 988 Statutes, is amended to read:
 989 626.601 Improper conduct; inquiry; fingerprinting.—
 990 (6) The complaint and any information obtained pursuant to
 991 the investigation by the department or office are confidential
 992 and are exempt from s. 119.07 unless the department or office
 993 files a formal administrative complaint, emergency order, or
 994 consent order against the individual or entity. This subsection
 995 does not prevent the department or office from disclosing the
 996 complaint or such information as it deems necessary to conduct
 997 the investigation, to update the complainant as to the status
 998 and outcome of the complaint, to review the details of the
 999 investigation with the individual or entity or its
 1000 representative, or to share such information with any law
 1001 enforcement agency or other regulatory body.

1002 Section 16. Subsection (3) of section 626.7351, Florida
 1003 Statutes, is amended to read:

1004 626.7351 Qualifications for customer representative's
 1005 license.—The department ~~may shall~~ not grant or issue a license
 1006 as customer representative to any individual found by it to be
 1007 untrustworthy or incompetent, or who does not meet each of the
 1008 following qualifications:

1009 (3) Within 4 years preceding the date that the application
 1010 for license was filed with the department, the applicant has
 1011 earned the designation of Accredited Advisor in Insurance (AAI),
 1012 Associate in General Insurance (AINS), or Accredited Customer
 1013 Service Representative (ACSR) from the Insurance Institute of
 1014 America; the designation of Certified Insurance Counselor (CIC)
 1015 from the Society of Certified Insurance Service Counselors; the

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1016 designation of Certified Professional Service Representative
 1017 (CPSR) from the National Foundation for CPSR; the designation of
 1018 Certified Insurance Service Representative (CISR) from the
 1019 Society of Certified Insurance Service Representatives; the
 1020 designation of Certified Insurance Representative (CIR) from
 1021 All-Lines Training; the designation of Chartered Customer
 1022 Service Representative (CCSR) from American Insurance College;
 1023 the designation of Professional Customer Service Representative
 1024 (PCSR) from the Professional Career Institute; the designation
 1025 of Insurance Customer Service Representative (ICSR) from
 1026 Statewide Insurance Associates LLC; the designation of
 1027 Registered Customer Service Representative (RCSR) from a
 1028 regionally accredited postsecondary institution in the state
 1029 whose curriculum is approved by the department and includes
 1030 comprehensive analysis of basic property and casualty lines of
 1031 insurance and testing which demonstrates mastery of the subject;
 1032 or a degree from an accredited institution of higher learning
 1033 approved by the department when the degree includes a minimum of
 1034 9 credit hours of insurance instruction, including specific
 1035 instruction in the areas of property, casualty, and inland
 1036 marine insurance. The department shall adopt rules establishing
 1037 standards for the approval of curriculum.

1038 Section 17. Section 626.878, Florida Statutes, is amended
 1039 to read:

1040 626.878 Rules; code of ethics.—

1041 (1) An adjuster shall subscribe to the code of ethics
 1042 specified in the rules of the department. The rules shall
 1043 implement the provisions of this part and specify the terms and
 1044 conditions of contracts, including a right to cancel, and

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require practices necessary to ensure fair dealing, prohibit conflicts of interest, and ensure preservation of the rights of the claimant to participate in the adjustment of claims.

(2) A person licensed as an adjuster must identify himself or herself in any advertisement, solicitation, or written document based on the adjuster appointment type held.

(3) An adjuster who has had his or her licensed revoked or suspended may not participate in any part of an insurance claim or in the insurance claims adjusting process, including estimating, completing, filing, negotiating, appraising, mediating, umpiring, or effecting settlement of a claim for loss or damage covered under an insurance contract. A person who provides these services while the person's license is revoked or suspended acts as an unlicensed adjuster.

Section 18. Subsection (1) of section 626.929, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

626.929 Origination, acceptance, placement of surplus lines business.—

(1) A licensed and appointed general lines agent while also licensed and appointed as a surplus lines agent under this part may originate surplus lines business and may accept surplus lines business from any other originating Florida-licensed general lines agent appointed and licensed as to the kinds of insurance involved and may compensate such agent therefor.

(4) A general lines agent while licensed as a surplus lines agent under this part may appoint these licenses with a single surplus license agent appointment pursuant to s. 624.501. Such agent may only originate surplus lines business and accept

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surplus lines business from other originating Florida-licensed general lines agents appointed and licensed as to the kinds of insurance involved and may compensate such agent therefor. Such agent may not be appointed by or transact general lines insurance on behalf of an admitted insurer.

Section 19. Paragraphs (j) is added to subsection (4) of section 627.351, Florida Statutes, to read:

627.351 Insurance risk apportionment plans.—

(4) MEDICAL MALPRACTICE RISK APPORTIONMENT; ASSOCIATION CONTRACTS AND PURCHASES.—

(j)1. After July 1, 2024, all contracts entered into, and all purchases made by, the association pursuant to this subsection which are valued at or more than \$100,000 must first be approved by the department. The department has 10 days to approve or deny a contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

2. All contracts and purchases valued at or more than \$100,000 require competition through a formal bid solicitation conducted by the association. The association must undergo a formal bid solicitation process by a minimum of three vendors. The formal bid solicitation process must include all of the following:

a. The time and date for the receipt of bids, the proposals, and whether the association contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

b. All the contractual terms and conditions applicable to the procurement.

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1103 3. Evaluation of bids by the association must include
 1104 consideration of the total cost for each year of the contract,
 1105 including renewal years, as submitted by the vendor. The
 1106 association must award the contract to the most responsible and
 1107 responsive vendor. Any formal bid solicitation conducted by the
 1108 association must be made available, upon request, to the
 1109 department by electronic delivery.

1110 Section 20. Subsection (2) of section 627.43141, Florida
 1111 Statutes, is amended to read:

1112 627.43141 Notice of change in policy terms.—

1113 (2) A renewal policy may contain a change in policy terms.
 1114 If such change occurs, the insurer shall give the named insured
 1115 advance written notice summarizing the change, which may be
 1116 enclosed in along with the written notice of renewal premium
 1117 required under ss. 627.4133 and 627.728 or sent separately
 1118 within the timeframe required under the Florida Insurance Code
 1119 for the provision of a notice of nonrenewal to the named insured
 1120 for that line of insurance. The insurer must also provide a
 1121 sample copy of the notice to the named insured's insurance agent
 1122 before or at the same time that notice is provided to the named
 1123 insured. Such notice shall be entitled "Notice of Change in
 1124 Policy Terms—" and shall be in bold type of not less than 14
 1125 points and included as a single page or consecutive pages, as
 1126 necessary, within the written notice.

1127 Section 21. Paragraph (a) of subsection (3) of section
 1128 627.70152, Florida Statutes, is amended to read:

1129 627.70152 Suits arising under a property insurance policy.—

1130 (3) NOTICE.—

1131 (a) As a condition precedent to filing a suit under a

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1132 property insurance policy, a claimant must provide the
 1133 department with written notice of intent to initiate litigation
 1134 on a form provided by the department. Such notice must be given
 1135 at least 10 business days before filing suit under the policy,
 1136 but may not be given before the insurer has made a determination
 1137 of coverage under s. 627.70131. Notice to the insurer must be
 1138 provided by the department to the e-mail address designated by
 1139 the insurer ~~under s. 624.422~~. The notice must state with
 1140 specificity all of the following information:

1141 1. That the notice is provided pursuant to this section.

1142 2. The alleged acts or omissions of the insurer giving rise
 1143 to the suit, which may include a denial of coverage.

1144 3. If provided by an attorney or other representative, that
 1145 a copy of the notice was provided to the claimant.

1146 4. If the notice is provided following a denial of
 1147 coverage, an estimate of damages, if known.

1148 5. If the notice is provided following acts or omissions by
 1149 the insurer other than denial of coverage, both of the
 1150 following:

1151 a. The presuit settlement demand, which must itemize the
 1152 damages, attorney fees, and costs.

1153 b. The disputed amount.

1154 Documentation to support the information provided in this
 1155 paragraph may be provided along with the notice to the insurer.

1156 Section 22. Subsection (5) is added to section 631.59,
 1157 Florida Statutes, to read:

1158 631.59 Duties and powers of department and office;
 1159 association contracts and purchases.—
 1160

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1161 (5) (a) After July 1, 2024, all contracts entered into, and
 1162 all purchases made by, the association pursuant to this section
 1163 which are valued at or more than \$100,000 must first be approved
 1164 by the department. The department has 10 days to approve or deny
 1165 the contract or purchase upon electronic receipt of the approval
 1166 request. The contract or purchase is automatically approved if
 1167 the department is nonresponsive.

1168 (b) All contracts and purchases valued at or more than
 1169 \$100,000 require competition through a formal bid solicitation
 1170 conducted by the association. The association must undergo a
 1171 formal bid solicitation process. The formal bid solicitation
 1172 process must include all of the following:

1173 1. The time and date for the receipt of bids, the
 1174 proposals, and whether the association contemplates renewal of
 1175 the contract, including the price for each year for which the
 1176 contract may be renewed.

1177 2. All the contractual terms and conditions applicable to
 1178 the procurement.

1179 (c) Evaluation of bids by the association must include
 1180 consideration of the total cost for each year of the contract,
 1181 including renewal years, as submitted by the vendor. The
 1182 association must award the contract to the most responsible and
 1183 responsive vendor. Any formal bid solicitation conducted by the
 1184 association must be made available, upon request, to the
 1185 department via electronic delivery.

1186 Section 23. Subsection (6) is added to section 631.722,
 1187 Florida Statutes, to read:

1188 631.722 Powers and duties of department and office;
 1189 association contracts and purchases.-

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1190 (6) (a) After July 1, 2024, all contracts entered into, and
 1191 all purchases made by, the association pursuant to this section
 1192 which are valued at or more than \$100,000 must first be approved
 1193 by the department. The department has 10 days to approve or deny
 1194 the contract or purchase upon electronic receipt of the approval
 1195 request. The contract or purchase is automatically approved if
 1196 the department is nonresponsive.

1197 (b) All contracts and purchases valued at or more than
 1198 \$100,000 require competition through a formal bid solicitation
 1199 conducted by the association. The association must undergo a
 1200 formal bid solicitation process. The formal bid solicitation
 1201 process must include all of the following:

1202 1. The time and date for the receipt of bids, the
 1203 proposals, and whether the association contemplates renewal of
 1204 the contract, including the price for each year for which the
 1205 contract may be renewed.

1206 2. All the contractual terms and conditions applicable to
 1207 the procurement.

1208 (c) Evaluation of bids by the association must include
 1209 consideration of the total cost for each year of the contract,
 1210 including renewal years, as submitted by the vendor. The
 1211 association must award the contract to the most responsible and
 1212 responsive vendor. Any formal bid solicitation conducted by the
 1213 association must be made available, upon request, to the
 1214 department via electronic delivery.

1215 Section 24. Subsection (5) is added to section 631.821,
 1216 Florida Statutes, to read:

1217 631.821 Powers and duties of the department; board
 1218 contracts and purchases.-

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1219 (5) (a) After July 1, 2024, all contracts entered into, and
 1220 all purchases made by, the board pursuant to this section which
 1221 are valued at or more than \$100,000 must first be approved by
 1222 the department. The department has 10 days to approve or deny
 1223 the contract or purchase upon electronic receipt of the approval
 1224 request. The contract or purchase is automatically approved if
 1225 the department is nonresponsive.

1226 (b) All contracts and purchases valued at or more than
 1227 \$100,000 require competition through a formal bid solicitation
 1228 conducted by the board. The board must undergo a formal bid
 1229 solicitation process. The formal bid solicitation process must
 1230 include all of the following:

1231 1. The time and date for the receipt of bids, the
 1232 proposals, and whether the board contemplates renewal of the
 1233 contract, including the price for each year for which the
 1234 contract may be renewed.

1235 2. All the contractual terms and conditions applicable to
 1236 the procurement.

1237 (c) Evaluation of bids by the board must include
 1238 consideration of the total cost for each year of the contract,
 1239 including renewal years, as submitted by the vendor. The plan
 1240 must award the contract to the most responsible and responsive
 1241 vendor. Any formal bid solicitation conducted by the board must
 1242 be made available, upon request, to the department via
 1243 electronic delivery.

1244 Section 25. Section 631.921, Florida Statutes, is amended
 1245 to read:

1246 631.921 Department powers; board contracts and purchases.—

1247 (1) The corporation shall be subject to examination by the

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1248 department. By March 1 of each year, the board of directors
 1249 shall cause a financial report to be filed with the department
 1250 for the immediately preceding calendar year in a form approved
 1251 by the department.

1252 (2) (a) After July 1, 2024, all contracts entered into, and
 1253 all purchases made by, the board pursuant to this section which
 1254 are valued at or more than \$100,000 must first be approved by
 1255 the department. The department has 10 days to approve or deny
 1256 the contract or purchase upon electronic receipt of the approval
 1257 request. The contract or purchase is automatically approved if
 1258 the department is nonresponsive.

1259 (b) All contracts and purchases valued at or more than
 1260 \$100,000 require competition through a formal bid solicitation
 1261 conducted by the board. The board must undergo a formal bid
 1262 solicitation process. The formal bid solicitation process must
 1263 include all of the following:

1264 1. The time and date for the receipt of bids, the
 1265 proposals, and whether the board contemplates renewal of the
 1266 contract, including the price for each year for which the
 1267 contract may be renewed.

1268 2. All the contractual terms and conditions applicable to
 1269 the procurement.

1270 (c) Evaluation of bids by the board must include
 1271 consideration of the total cost for each year of the contract,
 1272 including renewal years, as submitted by the vendor. The
 1273 association must award the contract to the most responsible and
 1274 responsive vendor. Any formal bid solicitation conducted by the
 1275 association must be made available, upon request, to the
 1276 department via electronic delivery.

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1277 Section 26. Paragraph (b) of subsection (3) of section
1278 633.124, Florida Statutes, is amended to read:

1279 633.124 Penalty for violation of law, rule, or order to
1280 cease and desist or for failure to comply with corrective
1281 order.—

1282 (3)

1283 (b) A person who initiates a pyrotechnic display within any
1284 structure commits a felony of the third degree, punishable as
1285 provided in s. 775.082, s. 775.083, or s. 775.084, unless:

1286 1. The structure has a fire protection system installed in
1287 compliance with s. 633.334.

1288 2. The owner of the structure has authorized in writing the
1289 pyrotechnic display.

1290 3. If the local jurisdiction requires a permit for the use
1291 of a pyrotechnic display in an occupied structure, such permit
1292 has been obtained and all conditions of the permit complied with
1293 or, if the local jurisdiction does not require a permit for the
1294 use of a pyrotechnic display in an occupied structure, the
1295 person initiating the display has complied with National Fire
1296 Protection Association, Inc., Standard 1126, 2021 ~~2001~~ Edition,
1297 Standard for the Use of Pyrotechnics before a Proximate
1298 Audience.

1299 Section 27. Subsection (2) of section 633.202, Florida
1300 Statutes, is amended to read:

1301 633.202 Florida Fire Prevention Code.—

1302 (2) The State Fire Marshal shall adopt the current edition
1303 of the National Fire Protection Association's Standard 1, Fire
1304 Prevention Code but may not adopt a building, mechanical,
1305 accessibility, or plumbing code. The State Fire Marshal shall

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1306 adopt the current edition of the Life Safety Code, NFPA 101,
1307 current editions, by reference. The State Fire Marshal may
1308 modify the selected codes and standards as needed to accommodate
1309 the specific needs of the state. Standards or criteria in the
1310 selected codes shall be similarly incorporated by reference. The
1311 State Fire Marshal shall incorporate within sections of the
1312 Florida Fire Prevention Code provisions that address uniform
1313 firesafety standards as established in s. 633.206. The State
1314 Fire Marshal shall incorporate within sections of the Florida
1315 Fire Prevention Code provisions addressing regional and local
1316 concerns and variations.

1317 Section 28. Paragraph (b) of subsection (1) of section
1318 633.206, Florida Statutes, is amended to read:

1319 633.206 Uniform firesafety standards.—The Legislature
1320 hereby determines that to protect the public health, safety, and
1321 welfare it is necessary to provide for firesafety standards
1322 governing the construction and utilization of certain buildings
1323 and structures. The Legislature further determines that certain
1324 buildings or structures, due to their specialized use or to the
1325 special characteristics of the person utilizing or occupying
1326 these buildings or structures, should be subject to firesafety
1327 standards reflecting these special needs as may be appropriate.

1328 (1) The department shall establish uniform firesafety
1329 standards that apply to:

1330 (b) All new, existing, and proposed hospitals, nursing
1331 homes, assisted living facilities, adult family-care homes,
1332 correctional facilities, public schools, transient public
1333 lodging establishments, public food service establishments,
1334 mobile food dispensing vehicles, elevators, migrant labor camps,

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mobile home parks, lodging parks, recreational vehicle parks, recreational camps, residential and nonresidential child care facilities, facilities for the developmentally disabled, motion picture and television special effects productions, tunnels, energy storage systems, and self-service gasoline stations, of which standards the State Fire Marshal is the final administrative interpreting authority.

In the event there is a dispute between the owners of the buildings specified in paragraph (b) and a local authority requiring a more stringent uniform firesafety standard for sprinkler systems, the State Fire Marshal shall be the final administrative interpreting authority and the State Fire Marshal's interpretation regarding the uniform firesafety standards shall be considered final agency action.

Section 29. Paragraph (b) of subsection (8) of section 634.041, Florida Statutes, is amended to read:

634.041 Qualifications for license.—To qualify for and hold a license to issue service agreements in this state, a service agreement company must be in compliance with this part, with applicable rules of the commission, with related sections of the Florida Insurance Code, and with its charter powers and must comply with the following:

(8)

(b) A service agreement company does not have to establish and maintain an unearned premium reserve if it secures and maintains contractual liability insurance in accordance with the following:

1. Coverage of 100 percent of the claim exposure is

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obtained from an insurer or insurers approved by the office, which ~~hold~~ ~~holds~~ a certificate of authority under s. 624.401 to do business within this state, or secured through a risk retention ~~groups~~ ~~group~~, which are ~~is~~ authorized to do business within this state under s. 627.943 or s. 627.944. Such insurers ~~insurer~~ or risk retention ~~groups~~ ~~group~~ must maintain a surplus as regards policyholders of at least \$15 million.

2. If the service agreement company does not meet its contractual obligations, the contractual liability insurance policy binds its issuer to pay or cause to be paid to the service agreement holder all legitimate claims and cancellation refunds for all service agreements issued by the service agreement company while the policy was in effect. This requirement also applies to those service agreements for which no premium has been remitted to the insurer.

3. If the issuer of the contractual liability policy is fulfilling the service agreements covered by the contractual liability policy and the service agreement holder cancels the service agreement, the issuer must make a full refund of unearned premium to the consumer, subject to the cancellation fee provisions of s. 634.121(3). The sales representative and agent must refund to the contractual liability policy issuer their unearned pro rata commission.

4. The policy may not be canceled, terminated, or nonrenewed by the insurer or the service agreement company unless a 90-day written notice thereof has been given to the office by the insurer before the date of the cancellation, termination, or nonrenewal.

5. The service agreement company must provide the office

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with the claims statistics.

6. A policy issued in compliance with this paragraph may either pay 100 percent of claims as they are incurred, or pay 100 percent of claims due in the event of the failure of the service agreement company to pay such claims when due.

All funds or premiums remitted to an insurer by a motor vehicle service agreement company under this part shall remain in the care, custody, and control of the insurer and shall be counted as an asset of the insurer; provided, however, this requirement does not apply when the insurer and the motor vehicle service agreement company are affiliated companies and members of an insurance holding company system. If the motor vehicle service agreement company chooses to comply with this paragraph but also maintains a reserve to pay claims, such reserve shall only be considered an asset of the covered motor vehicle service agreement company and may not be simultaneously counted as an asset of any other entity.

Section 30. Subsection (5) of section 634.081, Florida Statutes, is amended to read:

634.081 Suspension or revocation of license; grounds.—

(5) The office shall suspend or revoke the license of a company if it finds that the ratio of gross written premiums written to net assets exceeds 10 to 1 unless the company has in excess of \$750,000 in net assets and is utilizing contractual liability insurance which cedes 100 percent of the service agreement company's claims liabilities to the contractual liability insurers ~~insurer~~ or is utilizing contractual liability insurance which reimburses the service agreement company for 100

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percent of its paid claims. However, if a service agreement company has been licensed by the office in excess of 10 years, is in compliance with all applicable provisions of this part, and has net assets at all times in excess of \$3 million that comply with the provisions of part II of chapter 625, such company may not exceed a ratio of gross written premiums written to net assets of 15 to 1.

Section 31. Present subsection (5) of section 634.3077, Florida Statutes, is redesignated as subsection (6), a new subsection (5) is added to that section, and subsection (3) of that section is amended, to read:

634.3077 Financial requirements.—

(3) An association may ~~shall~~ not be required to set up an unearned premium reserve if it has purchased contractual liability insurance which demonstrates to the satisfaction of the office that 100 percent of its claim exposure is covered by such insurance. Such contractual liability insurance shall be obtained from an insurer or insurers that hold ~~holds~~ a certificate of authority to do business within the state or from an insurer or insurers approved by the office as financially capable of meeting the obligations incurred pursuant to the policy. For purposes of this subsection, the contractual liability policy shall contain the following provisions:

(a) In the event that the home warranty association is unable to fulfill its obligation under its contracts issued in this state for any reason, including insolvency, bankruptcy, or dissolution, the contractual liability insurer will pay losses and unearned premiums under such plans directly to persons making claims under such contracts.

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(b) The insurer issuing the policy shall assume full responsibility for the administration of claims in the event of the inability of the association to do so.

(c) The policy may not be canceled or not renewed by ~~either~~ the insurer or the association unless 60 days' written notice thereof has been given to the office by the insurer before the date of such cancellation or nonrenewal.

(d) The contractual liability insurance policy shall insure all home warranty contracts that were issued while the policy was in effect whether or not the premium has been remitted to the insurer.

(5) An association licensed under this part is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the ratio to net assets limitation of this section if the association complies with the following:

(a) The association or, if the association is a direct or indirect wholly owned subsidiary of a parent corporation, its parent corporation has, and maintains at all times, a minimum net worth of at least \$100 million and provides the office with the following:

1. A copy of the association's annual audited financial statements or the audited consolidated financial statements of the association's parent corporation, prepared by an independent certified public accountant in accordance with generally accepted accounting principles, which clearly demonstrate the net worth of the association or its parent corporation to be \$100 million, and a quarterly written certification to the office that the association or its parent corporation continues

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to maintain the net worth required under this paragraph.

2. The association's or its parent corporation's Form 10-K, Form 10-Q, or Form 20-F as filed with the United States Securities and Exchange Commission or such other documents required to be filed with a recognized stock exchange, which shall be provided on a quarterly and annual basis within 10 days after the last date each such report must be filed with the Securities and Exchange Commission, the National Association of Security Dealers Automated Quotation system, or other recognized stock exchange.

Failure to timely file the documents required under this paragraph may, at the discretion of the office, subject the association to suspension or revocation of its license under this part.

(b) If the net worth of a parent corporation is used to satisfy the net worth provisions of paragraph (a), the following provisions must be met:

1. The parent corporation must guarantee all service warranty obligations of the association, wherever written, on a form approved in advance by the office. A cancellation, termination, or modification of the guarantee does not become effective unless the parent corporation provides the office written notice at least 90 days before the effective date of the cancellation, termination, or modification and the office approves the request in writing. Before the effective date of the cancellation, termination, or modification of the guarantee, the association must demonstrate to the satisfaction of the office compliance with all applicable provisions of this part,

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including whether the association will meet the requirements of this section by the purchase of contractual liability insurance, establishing required reserves, or other method allowed under this section. If the association or parent corporation does not demonstrate to the satisfaction of the office compliance with all applicable provisions of this part, the association or parent association shall immediately cease writing new and renewal business upon the effective date of the cancellation, termination, or modification.

2. The association must maintain at all times net assets of at least \$750,000.

Section 32. Section 634.317, Florida Statutes, is amended to read:

634.317 License and appointment required.—No person may solicit, negotiate, or effectuate home warranty contracts for remuneration in this state unless such person is licensed and appointed as a sales representative. A licensed and appointed sales representative shall be directly responsible and accountable for all acts of the licensee's employees. An agent or employee of a municipal or county government is exempt from these licensing and appointment requirements.

Section 33. Present subsection (9) of section 648.25, Florida Statutes, is redesignated as subsection (10), and a new subsection (9) and subsection (11) are added to that section, to read:

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

(9) "Referring bail bond agent" is the limited surety agent who is appointed with the surety company issuing the transfer bond that is to be posted in a county where the referring

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limited surety agent is not registered. The referring bail bond agent is the appointed agent held liable for the transfer bond, along with the issuing surety company.

(11) "Transfer bond" means the appearance bond and power of attorney form posted by a limited surety agent who is registered in the county where the defendant is being held in custody, and who is appointed to represent the same surety company issuing the appearance bond as the referring bail bond agent.

Section 34. Subsection (3) of section 648.26, Florida Statutes, is amended to read:

648.26 Department of Financial Services; administration.—

(3) The papers, documents, reports, or any other investigatory records of the department are confidential and exempt from s. 119.07(1) until such investigation is completed or ceases to be active, unless the department or office files a formal administrative complaint, emergency order, or consent order against the individual or entity. For the purpose of this section, an investigation is considered active while the investigation is being conducted by the department with a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department is proceeding with reasonable dispatch and there is good faith belief that action may be initiated by the department or other administrative or law enforcement agency. This subsection does not prevent the department or office from disclosing the content of a complaint or such information as it deems necessary to conduct the investigation, to update the complainant as to the status and outcome of the complaint, to review the details of the

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1567 investigation with the subject or the subject's representative,
 1568 or to share such information with any law enforcement agency or
 1569 other regulatory body.

1570 Section 35. Paragraph (a) of subsection (1) of section
 1571 648.30, Florida Statutes, is amended to read:
 1572 648.30 Licensure and appointment required; prohibited acts;
 1573 penalties.—

1574 (1) (a) A person or entity may not act in the capacity of a
 1575 bail bond agent or bail bond agency or perform any of the
 1576 functions, duties, or powers prescribed for bail bond agents or
 1577 bail bond agencies under this chapter unless that person or
 1578 entity is qualified, licensed, and appointed as provided in this
 1579 chapter ~~and employed by a bail bond agency.~~

1580 Section 36. Subsection (1) of section 648.355, Florida
 1581 Statutes, is amended to read:

1582 648.355 Limited surety agents and professional bail bond
 1583 agents; qualifications.—

1584 (1) The applicant shall furnish, with the application for
 1585 license, a complete set of the applicant's fingerprints in
 1586 accordance with s. 626.171(4) ~~and a recent credential-sized,~~
 1587 ~~fullface photograph of the applicant.~~ The department may not
 1588 issue a license under this section until the department has
 1589 received a report from the Department of Law Enforcement and the
 1590 Federal Bureau of Investigation relative to the existence or
 1591 nonexistence of a criminal history report based on the
 1592 applicant's fingerprints.

1593 Section 37. Subsection (3) of section 648.43, Florida
 1594 Statutes, is amended to read:

1595 648.43 Power of attorney; approval by office; filing of

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1596 copies; notification of transfer bond.—

1597 (3) Every bail bond agent who executes or countersigns a
 1598 transfer bond shall indicate in writing on the bond the name,
 1599 ~~and address,~~ and license number of the referring bail bond
 1600 agent.

1601 Section 38. Section 717.101, Florida Statutes, is amended
 1602 to read:

1603 717.101 Definitions.—As used in this chapter, unless the
 1604 context otherwise requires:

1605 (1) "Aggregate" means the amounts reported for owners of
 1606 unclaimed property of less than \$50 or where there is no name
 1607 for the individual or entity listed on the holder's records,
 1608 regardless of the amount to be reported.

1609 (2) "Apparent owner" means the person whose name appears on
 1610 the records of the holder as the person entitled to property
 1611 held, issued, or owing by the holder.

1612 (3) "Audit" means an action or proceeding to examine and
 1613 verify a person's records, books, accounts, and other documents
 1614 to ascertain and determine compliance with this chapter.

1615 (4) "Audit agent" means a person with whom the department
 1616 enters into a contract with to conduct an audit or examination.
 1617 The term includes an independent contractor of the person and
 1618 each individual participating in the audit on behalf of the
 1619 person or contractor.

1620 ~~(5) (3)~~ "Banking organization" means any and all banks,
 1621 trust companies, private bankers, savings banks, industrial
 1622 banks, safe-deposit companies, savings and loan associations,
 1623 credit unions, and investment companies in this state, organized
 1624 under or subject to the laws of this state or of the United

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States, including entities organized under 12 U.S.C. s. 611, but does not include Federal Reserve Banks. The term also includes any corporation, business association, or other organization that:

(a) Is a wholly or partially owned subsidiary of any banking, banking corporation, or bank holding company that performs any or all of the functions of a banking organization; or

(b) Performs functions pursuant to the terms of a contract with any banking organization ~~state or national bank, international banking entity or similar entity, trust company, savings bank, industrial savings bank, land bank, safe deposit company, private bank, or any organization otherwise defined by law as a bank or banking organization.~~

(6)(4) "Business association" means any for-profit or nonprofit corporation other than a public corporation; joint stock company; investment company; unincorporated association or association of two or more individuals for business purposes, whether or not for profit; partnership; joint venture; limited liability company; sole proprietorship; business trust; trust company; land bank; safe-deposit company; safekeeping depository; financial organization; insurance company; federally chartered entity; utility company; or other business entity, whether or not for profit corporation (other than a public corporation), joint stock company, investment company, business trust, partnership, limited liability company, or association of two or more individuals for business purposes, whether for profit or not for profit.

(7)(5) "Claimant" means the person on whose behalf a claim

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is filed.

(8) "Claimant's representative" means an attorney who is a member in good standing of The Florida Bar, a certified public accountant licensed in this state, or private investigator who is duly licensed to do business in the state, registered with the department, and authorized by the claimant to claim unclaimed property on the claimant's behalf. The term does not include a person acting in a representative capacity, such as a personal representative, guardian, trustee, or attorney, whose representation is not contingent upon the discovery or location of unclaimed property; provided, however, that any agreement entered into for the purpose of evading s. 717.135 is invalid and unenforceable.

(9)(6) "Credit balance" means an account balance in the customer's favor.

(10)(7) "Department" means the Department of Financial Services.

(11)(8) "Domicile" means the state of incorporation for a corporation; the state of filing for a business association, other than a corporation, whose formation or organization requires a filing with a state; the state of organization for a business association, other than a corporation, whose formation or organization does not require a filing with a state; or the state of home office for a federally chartered entity incorporated under the laws of a state, or, for an unincorporated business association, the state where the business association is organized.

(12)(9) "Due diligence" means the use of reasonable and prudent methods under particular circumstances to locate

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1683 apparent owners of inactive accounts using the taxpayer
 1684 identification number or social security number, if known, which
 1685 may include, but are not limited to, using a nationwide
 1686 database, cross-indexing with other records of the holder,
 1687 mailing to the last known address unless the last known address
 1688 is known to be inaccurate, providing written notice as described
 1689 in this chapter by electronic mail if an apparent owner has
 1690 elected such delivery, or engaging a licensed agency or company
 1691 capable of conducting such search and providing updated
 1692 addresses.

1693 (13) "Electronic" means relating to technology having
 1694 electrical, digital, magnetic, wireless, optical,
 1695 electromagnetic, or similar capabilities.

1696 (14)(10) "Financial organization" means a state or federal
 1697 savings association, savings and loan association, savings bank,
 1698 industrial bank, bank, banking organization, trust company,
 1699 international bank agency, cooperative bank, building and loan
 1700 association, or credit union.

1701 (15)(11) "Health care provider" means any state-licensed
 1702 entity that provides and receives payment for health care
 1703 services. These entities include, but are not limited to,
 1704 hospitals, outpatient centers, physician practices, and skilled
 1705 nursing facilities.

1706 (16)(12) "Holder" means:

1707 (a) A person, wherever organized or domiciled, who is in
 1708 possession or control or has custody of property or the rights
 1709 to property belonging to another; is indebted to another on an
 1710 obligation; or is obligated to hold for the account of, or to
 1711 deliver or pay to, the owner, property subject to this chapter;

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1712 or+

1713 ~~(a) In possession of property belonging to another;~~

1714 ~~(b) A trustee in case of a trust; or~~

1715 ~~(c) Indebted to another on an obligation.~~

1716 (17)(13) "Insurance company" means an association,
 1717 corporation, or fraternal or mutual benefit organization,
 1718 whether for profit or not for profit, which is engaged in
 1719 providing insurance coverage.

1720 (18)(14) "Intangible property" includes, by way of
 1721 illustration and not limitation:

1722 (a) Moneys, checks, virtual currency, drafts, deposits,
 1723 interest, dividends, and income.

1724 (b) Credit balances, customer overpayments, security
 1725 deposits and other instruments as defined by chapter 679,
 1726 refunds, unpaid wages, unused airline tickets, and unidentified
 1727 remittances.

1728 (c) Stocks, and other intangible ownership interests in
 1729 business associations.

1730 (d) Moneys deposited to redeem stocks, bonds, bearer bonds,
 1731 original issue discount bonds, coupons, and other securities, or
 1732 to make distributions.

1733 (e) Amounts due and payable under the terms of insurance
 1734 policies.

1735 (f) Amounts distributable from a trust or custodial fund
 1736 established under a plan to provide any health, welfare,
 1737 pension, vacation, severance, retirement, death, stock purchase,
 1738 profit sharing, employee savings, supplemental unemployment
 1739 insurance, or similar benefit.

1740 (19)(15) "Last known address" means a description of the

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location of the apparent owner sufficient for the purpose of the delivery of mail. For the purposes of identifying, reporting, and remitting property to the department which is presumed to be unclaimed, "last known address" includes any partial description of the location of the apparent owner sufficient to establish the apparent owner was a resident of this state at the time of last contact with the apparent owner or at the time the property became due and payable.

(20)~~(16)~~ "Lawful charges" means charges against dormant accounts that are authorized by statute for the purpose of offsetting the costs of maintaining the dormant account.

(21)~~(17)~~ "Managed care payor" means a health care plan that has a defined system of selecting and limiting health care providers as evidenced by a managed care contract with the health care providers. These plans include, but are not limited to, managed care health insurance companies and health maintenance organizations.

(22)~~(18)~~ "Owner" means a person, or the person's legal representative, entitled to receive or having a legal or equitable interest in or claim against property subject to this chapter; a depositor in the case of a deposit; a beneficiary in the case of a trust or a deposit in trust; or a payee in the case of a negotiable instrument or other intangible property a depositor in the case of a deposit, a beneficiary in the case of a trust or a deposit in trust, or a payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this chapter or his or her legal representative.

(23) "Person" means an individual; estate; business

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association; corporation; firm; association; joint adventure; partnership; government or governmental subdivision, agency, or instrumentality; or any other legal or commercial entity.

(24)~~(19)~~ "Public corporation" means a corporation created by the state, founded and owned in the public interest, supported by public funds, and governed by those deriving their power from the state.

(25) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(26)~~(20)~~ "Reportable period" means the calendar year ending December 31 of each year.

(27)~~(21)~~ "State," when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States.

(28)~~(22)~~ "Trust instrument" means a trust instrument as defined in s. 736.0103.

~~(23) "Ultimate equitable owner" means a natural person who, directly or indirectly, owns or controls an ownership interest in a corporation, a foreign corporation, an alien business organization, or any other form of business organization, regardless of whether such natural person owns or controls such ownership interest through one or more natural persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.~~

(29) "Unclaimed Property Purchase Agreement" means the form adopted by the department pursuant to s. 717.135 which must be

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1799 used, without modification or amendment, by a claimant's
 1800 representative to purchase unclaimed property from an owner.
 1801 (30) "Unclaimed Property Recovery Agreement" means the form
 1802 adopted by the department pursuant to s. 717.135 which must be
 1803 used, without modification or amendment, by a claimant's
 1804 representative to obtain an owner's consent and authority to
 1805 recover unclaimed property on the owner's behalf.
 1806 (31)-(24) "United States" means any state, district,
 1807 commonwealth, territory, insular possession, and any other area
 1808 subject to the legislative authority of the United States of
 1809 America.
 1810 (32)-(25) "Utility" means a person who owns or operates, for
 1811 public use, any plant, equipment, property, franchise, or
 1812 license for the transmission of communications or the
 1813 production, storage, transmission, sale, delivery, or furnishing
 1814 of electricity, water, steam, or gas.
 1815 (33) (a) "Virtual currency" means digital units of exchange
 1816 that:
 1817 1. Have a centralized repository or administrator;
 1818 2. Are decentralized and have no centralized repository or
 1819 administrator; or
 1820 3. May be created or obtained by computing or manufacturing
 1821 effort.
 1822 (b) The term does not include any of the following:
 1823 1. Digital units that:
 1824 a. Are used solely within online gaming platforms;
 1825 b. Have no market or application outside of the online
 1826 gaming platforms in sub-subparagraph a.;
 1827 c. Cannot be converted into, or redeemed for, fiat currency

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1828 or virtual currency; and
 1829 d. Can or cannot be redeemed for real-world goods,
 1830 services, discounts, or purchases.
 1831 2. Digital units that can be redeemed for:
 1832 a. Real-world goods, services, discounts, or purchases as
 1833 part of a customer affinity or rewards program with the issuer
 1834 or other designated merchants; or
 1835 b. Digital units in another customer affinity or rewards
 1836 program, but cannot be converted into, or redeemed for, fiat
 1837 currency or virtual currency.
 1838 3. Digital units used as part of prepaid cards.
 1839 Section 39. Subsections (3) and (4) are added to section
 1840 717.102, Florida Statutes, to read:
 1841 717.102 Property presumed unclaimed; general rule.—
 1842 (3) A presumption that property is unclaimed is rebutted by
 1843 an apparent owner's expression of interest in the property. An
 1844 owner's expression of interest in property includes:
 1845 (a) A record communicated by the apparent owner to the
 1846 holder or agent of the holder concerning the property or the
 1847 account in which the property is held;
 1848 (b) An oral communication by the apparent owner to the
 1849 holder or agent of the holder concerning the property or the
 1850 account in which the property is held, if the holder or its
 1851 agent contemporaneously makes and preserves a record of the fact
 1852 of the apparent owner's communication;
 1853 (c) Presentment of a check or other instrument of payment
 1854 of a dividend, interest payment, or other distribution, with
 1855 respect to an account, underlying security, or interest in a
 1856 business association;

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1857 (d) Activity directed by an apparent owner in the account
 1858 in which the property is held, including accessing the account
 1859 or information concerning the account, or a direction by the
 1860 apparent owner to increase, decrease, or otherwise change the
 1861 amount or type of property held in the account;

1862 (e) A deposit into or withdrawal from an account at a
 1863 financial organization, excluding an automatic deposit or
 1864 withdrawal previously authorized by the apparent owner or an
 1865 automatic reinvestment of dividends or interest, which does not
 1866 constitute an expression of interest; or

1867 (f) Any other action by the apparent owner which reasonably
 1868 demonstrates to the holder that the apparent owner knows that
 1869 the property exists.

1870 (4) A deceased owner is incapable of expressing an interest
 1871 in property.

1872 Section 40. Subsection (5) of section 717.106, Florida
 1873 Statutes, is amended to read:

1874 717.106 Bank deposits and funds in financial
 1875 organizations.—

1876 (5) If the documents establishing a deposit described in
 1877 subsection (1) state the address of a beneficiary of the
 1878 deposit, and the account has a value of at least \$50, notice
 1879 shall be given to the beneficiary as provided for notice to the
 1880 apparent owner under s. 717.117(6) ~~s. 717.117(4)~~. This
 1881 subsection shall apply to accounts opened on or after October 1,
 1882 1990.

1883 Section 41. Section 717.1065, Florida Statutes, is created
 1884 to read:

1885 717.1065 Virtual currency.—

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1886 (1) Any virtual currency held or owing by a banking
 1887 organization, corporation, custodian, exchange, or other entity
 1888 engaged in virtual currency business activity is presumed
 1889 unclaimed unless the owner, within 5 years, has communicated in
 1890 writing with the banking organization, corporation, custodian,
 1891 exchange, or other entity engaged in virtual currency business
 1892 activity concerning the virtual currency or otherwise indicated
 1893 an interest as evidenced by a memorandum or other record on file
 1894 with the banking organization, corporation, custodian, exchange,
 1895 or other entity engaged in virtual currency business activity.

1896 (2) A holder may not deduct from the amount of any virtual
 1897 currency subject to this section any charges imposed by reason
 1898 of the virtual currency unless there is a valid and enforceable
 1899 written contract between the holder and the owner of the virtual
 1900 currency pursuant to which the holder may impose those charges
 1901 and the holder does not regularly reverse or otherwise cancel
 1902 those charges with respect to the virtual currency.

1903 Section 42. Paragraph (a) of subsection (1) of section
 1904 717.1101, Florida Statutes, is amended to read:

1905 717.1101 Unclaimed equity and debt of business
 1906 associations.—

1907 (1) (a) Stock or other equity interest in a business
 1908 association is presumed unclaimed on the date of 3 years after
 1909 the earliest of the following:

1910 1. Three years after The date of the most recent of any
 1911 owner-generated activity or communication related to the
 1912 account, as recorded and maintained in the holder's database and
 1913 records systems sufficient enough to demonstrate the owner's
 1914 continued awareness or interest in the property dividend, stock

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~~split, or other distribution unclaimed by the apparent owner;~~

2. Three years after the date of the death of the owner, as evidenced by: The date of a statement of account or other notification or communication that was returned as undeliverable; or

a. Notice to the holder of the owner's death by an administrator, beneficiary, relative, or trustee, or by a personal representative or other legal representative of the owner's estate;

b. Receipt by the holder of a copy of the death certificate of the owner;

c. Confirmation by the holder of the owner's death through other means; or

d. Other evidence from which the holder may reasonably conclude that the owner is deceased; or

3. One year after the date on which the holder receives notice under subparagraph 2. if the notice is received 2 years or less after the owner's death and the holder lacked knowledge of the owner's death during that period of 2 years or less ~~The date the holder discontinued mailings, notifications, or communications to the apparent owner.~~

Section 43. Subsection (1) of section 717.112, Florida Statutes, is amended to read:

717.112 Property held by agents and fiduciaries.—

(1) ~~Except as provided in ss. 717.1125 and 733.816,~~ All intangible property and any income or increment thereon held in a fiduciary capacity for the benefit of another person, including property held by an attorney in fact or an agent, ~~except as provided in ss. 717.1125 and 733.816,~~ is presumed

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unclaimed unless the owner has within 5 years after it has become payable or distributable increased or decreased the principal, accepted payment of principal or income, communicated in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary.

Section 44. Effective January 1, 2025, section 717.117, Florida Statutes, is amended to read:

717.117 Report of unclaimed property.—

(1) Every person holding funds or other property, tangible or intangible, presumed unclaimed and subject to custody as unclaimed property under this chapter shall report to the department ~~on such forms as the department may prescribe by rule. In lieu of forms, a report identifying 25 or more different apparent owners must be submitted by the holder~~ via electronic medium as the department may prescribe by rule. The report must include:

(a) ~~Except for traveler's checks and money orders,~~ The name, social security number or taxpayer identification number, ~~and date of birth, if known,~~ and last known address, ~~if any,~~ of each person appearing from the records of the holder to be the owner of any property which is presumed unclaimed and which has a value of \$10 ~~\$50~~ or more.

(b) For unclaimed funds ~~that which~~ have a value of \$10 ~~\$50~~ or more held or owing under any life or endowment insurance policy or annuity contract, the identifying information required to be provided under paragraph (a) for both full name, taxpayer identification number or social security number, date of birth, ~~if known, and last known address of the insured or annuitant and~~

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of the beneficiary according to records of the insurance company holding or owing the funds.

(c) For all tangible property held in a safe-deposit box or other safekeeping repository, a description of the property and the place where the property is held and may be inspected by the department, and any amounts owing to the holder. Contents of a safe-deposit box or other safekeeping repository which consist of documents or writings of a private nature and which have little or no apparent value shall not be presumed unclaimed.

(d) The nature or type of property, any accounting or and identifying number associated with the property, a if any, or description of the property, and the amount appearing from the records to be due. Items of value less than \$10 ~~under \$50~~ each may be reported in the aggregate.

(e) The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property.

(f) Any other information the department may prescribe by rule as necessary for the administration of this chapter.

(2) If the total value of all presumed unclaimed property, whether tangible or intangible, held by a person is less than \$10, a zero balance report may be filed for that reporting period

~~(f) Any person or business association or public corporation holding funds presumed unclaimed and having a total value of \$10 or less may file a zero balance report for that reporting period. The balance brought forward to the new reporting period is zero.~~

~~(g) Such other information as the department may prescribe~~

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~~by rule as necessary for the administration of this chapter.~~

(3)(4) Credit balances, customer overpayments, security deposits, and refunds having a value of less than \$10 may ~~shall~~ not be presumed unclaimed.

(4)(2) If the holder of property presumed unclaimed and subject to custody as unclaimed property is a successor holder or if the holder has changed the holder's name while in possession of the property, the holder must ~~shall~~ file with the holder's report all known names and addresses of each prior holder of the property. Compliance with this subsection means the holder exercises reasonable and prudent efforts to determine the names of all prior holders.

(5)(3) The report must be filed before May 1 of each year. The report applies ~~shall apply~~ to the preceding calendar year. Upon written request by any person required to file a report, and upon a showing of good cause, the department may extend the reporting date. The department may impose and collect a penalty of \$10 per day up to a maximum of \$500 for the failure to timely report, if an extension was not provided or if the holder of the property failed the failure to include in a report information required by this chapter which was in the holder's possession at the time of reporting. The penalty must ~~shall~~ be remitted to the department within 30 days after the date of the notification to the holder that the penalty is due and owing. As necessary for proper administration of this chapter, the department may waive any penalty due with appropriate justification. ~~On written request by any person required to file a report and upon a showing of good cause, the department may postpone the reporting date.~~ The department must provide information contained in a

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report filed with the department to any person requesting a copy of the report or information contained in a report, to the extent the information requested is not confidential, within 45 days after the department determines that the report has been processed and added to the unclaimed property database subsequent to a determination that the report is accurate and acceptable and that the reported property is the same as the remitted property.

(6)(4) Holders of inactive accounts having a value of \$50 or more shall use due diligence to locate and notify apparent owners that the entity is holding unclaimed property available for them to recover. Not more than 120 days and not less than 60 days prior to filing the report required by this section, the holder in possession of property presumed unclaimed and subject to custody as unclaimed property under this chapter shall send written notice by first-class United States mail to the apparent owner at the apparent owner's last known address from the holder's records or from other available sources, or via electronic mail if the apparent owner has elected this method of delivery, informing the apparent owner that the holder is in possession of property subject to this chapter, if the holder has in its records a mailing or electronic an address for the apparent owner which the holder's records do not disclose to be inaccurate. These two means of contact are not mutually exclusive; if the mailing address is determined to be inaccurate, electronic mail may be used if so elected by the apparent owner.

(7) The written notice to the apparent owner required under this section must:

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(a) Contain a heading that reads substantially as follows: "Notice. The State of Florida requires us to notify you that your property may be transferred to the custody of the Florida Department of Financial Services if you do not contact us before (insert date that is 30 days after the date of notice)."

(b) Identify the type, nature, and, except for property that does not have a fixed value, value of the property that is the subject of the notice.

(c) State that the property will be turned over to the custody of the department if no response is received within 30 days after the date of the notice.

(d) State that any property that is not legal tender of the United States may be sold or liquidated by the department.

(e) State that after the property is turned over to the department, an apparent owner seeking return of the property may file a claim with the department.

(f) State that the property is currently with a holder and provide instructions that the apparent owner must follow to prevent the holder from reporting and paying for the property or from delivering the property to the department.

(8)(5) Any holder of intangible property may file with the department a petition for determination that the property is unclaimed requesting the department to accept custody of the property. The petition shall state any special circumstances that exist, contain the information required by subsection (4)(2), and show that a diligent search has been made to locate the owner. If the department finds that the proof of diligent search is satisfactory, it shall give notice as provided in s. 717.118 and accept custody of the property.

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~~(9)(6)~~ Upon written request by any entity or person required to file a report, stating such entity's or person's justification for such action, the department may place that entity or person in an inactive status as an unclaimed property "holder."

~~(10)(7)~~ (a) This section does not apply to the unclaimed patronage refunds as provided for by contract or through bylaw provisions of entities organized under chapter 425 or that are exempt from ad valorem taxation pursuant to s. 196.2002.

(b) This section does not apply to intangible property held, issued, or owing by a business association subject to the jurisdiction of the United States Surface Transportation Board or its successor federal agency if the apparent owner of such intangible property is a business association. The holder of such property does not have any obligation to report, to pay, or to deliver such property to the department.

(c) This section does not apply to credit balances, overpayments, refunds, or outstanding checks owed by a health care provider to a managed care payor with whom the health care provider has a managed care contract, provided that the credit balances, overpayments, refunds, or outstanding checks become due and owing pursuant to the managed care contract.

~~(11)(8)~~ (a) As used in this subsection, the term "property identifier" means the descriptor used by the holder to identify the unclaimed property.

(b) Social security numbers and property identifiers contained in reports required under this section, held by the department, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

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(c) This exemption applies to social security numbers and property identifiers held by the department before, on, or after the effective date of this exemption.

Section 45. Present subsections (4), (5), and (6) of section 717.119, Florida Statutes, are redesignated as subsections (5), (6), and (7), respectively, and a new subsection (4) and subsection (8) are added to that section, to read:

717.119 Payment or delivery of unclaimed property.—

(4) All virtual currency reported under this chapter on the annual report filing required in s. 717.117 shall be remitted to the department with the report. The holder shall liquidate the virtual currency and remit the proceeds to the department. The liquidation must occur within 30 days before the filing of the report. Upon delivery of the virtual currency proceeds to the department, the holder is relieved of all liability of every kind in accordance with the provisions of s. 717.1201 to every person for any losses or damages resulting to the person by the delivery to the department of the virtual currency proceeds.

(8) A holder may not assign or otherwise transfer its obligation to report, pay, or deliver property or to comply with the provisions of this chapter, other than to a parent, subsidiary, or affiliate of the holder.

(a) Unless otherwise agreed to by the parties to a transaction, the holder's successor by merger or consolidation, or any person or entity that acquires all or substantially all of the holder's capital stock or assets, is responsible for fulfilling the holder's obligation to report, pay, or deliver property or to comply with the duties of this chapter regarding

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the transfer of property owed to the holder's successor and being held for an owner resulting from the merger, consolidation, or acquisition.

(b) This subsection does not prohibit a holder from contracting with a third party for the reporting of unclaimed property, but the holder remains responsible to the department for the complete, accurate, and timely reporting of the property.

Section 46. Section 717.1201, Florida Statutes, is amended to read:

717.1201 Custody by state; holder ~~relieved from~~ liability; reimbursement of holder paying claim; reclaiming for owner; ~~defense of holder~~; payment of safe-deposit box or repository charges.—

(1) Upon the good faith payment or delivery of property to the department, the state assumes custody and responsibility for the safekeeping of property. Any person who pays or delivers property to the department in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim then existing or which thereafter may arise or be made in respect to the property.

(a) A holder's substantial compliance with s. 717.117(4) and good faith payment or delivery of property to the department terminates any legal relationship between the holder and the owner with respect to the property reported and releases and discharges the holder from any and all liability to the owner, the owner's heirs, personal representatives, successors, or assigns by reason of such payment or delivery, regardless of whether such property is in fact and in law unclaimed property,

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and such delivery and payment may be plead as a bar to recovery and are a conclusive defense in any suit or action brought by the owner, the owner's heirs, personal representatives, successors, and assigns or any claimant against the holder by reason of such delivery or payment.

(b) If the holder pays or delivers property to the department in good faith and thereafter any other person claims the property from the holder paying or delivering, or another state claims the money or property under that state's laws relating to escheat or abandoned or unclaimed property, the department, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim, except that a holder may not be indemnified against penalties imposed by another state.

(2) For the purposes of this section, a payment or delivery of property is made in good faith if:

(a) The payment or delivery was made in conjunction with an accurate and acceptable report.

(b) The payment or delivery was made in a reasonable attempt to comply with this chapter.

(c) The holder had a reasonable basis for believing, based on the facts then known, that the property was unclaimed and subject to this chapter.

(d) There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.

~~(3)~~ (2) Any holder who has paid money to the department pursuant to this chapter may make payment to any person appearing to be entitled to payment and, upon filing proof that

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the payee is entitled thereto, the department shall forthwith repay the holder without deduction of any fee or other charges. If repayment is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be repaid under this subsection upon filing proof that the instrument was duly presented and that the payee is entitled to payment. The holder shall be repaid for payment made under this subsection even if the payment was made to a person whose claim was barred under s. 717.129(1).

(4) ~~(3)~~ Any holder who has delivered property, including a certificate of any interest in a business association, other than money to the department pursuant to this chapter may reclaim the property if still in the possession of the department, without payment of any fee or other charges, upon filing proof that the owner has claimed the property from the holder.

(5) ~~(4)~~ The department may accept an affidavit of the holder stating the facts that entitle the holder to recover money and property under this section as sufficient proof.

~~(5) If the holder pays or delivers property to the department in good faith and thereafter any other person claims the property from the holder paying or delivering, or another state claims the money or property under that state's laws relating to escheat or abandoned or unclaimed property, the department, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim.~~

~~(6) For the purposes of this section, "good faith" means that:~~

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~~(a) Payment or delivery was made in a reasonable attempt to comply with this chapter.~~

~~(b) The person delivering the property was not a fiduciary then in breach of trust in respect to the property and had a reasonable basis for believing, based on the facts then known to that person, that the property was unclaimed for the purposes of this chapter.~~

~~(c) There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.~~

(6) ~~(7)~~ Property removed from a safe-deposit box or other safekeeping repository is received by the department subject to the holder's right under this subsection to be reimbursed for the actual cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The department shall make the reimbursement to the holder out of the proceeds remaining after the deduction of the department's selling cost.

(7) If it appears to the satisfaction of the department that, because of some mistake of fact, error in calculation, or erroneous interpretation of a statute, a person has paid or delivered to the department pursuant to any provision of this chapter any money or other property not required by this chapter to be so paid or delivered, the department may, within 5 years after such erroneous payment or delivery, refund or redeliver such money or other property to the person, provided that such money or property has not been paid or delivered to a claimant or otherwise disposed of in accordance with this chapter.

Section 47. Subsection (1) of section 717.123, Florida

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Statutes, is amended to read:

717.123 Deposit of funds.—

(1) All funds received under this chapter, including the proceeds from the sale of unclaimed property under s. 717.122, shall forthwith be deposited by the department in the Unclaimed Property Trust Fund. The department shall retain, from funds received under this chapter, an amount not exceeding \$65 ~~\$15~~ million from which the department shall make prompt payment of claims allowed by the department and shall pay the costs incurred by the department in administering and enforcing this chapter. All remaining funds received by the department under this chapter shall be deposited by the department into the State School Fund.

Section 48. Present subsection (2) of section 717.1242, Florida Statutes, is redesignated as subsection (3), a new subsection (2) is added to that section, and subsection (1) of that section is amended, to read:

717.1242 Restatement of jurisdiction of the circuit court sitting in probate and the department.—

(1) It is and has been the intent of the Legislature that, pursuant to s. 26.012(2)(b), circuit courts have jurisdiction of proceedings relating to the settlement of the estates of decedents and other jurisdiction usually pertaining to courts of probate. It is and has been the intent of the Legislature that, pursuant to this chapter ~~s. 717.124~~, the department determines the merits of claims and entitlements to ~~for~~ property paid or delivered to the department under this chapter. Consistent with this legislative intent, any ~~estate or~~ beneficiary, devisee, heir, personal representative, or other interested person, as

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those terms are defined in s. 731.201, of an estate seeking to obtain property paid or delivered to the department under this chapter must file a claim with the department as provided in s. 717.124.

(2) If a beneficiary, devisee, heir, personal representative, or other interested person, as those terms are defined in s. 731.201, of an estate seeks administration of the estate, of which unclaimed property makes up 50 percent or more of the assets, the department is considered an interested party and must be provided with notice of any such proceeding as provided in the Florida Probate Code and the Florida Probate Rules.

Section 49. Subsection (4) of section 717.1243, Florida Statutes, is amended to read:

717.1243 Small estate accounts.—

(4) This section ~~only~~ applies only if all of the unclaimed property held by the department on behalf of the owner has an aggregate value of \$20,000 ~~\$10,000~~ or less and no probate proceeding is pending.

Section 50. Section 717.1245, Florida Statutes, is amended to read:

717.1245 Garnishment of unclaimed property.—

(1) In addition to the fees, costs, and compensation specified in ss. 77.17 and 77.28, if any person files a petition for writ of garnishment seeking to obtain property paid or delivered to the department under this chapter, the plaintiff must ~~petitioner shall~~ be ordered to pay the department reasonable costs and attorney ~~attorney's~~ fees if in any proceeding brought by the department opposes to oppose, appeals

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2321 ~~appeal~~, or collaterally ~~attacks attack~~ the petition or writ and
 2322 if the department is the prevailing party in any such
 2323 proceeding.

2324 (2) If a final judgment on the writ is issued in the
 2325 plaintiff's favor, the plaintiff must still file a claim with
 2326 the department as provided in s. 717.124.

2327 Section 51. Subsection (2) of section 717.129, Florida
 2328 Statutes, is amended to read:

2329 717.129 Periods of limitation.—

2330 (2) The department may not commence an ~~No~~ action or
 2331 proceeding to enforce this chapter with respect to the
 2332 reporting, payment, or delivery of property or any other duty of
 2333 a holder under this chapter may be commenced by the department
 2334 with respect to any duty of a holder under this chapter more
 2335 than 10 years after the duty arose. The period of limitation
 2336 established under this subsection is tolled by the earlier of
 2337 the department's or audit agent's delivery of a notice that a
 2338 holder is subject to an audit or examination under s. 717.1301
 2339 or the holder's written election to enter into an unclaimed
 2340 property voluntary disclosure agreement.

2341 Section 52. Section 717.1301, Florida Statutes, is amended
 2342 to read:

2343 717.1301 Investigations; examinations; subpoenas.—

2344 (1) To carry out the chapter's purpose of protecting the
 2345 interest of missing owners through the safeguarding of their
 2346 property and to administer and enforce this chapter, the
 2347 department may:

2348 (a) Investigate, examine, inspect, request, or otherwise
 2349 gather information or evidence on claim documents from a

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2350 claimant or a claimant's representative during its review of a
 2351 claim.

2352 (b) Audit the records of a person or the records in the
 2353 possession of an agent, representative, subsidiary, or affiliate
 2354 of the person subject to this chapter to determine whether the
 2355 person complied with this chapter. Such records may include
 2356 information to verify the completeness or accuracy of the
 2357 records provided, even if such records may not identify property
 2358 reportable to the department.

2359 (c) Take testimony of a person, including the person's
 2360 employee, agent, representative, subsidiary, or affiliate, to
 2361 determine whether the person complied with this chapter.

2362 (d) Issue an administrative subpoena to require that the
 2363 records specified in paragraph (b) be made available for
 2364 examination or audit and that the testimony specified in
 2365 paragraph (c) be provided.

2366 (e) Bring an action in a court of competent jurisdiction
 2367 seeking enforcement of an administrative subpoena issued under
 2368 this section, which the court shall consider under procedures
 2369 that will lead to an expeditious resolution of the action.

2370 (f) Bring an administrative action or an action in a court
 2371 of competent jurisdiction to enforce this chapter.

2372 (2) If a person is subject to reporting property under this
 2373 chapter, the department may require the person to file a
 2374 verified report in a form prescribed by the department. The
 2375 verified report must:

2376 (a) State whether the person is holding property reportable
 2377 under this chapter;

2378 (b) Describe the property not previously reported, the

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2379 property about which the department has inquired, or the
 2380 property that is in dispute as to whether it is reportable under
 2381 this chapter; and

2382 (c) State the amount or value of the property.

2383 (3) The department may authorize a compliance review of a
 2384 report for a specified reporting year. The review must be
 2385 limited to the contents of the report filed, as required by s.
 2386 717.117 and subsection (2), and all supporting documents related
 2387 to the reports. If the review results in a finding of a
 2388 deficiency in unclaimed property due and payable to the
 2389 department, the department shall notify the holder in writing of
 2390 the amount of deficiency within 1 year after the authorization
 2391 of the compliance review. If the holder fails to pay the
 2392 deficiency within 90 days, the department may seek to enforce
 2393 the assessment under subsection (1). The department is not
 2394 required to conduct a review under this section before
 2395 initiating an audit.

2396 (4) Notwithstanding any other provision of law, in a
 2397 contract providing for the location or collection of unclaimed
 2398 property, the department may authorize the contractor to deduct
 2399 its fees and expenses for services provided under the contract
 2400 from the unclaimed property that the contractor has recovered or
 2401 collected under the contract. The department shall annually
 2402 report to the Chief Financial Officer the total amount collected
 2403 or recovered by each contractor during the previous fiscal year
 2404 and the total fees and expenses deducted by each contractor.

2405 ~~(1) The department may make investigations and examinations~~
 2406 ~~within or outside this state of claims, reports, and other~~
 2407 ~~records as it deems necessary to administer and enforce the~~

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2408 ~~provisions of this chapter. In such investigations and~~
 2409 ~~examinations the department may administer oaths, examine~~
 2410 ~~witnesses, issue subpoenas, and otherwise gather evidence. The~~
 2411 ~~department may request any person who has not filed a report~~
 2412 ~~under s. 717.117 to file a verified report stating whether or~~
 2413 ~~not the person is holding any unclaimed property reportable or~~
 2414 ~~deliverable under this chapter.~~

2415 ~~(2) Subpoenas for witnesses whose evidence is deemed~~
 2416 ~~material to any investigation or examination under this section~~
 2417 ~~may be issued by the department under seal of the department, or~~
 2418 ~~by any court of competent jurisdiction, commanding such~~
 2419 ~~witnesses to appear before the department at a time and place~~
 2420 ~~named and to bring such books, records, and documents as may be~~
 2421 ~~specified or to submit such books, records, and documents to~~
 2422 ~~inspection. Such subpoenas may be served by an authorized~~
 2423 ~~representative of the department.~~

2424 ~~(3) If any person shall refuse to testify, produce books,~~
 2425 ~~records, and documents, or otherwise refuse to obey a subpoena~~
 2426 ~~issued under this section, the department may present its~~
 2427 ~~petition to a court of competent jurisdiction in or for the~~
 2428 ~~county in which such person resides or has its principal place~~
 2429 ~~of business, whereupon the court shall issue its rule nisi~~
 2430 ~~requiring such person to obey forthwith the subpoena issued by~~
 2431 ~~the department or show cause for failing to obey said subpoena.~~
 2432 ~~Unless said person shows sufficient cause for failing to obey~~
 2433 ~~the subpoena, the court shall forthwith direct such person to~~
 2434 ~~obey the same subject to such punishment as the court may direct~~
 2435 ~~including, but not limited to, the restraint, by injunction or~~
 2436 ~~by appointment of a receiver, of any transfer, pledge,~~

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assignment, or other disposition of such person's assets or any concealment, alteration, destruction, or other disposition of subpoenaed books, records, or documents as the court deems appropriate, until such person has fully complied with such subpoena and the department has completed its investigation or examination. The department is entitled to the summary procedure provided in s. 51.011, and the court shall advance the cause on its calendar. Costs incurred by the department to obtain an order granting, in whole or in part, its petition shall be taxed against the subpoenaed person, and failure to comply with such order shall be a contempt of court.

(4) Witnesses shall be entitled to the same fees and mileage as they may be entitled by law for attending as witnesses in the circuit court, except where such examination or investigation is held at the place of business or residence of the witness.

(5) The material compiled by the department in an investigation or examination under this chapter is confidential until the investigation or examination is complete. If any such material contains a holder's financial or proprietary information, it may not be disclosed or made public by the department after the investigation or audit is completed, except as required by a court of competent jurisdiction in the course of a judicial proceeding in which the state is a party, or pursuant to an agreement with another state allowing joint audits. Such material may be considered a trade secret and exempt from s. 119.07(1) as provided for in s. 119.0715. The records, data, and information gathered material compiled by the department in an investigation or audit examination under this

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chapter ~~remain~~ remains confidential after the department's investigation or examination is complete if the department has submitted the material or any part of it to any law enforcement agency or other administrative agency for further investigation or for the filing of a criminal or civil prosecution and such investigation has not been completed or become inactive.

(6) If an investigation or an audit examination of the records of any person results in the disclosure of property reportable and deliverable under this chapter, the department may assess the cost of the investigation or audit the examination against the holder at the rate of \$100 per 8-hour day for each investigator or examiner. Such fee shall be calculated on an hourly basis and shall be rounded to the nearest hour. The person shall also pay the travel expense and per diem subsistence allowance provided for state employees in s. 112.061. ~~The person shall not be required to pay a per diem fee and expenses of an examination or investigation which shall consume more than 30 worker days in any one year unless such examination or investigation is due to fraudulent practices of the person, in which case such person shall be required to pay the entire cost regardless of time consumed.~~ The fee for the costs of the investigation or audit shall be remitted to the department within 30 days after the date of the notification that the fee is due and owing. Any person who fails to pay the fee within 30 days after the date of the notification that the fee is due and owing shall pay to the department interest at the rate of 12 percent per annum on such fee from the date of the notification.

Section 53. Subsection (1) of section 717.1311, Florida

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Statutes, is amended to read:

717.1311 Retention of records.—

(1) Every holder required to file a report under s. 717.117 shall maintain a record of the specific type of property, amount, name, and last known address of the owner for 10 5 years after the property becomes reportable, except to the extent that a shorter time is provided in subsection (2) or by rule of the department.

Section 54. Paragraph (j) of subsection (1) and subsection (3) of section 717.1322, Florida Statutes, are amended to read: 717.1322 Administrative and civil enforcement.—

(1) The following acts are violations of this chapter and constitute grounds for an administrative enforcement action by the department in accordance with the requirements of chapter 120 and for civil enforcement by the department in a court of competent jurisdiction:

(j) Requesting or receiving compensation for notifying a person of his or her unclaimed property or assisting another person in filing a claim for unclaimed property, unless the person is an attorney licensed to practice law in this state, a Florida-certified public accountant, or a private investigator licensed under chapter 493, or entering into, or making a solicitation to enter into, an agreement to file a claim for unclaimed property owned by another, ~~or a contract or agreement to purchase unclaimed property,~~ unless such person is registered with the department under this chapter and an attorney licensed to practice law in this state in the regular practice of her or his profession, a Florida-certified public accountant who is acting within the scope of the practice of public accounting as

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defined in chapter 473, or a private investigator licensed under chapter 493. This paragraph does not apply to a person who has been granted a durable power of attorney to convey and receive all of the real and personal property of the owner, is the court-appointed guardian of the owner, has been employed as an attorney or qualified representative to contest the department's denial of a claim, or has been employed as an attorney to probate the estate of the owner or an heir or legatee of the owner.

(3) A claimant's representative ~~registrant~~ is subject to civil enforcement and the disciplinary actions specified in subsection (2) for violations of subsection (1) by an agent or employee of the registrant's employer if the claimant's representative ~~registrant~~ knew or should have known that such agent or employee was violating any provision of this chapter.

Section 55. Subsection (1) of section 717.1333, Florida Statutes, is amended to read:

717.1333 Evidence; estimations; audit reports and worksheets, investigator ~~examiner's worksheets, investigative reports and worksheets,~~ other related documents.—

(1) In any proceeding involving a holder under ss. 120.569 and 120.57 in which an audit agent ~~auditor, examiner,~~ or investigator acting under authority of this chapter is available for cross-examination, any official written report, worksheet, or other related paper, or copy thereof, compiled, prepared, drafted, or otherwise made or received by the audit agent ~~auditor, examiner,~~ or investigator, after being duly authenticated by the audit agent ~~auditor, examiner,~~ or investigator, may be admitted as competent evidence upon the

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oath of the ~~audit agent auditor, examiner,~~ or investigator that the report, worksheet, or related paper was prepared or received as a result of an audit, examination, or investigation of the books and records of the person audited, examined, or investigated, or the agent thereof.

Section 56. Subsections (1) and (2) of section 717.134, Florida Statutes, are amended to read:

717.134 Penalties and interest.—

(1) For any person who willfully fails to render any report required under this chapter, the department may impose and collect a penalty of \$500 per day up to a maximum of \$5,000 and 25 percent of the value of property not reported until an appropriate a report is provided ~~rendered for any person who willfully fails to render any report required under this chapter.~~ Upon a holder's showing of good cause, the department may waive said penalty or any portion thereof. If the holder acted in good faith and without negligence, the department shall waive the penalty provided herein.

(2) For any person who willfully refuses to pay or deliver unclaimed property to the department as required under this chapter, the department may impose and collect a penalty of \$500 per day up to a maximum of \$5,000 and 25 percent of the value of property not paid or delivered until the property is paid or delivered ~~for any person who willfully refuses to pay or deliver abandoned property to the department as required under this chapter.~~

Section 57. Section 717.135, Florida Statutes, is amended to read:

717.135 Recovery agreements and purchase agreements for

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claims filed by a claimant's representative or a purchaser; fees and costs, or total net gain.—

(1) In order to protect the interests of owners of unclaimed property, the department shall adopt by rule a form entitled "Unclaimed Property Recovery Agreement" and a form entitled "Unclaimed Property Purchase Agreement."

(2) The Unclaimed Property Recovery Agreement and the Unclaimed Property Purchase Agreement must include and disclose all of the following:

(a) The total dollar amount of unclaimed property accounts claimed or sold.

(b) The total percentage of all authorized fees and costs to be paid to the claimant's representative or the percentage of the value of the property to be paid as net gain to the purchaser ~~purchasing claimant's representative.~~

(c) The total dollar amount to be deducted and received from the claimant as fees and costs by the claimant's representative or the total net dollar amount to be received by the purchaser ~~purchasing claimant's representative.~~

(d) The net dollar amount to be received by the claimant or the seller.

(e) For each account claimed, the unclaimed property account number.

(f) For the Unclaimed Property Purchase Agreement, a statement that the amount of the purchase price will be remitted to the seller by the purchaser within 30 days after the execution of the agreement by the seller.

(g) The name, address, e-mail address, phone number, and license number of the claimant's representative, or the name,

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address, e-mail address, and phone number of the purchaser.

(h)1. The manual signature of the claimant or seller and the date signed, affixed on the agreement by the claimant or seller.

2. Notwithstanding any other provision of this chapter to the contrary, the department may allow an apparent owner, who is also the claimant or seller, to sign the agreement electronically ~~for claims of \$2,000 or less~~. All electronic signatures on the Unclaimed Property Recovery Agreement and the Unclaimed Property Purchase Agreement must be affixed on the agreement by the claimant or seller using the specific, exclusive eSignature product and protocol authorized by the department.

(i) The social security number or taxpayer identification number of the claimant or seller, if a number has been issued to the claimant or seller.

(j) The total fees and costs, or the total discount in the case of a purchase agreement, which may not exceed 30 percent of the claimed amount. In the case of a recovery agreement, if the total fees and costs exceed 30 percent, the fees and costs shall be reduced to 30 percent and the net balance shall be remitted directly by the department to the claimant. In the case of a purchase agreement, if the total net gain of the purchaser exceeds 30 percent, the claim will be denied.

(3) For an Unclaimed Property Purchase Agreement form, proof that the purchaser has made payment must be filed with the department along with the claim. If proof of payment is not provided, the claim is void.

(4) A claimant's representative or a purchaser must use the

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Unclaimed Property Recovery Agreement or the Unclaimed Property Purchase Agreement as the exclusive means of entering into an agreement or a contract with a claimant or seller to file a claim with the department.

(5) Fees and costs may be owed or paid to, or received by, a claimant's representative or a purchaser only after a filed claim has been approved and if the claimant's representative used an agreement authorized by this section.

(6) A claimant's representative or a purchaser may not use or distribute any other agreement of any type, conveyed by any method, with respect to the claimant or seller which relates, directly or indirectly, to unclaimed property accounts held by the department or the Chief Financial Officer other than the agreements authorized by this section. Any engagement, authorization, recovery, or fee agreement that is not authorized by this section is void. A claimant's representative or a purchaser is subject to administrative and civil enforcement under s. 717.1322 if he or she uses an agreement that is not authorized by this section and if the agreement is used to apply, directly or indirectly, to unclaimed property held by this state. This subsection does not prohibit lawful nonagreement, noncontractual, or advertising communications between or among the parties.

(7) The Unclaimed Property Recovery Agreement ~~and the Unclaimed Property Purchase Agreement~~ may not contain language that makes the agreement irrevocable or that creates an assignment of any portion of unclaimed property held by the department.

(8) When a claim is approved, the department may pay any

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additional account that is owned by the claimant but has not been claimed at the time of approval, provided that a subsequent claim has not been filed or is not pending for the claimant at the time of approval.

(9) This section does not supersede s. 717.1241.

(10) This section does not apply to the sale and purchase of Florida-held unclaimed property accounts through a bankruptcy trustee appointed to represent a debtor's estate in a bankruptcy proceeding in accordance with the United States Bankruptcy Code.

Section 58. Subsections (1), (2), and (3) of section 717.1400, Florida Statutes, are amended to read:

717.1400 Registration.—

(1) In order to file claims as a claimant's representative, ~~acquire ownership of or entitlement to unclaimed property,~~ receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts and numbers of reported shares of stock held by the department, a private investigator holding a Class "C" individual license under chapter 493 must register with the department on such form as the department prescribes by rule and must be verified by the applicant. To register with the department, a private investigator must provide:

(a) A legible copy of the applicant's Class "A" business license under chapter 493 or that of the applicant's firm or employer which holds a Class "A" business license under chapter 493.

(b) A legible copy of the applicant's Class "C" individual license issued under chapter 493.

(c) The business address and telephone number of the

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applicant's private investigative firm or employer.

(d) The names of agents or employees, if any, who are designated to act on behalf of the private investigator, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the private investigator's firm or employer which holds a Class "A" business license under chapter 493.

(2) In order to file claims as a claimant's representative, ~~acquire ownership of or entitlement to unclaimed property,~~ receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts and numbers of reported shares of stock held by the department, a Florida-certified public accountant must register with the department on such form as the department prescribes by rule and must be verified by the applicant. To register with the department, a Florida-certified public accountant must provide:

(a) The applicant's Florida Board of Accountancy number.

(b) A legible copy of the applicant's current driver license showing the full name and current address of such person. If a current driver license is not available, another form of identification showing the full name and current address of such person or persons shall be filed with the department.

(c) The business address and telephone number of the applicant's public accounting firm or employer.

(d) The names of agents or employees, if any, who are

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2727 designated to act on behalf of the Florida-certified public
 2728 accountant, together with a legible copy of their photo
 2729 identification issued by an agency of the United States, or a
 2730 state, or a political subdivision thereof.

2731 (e) Sufficient information to enable the department to
 2732 disburse funds by electronic funds transfer.

2733 (f) The tax identification number of the accountant's
 2734 public accounting firm employer.

2735 (3) In order to file claims as a claimant's representative,
 2736 ~~acquire ownership of or entitlement to unclaimed property,~~
 2737 receive a distribution of fees and costs from the department,
 2738 and obtain unclaimed property dollar amounts and numbers of
 2739 reported shares of stock held by the department, an attorney
 2740 licensed to practice in this state must register with the
 2741 department on such form as the department prescribes by rule and
 2742 must be verified by the applicant. To register with the
 2743 department, such attorney must provide:

2744 (a) The applicant's Florida Bar number.

2745 (b) A legible copy of the applicant's current driver
 2746 license showing the full name and current address of such
 2747 person. If a current driver license is not available, another
 2748 form of identification showing the full name and current address
 2749 of such person or persons shall be filed with the department.

2750 (c) The business address and telephone number of the
 2751 applicant's firm or employer.

2752 (d) The names of agents or employees, if any, who are
 2753 designated to act on behalf of the attorney, together with a
 2754 legible copy of their photo identification issued by an agency
 2755 of the United States, or a state, or a political subdivision

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2756 thereof.

2757 (e) Sufficient information to enable the department to
 2758 disburse funds by electronic funds transfer.

2759 (f) The tax identification number of the attorney's firm or
 2760 employer.

2761 Section 59. Paragraph (a) of subsection (2) of section
 2762 197.582, Florida Statutes, is amended to read:

2763 197.582 Disbursement of proceeds of sale.—

2764 (2) (a) If the property is purchased for an amount in excess
 2765 of the statutory bid of the certificateholder, the surplus must
 2766 be paid over and disbursed by the clerk as set forth in
 2767 subsections (3), (5), and (6). If the opening bid included the
 2768 homestead assessment pursuant to s. 197.502(6)(c), that amount
 2769 must be treated as surplus and distributed in the same manner.
 2770 The clerk shall distribute the surplus to the governmental units
 2771 for the payment of any lien of record held by a governmental
 2772 unit against the property, including any tax certificates not
 2773 incorporated in the tax deed application and omitted taxes, if
 2774 any. If there remains a balance of undistributed funds, the
 2775 balance must be retained by the clerk for the benefit of persons
 2776 described in s. 197.522(1)(a), except those persons described in
 2777 s. 197.502(4)(h), as their interests may appear. The clerk shall
 2778 mail notices to such persons notifying them of the funds held
 2779 for their benefit at the addresses provided in s. 197.502(4).
 2780 Such notice constitutes compliance with the requirements of s.
 2781 717.117(6) ~~s. 717.117(4)~~. Any service charges and costs of
 2782 mailing notices shall be paid out of the excess balance held by
 2783 the clerk. Notice must be provided in substantially the
 2784 following form:

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2785 NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE
 2786 CLERK OF COURT
 2787 COUNTY, FLORIDA
 2788 Tax Deed #.....
 2789 Certificate #.....
 2790 Property Description:
 2791 Pursuant to chapter 197, Florida Statutes, the above
 2792 property was sold at public sale on ...(date of sale)..., and a
 2793 surplus of \$...(amount)... (subject to change) will be held by
 2794 this office for 120 days beginning on the date of this notice to
 2795 benefit the persons having an interest in this property as
 2796 described in section 197.502(4), Florida Statutes, as their
 2797 interests may appear (except for those persons described in
 2798 section 197.502(4)(h), Florida Statutes).
 2799 To the extent possible, these funds will be used to satisfy
 2800 in full each claimant with a senior mortgage or lien in the
 2801 property before distribution of any funds to any junior mortgage
 2802 or lien claimant or to the former property owner. To be
 2803 considered for funds when they are distributed, you must file a
 2804 notarized statement of claim with this office within 120 days of
 2805 this notice. If you are a lienholder, your claim must include
 2806 the particulars of your lien and the amounts currently due. Any
 2807 lienholder claim that is not filed within the 120-day deadline
 2808 is barred.
 2809 A copy of this notice must be attached to your statement of
 2810 claim. After the office examines the filed claim statements, it
 2811 will notify you if you are entitled to any payment.
 2812 Dated:
 2813 Clerk of Court

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2814 Section 60. Subsection (1) of section 717.1382, Florida
 2815 Statutes, is amended to read:
 2816 717.1382 United States savings bond; unclaimed property;
 2817 escheatment; procedure.—
 2818 (1) Notwithstanding any other provision of law, a United
 2819 States savings bond in possession of the department or
 2820 registered to a person with a last known address in the state,
 2821 including a bond that is lost, stolen, or destroyed, is presumed
 2822 abandoned and unclaimed 5 years after the bond reaches maturity
 2823 and no longer earns interest and shall be reported and remitted
 2824 to the department by the financial institution or other holder
 2825 in accordance with ss. 717.117(1) and (5) (3) and 717.119, if
 2826 the department is not in possession of the bond.
 2827 Section 61. The Division of Law Revision is directed to
 2828 prepare a reviser's bill for the 2025 Regular Session of the
 2829 Legislature to change the term "Division of Investigative and
 2830 Forensic Services" wherever the term appears in the Florida
 2831 Statutes to "Division of Criminal Investigations."
 2832 Section 62. For the 2024-2025 fiscal year, one full-time
 2833 equivalent position with associated salary rate of 110,000 is
 2834 authorized and the sums of \$183,863 in recurring funds and
 2835 \$5,067 in nonrecurring funds are appropriated from the Insurance
 2836 Regulatory Trust Fund to the Department of Financial Services to
 2837 support the full-time equivalent position.
 2838 Section 63. Except as otherwise expressly provided in this
 2839 act, this act shall take effect upon becoming a law.



THE FLORIDA SENATE
SENATOR NICK DICEGLIE
District 18

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

January 25, 2024

Dear Chair Brodeur,

I respectfully request that **SB 1098: Department of Financial Services** be placed on the agenda of the Appropriations Committee on Agriculture, Environment, and General Government at your earliest convenience. If my office can be of any assistance to the committee please do not hesitate to contact me at DiCeglie.Nick@flsenate.gov or (850) 487-5018. Thank you for your consideration.

Sincerely,

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

Nick DiCeglie

State Senator, District 18

Proudly Serving Pinellas County

Transportation Committee, Chair ~ Banking and Insurance Committee, Vice Chair ~
Fiscal Policy Committee ~ Judiciary Committee ~

Rules Committee ~ Joint Legislative Auditing Committee



Department of Financial Services (DFS) 2021 Legislative Bill Analysis

BILL INFORMATION

Bill Number:	SB 1434
Bill Title:	Disposition of Unclaimed Property
Bill Sponsor:	Wright
Effective Date:	Upon becoming a law

ANALYSIS INFORMATION

Agency Contact:	Meredith Stanfield, Legislative Affairs Director, (850) 413-2890
Division Director:	Walter Graham
Program Analyst:	Phillip Carlton
Analysis Date:	3/9/2021

POLICY ANALYSIS

I. SUMMARY ANALYSIS

SB 1434 would direct the Department of Financial Services (Department) to promulgate a form entitled "Uniform Unclaimed Property Recovery Agreement" and a form entitled "Uniform Unclaimed Property Purchase Agreement" to allow claimants to authorize a registered claimant's representative to file a claim on their behalf for unclaimed property held by the Department. The forms would also authorize the Department to deduct a portion of the claimant's funds and remit that portion directly to the claimant's representative as a fee authorized by the claimant, with the net balance remitted directly by the Department to the claimant. The bill would require specific disclosures to be included on the forms and provide a cap on claimant's representatives' fees at 25 percent of the claimed amount. The forms would not be able to contain language that makes the agreement irrevocable or create an assignment of any property held by the Department. The original apparent owner (claimant or seller) would be allowed to electronically sign the forms that authorize a claimant's representative to act on their behalf for claims of \$2,000 or less. The bill would require all electronic signatures to be affixed on the agreement by the claimant or seller using the protocol authorized by the Department. The bill does not allow for other forms or agreements to be used by a claimant's representative relating to unclaimed property held by the Department.

The bill would also provide authority to increase the threshold for a claim by an apparent owner to be submitted electronically from \$1,000 or less to \$2,000 or less. The bill would be effective upon becoming law.

II. PRESENT SITUATION

More than 350 licensed claimant's representatives are registered with the Department to gain access to the Department's unclaimed property database, and to seek authorizations from potential claimants to file claims on their behalf for unclaimed property held by the Department. Each registrant who files claims utilizes a unique, different "limited power of attorney" (LPOA) through which claimants provide authorization to the registrant to file on their behalf and receive a fee for successful services rendered (payment of the claim). While all are different, the majority contain language similar to the following: "I hereby authorize ZYZ Associates to file a claim on my behalf for the unclaimed property accounts listed and to receive the fee I authorize." Many also include logos and credential references. The Department's claims analysts are required to efficiently and accurately read, understand and process all documents for each claim, including all differing LPOA.

Chapter 717, F.S., stipulates the Limited Power of Attorney is an authorization to file a claim and to receive an authorized fee amount (for total fees and costs). In addition to the example above, some registrants present to claimant's LPOA that utilizes a high volume of words and legal-type phrases, and subtitles such as "representation agreement, assignment, assignment of interest, recovery agreement." "Contract" is prominently used. These documents include irrevocable clauses and stipulations such as: assignment of interest and rights; irrevocable assignments; exclusivity provisions; requirements for the claimant to act upon all requests and instructions of the registrant; venue and attorney fee provisions; and some that provide that if the claimant fails to act, the registrant can claim their 'assigned property' separate from the claimant. In some cases, electronic contracts have been sent to claimants for electronic signatures that are not sent to the Department, followed by a document to be physically signed by the claimant and returned to the registrant, which is then filed with the claim. In either case, if a claimant subsequently chooses to utilize another registrant's services, for a lower fee for example, or to file a claim themselves, they, and the other registrant, may be threatened with legal action.

All fees are capped at a 20%, up to \$1,000 per account, unless the "Full Disclosure Statement" is provided to the claimant. The full disclosure states the property is held by the Department and includes the Department's website address and physical address. If the Full Disclosure Statement is provided, fees are unlimited.

Currently, the department may allow an apparent owner to electronically submit a claim for unclaimed property if the claim is \$1,000 or less. Approximately 15% of claims are currently filed electronically.

III. EFFECT OF PROPOSED CHANGES

The changes will result in a uniform "recovery agreement" in which all registrants will utilize a standardized form, language and format. The uniform agreements will continue to be the "claimant's authorization" to act on his or her behalf to file a claim and to receive a fee. The form will be simplified, though significantly similar to the various LPOA currently utilized by registrants to file more than 90% of the claims filed by registered claimant's representatives. Such a form will be far more claimant-friendly and will provide consumer protections. In addition, will create and maintain a more level playing field among registered claimant's representatives.

The uniform form is a key element in the Department's ongoing efficiency efforts. Varying fee caps and exceptions thereof will be replaced with a flat maximum of 25% that will be more consumer friendly, as well as easier and more efficient for DFS analysts to review and apply.

Increasing the threshold for a claim from \$1,000 to \$2,000 will allow more potential original owners to electronically file a claim without the need to submit physical paperwork. This will further result in a positive, quicker fiscal impact to citizens and efficiencies to the department.

Registered claimant's representatives, at their option, will be able to engage and represent living original, apparent owners more efficiently and easily by having the Uniform Unclaimed Property Recovery Agreement electronically signed by the claimant for claims up to \$2,000.

IV. DOES THE BILL DIRECT OR ALLOW THE DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?

☒ ☐

If yes, explain:	The Division of Unclaimed Property appears to be required to promulgate two new forms for use in the collection, purchase and sale of unclaimed property.
Is the change consistent with the agency's core mission?	☒ ☐

Rule(s) impacted (provide references to F.A.C.):	

V. DOES THE BILL REQUIRE REPORTS OR STUDIES?Y ☐ N ☒

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

VI. DOES THE BILL REQUIRE APPOINTMENTS OR MODIFY EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC.?Y ☐ N ☒

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

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

Revenues:	
Expenditures:	

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

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

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

Revenues:	
Expenditures:	
Other:	The bill will result in some individual Florida residents and businesses receiving more of their unclaimed property. The bill will result in some registered claimant's representatives receiving a reduced percentage of a claimant's property.

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

If yes, explain impact.	
Bill Section Number:	

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	The changes will have a minimal impact on the Unclaimed Property Management Information System and can be handled by the current IT support staff.

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

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

ADDITIONAL COMMENTS**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

Issues/concerns/comments:	Rules: Section 5 of the proposed legislation requires the Department to promulgate a new rule(s) adopting two new forms related to claims filed by a claimant's representative for unclaimed property.

The Florida Senate
APPEARANCE RECORD

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

SB 1098

Bill Number or Topic

Amendment Barcode (if applicable)

02/13/24
Meeting Date

Approps Ag. Envr, Gen Gov
Committee

Name CHASE MITCHELL

Phone 850 413-4238

Address 700 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:

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compensation or sponsorship.

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representing:

DEPT OF FINANCIAL SERVICES

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

02/15/24

Meeting Date

SB 1098

Bill Number or Topic

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

Approps B, Env, & Gen Govt

Committee

Amendment Barcode (if applicable)

Name CFO JIMMY PATRONIS

Phone 850 413-4938

Address 700 S MONROE ST

Street

Email CFOPATRONIS@MYFLORIDACFO.COM

TALLAHASSEE

City

FL

State

32397

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



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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 Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/SB 1106

INTRODUCER: Banking and Insurance Committee and Senator Hooper

SUBJECT: Coverage by Citizens Property Insurance Corporation

DATE: February 12, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	Fav/CS
2.	Sanders	Betta	AEG	Favorable
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1106 revises the criteria for personal lines residential structures and single condominium units to be eligible for coverage with the Citizens Property Insurance Corporation (Citizens). Effective August 1, 2024, such structures and condominium units are eligible for Citizens coverage if:

- The dwelling replacement cost of the residential structure or the combined dwelling and contents replacement cost of the single condominium unit is less than one million dollars (rather than less than \$700,000 as provided under current law); and
- For a residential structure or single condominium unit with a replacement cost of at least \$700,000 but less than one million dollars, if the risk has not been offered comparable coverage from an authorized insurer at the insurer's approved rate under a standard policy including wind coverage.

Under the bill, rates for Citizens coverage on residential structures or single condominium units with a replacement cost of at least \$700,000, but less than one million dollars, will be subject to all of the following requirements:

- Rates must be actuarially sound pursuant to the Rating Law and not competitive with approved rates in the admitted voluntary market;
- For the purpose of ensuring Citizens' rates on such policies are not competitive with approved rates charged in the admitted voluntary market, after Citizens' next annual rate filing, which occurs on or after August 1, 2024, such rates are subject to an additional surcharge of the lesser of \$2,500 or 25 percent of the corporation's rate for the policy; and

- After Citizens' next annual rate filing, which occurs on or after August 1, 2024, such rates are not subject to the Citizens "rate glidepath," which prohibits imposing a rate increase on any policy greater than a specified percentage (13 percent for 2024, 14 percent for 2025, and 15 percent for 2026 and thereafter).

The bill has an indeterminate impact to state revenues and expenditures. See Section V., Fiscal Impact Statement.

The bill is effective August 1, 2024.

II. Present Situation:

Citizens Property Insurance Corporation—Overview

Citizens Property Insurance Corporation (Citizens) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.¹ Citizens is not a private insurance company.² Citizens was statutorily created in 2002 when the Florida Legislature combined the state's two insurers of last resort, the Florida Residential Property and Casualty Joint Underwriting Association (RPCJUA) and the Florida Windstorm Underwriting Association (FWUA).³

Citizens operates in accordance with the provisions in s. 627.351(6), F.S., and is governed by a nine member Board of Governors (board) that administers its Plan of Operations. The Plan of Operations is reviewed and approved by the Financial Services Commission.⁴ The Governor, President of the Senate, Speaker of the House of Representatives, and Chief Financial Officer each appoint two members to the board.⁵ The Governor appoints an additional member who serves solely to advocate on behalf of the consumer.⁶ Citizens is subject to regulation by the Office of Insurance Regulation (OIR).

Current Policies

As of November 30, 2023, Citizens reports 1,260,430 policies in-force with a total exposure of \$562.5 billion.⁷ That is a reduction of over 74,000 policies and \$23.3 billion in exposure from October 31, 2023.

Eligibility for Insurance in Citizens

Citizens is required to provide a procedure for determining the eligibility of a potential risk for insurance in Citizens and provide specific eligibility requirements based on premium amounts,

¹ The term "admitted market" means insurance companies licensed to transact insurance in Florida.

² Section 627.351(6)(a)1., F.S.

³ Section 2, ch. 2002-240, Laws of Fla.

⁴ Section 627.351(6)(a)2., F.S.

⁵ Section 627.351(6)(c)4.a., F.S.

⁶ Section 627.351(6)(c)4., F.S.

⁷ Corporate Analytics Business Overview, September 20, 2023 Report, p. 1 <https://www.citizensfla.com/documents> (last visited January 24, 2024).

value of the property insured, and the location of the property.⁸ Risks not meeting the statutory eligibility requirements cannot be insured by Citizens. Citizens has additional eligibility requirements set out in their underwriting rules. These rules are approved by the OIR and are set out in Citizens' underwriting manuals.⁹

Eligibility Based on Premium Amount

An applicant for residential insurance cannot buy insurance in Citizens if an authorized insurer in the private market offers the applicant insurance for a premium that does not exceed the Citizens premium by 20 percent or more.¹⁰ The coverage offered by the private insurer must be comparable to Citizens' coverage.

A residential policyholder may not renew insurance in Citizens if an authorized insurer offers to insure the property at a premium no more than 20 percent greater than the Citizens' renewal premium.¹¹ The insurance coverage offered from the private market insurer must be comparable to the insurance from Citizens in order for the eligibility requirement for renewal premium to apply.¹²

Eligibility Based on Value of Property Insured

In addition to the eligibility restrictions based on premium amount, current law provides eligibility restrictions for homes and condominium units based on the value of the property insured.¹³ Structures with a dwelling replacement cost of \$700,000 or more, or a single condominium unit that has a combined dwelling and contents replacement cost of \$700,000 or more, are not eligible for coverage with Citizens.¹⁴ However, Citizens is allowed to insure structures with a dwelling replacement cost, or a condominium unit with a dwelling and contents replacement cost, of one million dollars or less in Miami-Dade and Monroe counties, after the OIR determined these counties to be non-competitive.¹⁵

Citizens "Glidepath" Rates

From 2007 until 2010, Citizens' rates were frozen by statute at the level established in 2006.¹⁶ In 2010, the Legislature established a "glidepath" to impose annual rate increases up to a level that is actuarially sound. Under the original established glidepath, Citizens had to implement an annual rate increase which, except for sinkhole coverage, does not exceed 10 percent above the previous year for any individual policyholder, adjusted for coverage changes and surcharges.¹⁷

⁸ Section 627.351(6)(c)5., F.S.

⁹ See Citizens Property Insurance Corporation, *PIF Standard Summary Report for Period Ending Nov. 30, 2023* (December 6, 2023) (on file with the Senate Committee on Banking and Insurance).

¹⁰ Section 627.351(6)(c)5., F.S.

¹¹ Section 627.351(6)(c)5.a., F.S.

¹² *Id.*

¹³ Section 627.351(6)(a)3., F.S.

¹⁴ Section 627.351(6)(a)3.d., F.S.

¹⁵ The OIR, Final Order Case No: 165625-14, Dec. 22, 2014, available at <https://www.floir.com/siteDocuments/Citizens165625-14-O.pdf>. See Section 627.351(6)(a)3.d., F.S., and Citizens, Personal Lines Bulletin, *Update to Maximum Coverage Limits*, Nov. 12, 2019, <https://www.citizensfla.com/-/2019-roof-permits-acceptable-for-fbc-credits> (last visited January 24, 2024).

¹⁶ Section 15, ch. 2006-12, Laws of Fla.

¹⁷ Section 10, ch. 2009-87, Laws of Fla.

In 2021, the Legislature revised this glidepath to increase it one percent per year to up to 15 percent, as follows:¹⁸

- 11 percent for 2022;
- 12 percent for 2023;
- 13 percent for 2024;
- 14 percent for 2025; and
- 15 percent for 2026 and all subsequent years.

The implementation of this increase ceases when Citizens has achieved actuarially sound rates.¹⁹ In addition to the overall glidepath rate increase, Citizens can increase its rates to recover the additional reimbursement premium it incurs as a result of the annual cash build-up factor added to the price of the mandatory layer of the Florida Hurricane Catastrophe Fund coverage, pursuant to s. 215.555(5)(b), F.S.²⁰ The glidepath does not apply to policies written on or after November 1, 2023, that:

- Do not cover a primary residence;
- New policies under which the coverage for the insured risk, before the date of application with the corporation, was last provided by an insurer determined by the office to be unsound or an insurer placed in receivership under chapter 631; or
- Subsequent renewals of those policies.²¹

Citizens Financial Resources

Citizens' financial resources include insurance premiums, investment income, and operating surplus from prior years, Florida Hurricane Catastrophe Fund (FHCF) reimbursements, private reinsurance, policyholder surcharges, and regular and emergency assessments. Non-weather water losses, reinsurance costs and litigation are currently the major determinants of insurance rates.²² In the event of a catastrophic storm or series of smaller storms, reserves could be exhausted, leaving Citizens unable to pay all claims.²³ Under Florida law, if the Citizens' Board of Directors determines a Citizens' account has a projected deficit, Citizens is authorized to levy assessments²⁴ on its policyholders and on each line of property and casualty line of business other than workers' compensation insurance and medical malpractice insurance.²⁵

Citizens Depopulation

Florida law requires Citizens to create programs to help return Citizens policies to the private market and reduce the risk of additional assessments for all Floridians.²⁶ In 2016, the Legislature

¹⁸ Section 627.351(6)(n)5., F.S.

¹⁹ Section 627.351(6)(n)7., F.S.

²⁰ Section 627.351(6)(n)6., F.S.

²¹ Section 627.351(6)(n)8., F.S.

²² Citizens, 2023 Rate Kit, <https://www.citizensfla.com/documents/20702/29151924/2023+Rate+Kit.pdf/672e82d9-8f9e-dde8-679c-13c37e8e77da?t=1680006176707> (last visited January 24, 2024).

²³ Citizens, Insurance/Insurance 101/Assessments, <https://www.citizensfla.com/assessments> (last visited January 24, 2024).

²⁴ Assessments are charges Citizens and non-Citizens policyholders can be required to pay, in addition to their regular policy premiums.

²⁵ Accident and health insurance policies written under the National Flood Insurance Program or the Federal Crop Insurance Program are not assessable types of property and casualty insurance. Surplus lines insurers are not assessable, but their policyholders are. Section 627.351.(6)(b)3.f.-h., F.S.

²⁶ Section 627.351(6)(q)3.a., F.S.

passed requirements that Citizens, by January 1, 2017, amend its operations relating to take-out agreements.²⁷ As part of these updated requirements, codified under s. 627.351(6)(ii), F.S., a policy may not be taken out of Citizens unless Citizens:

- Publishes a periodic schedule of cycles during which an insurer may identify and notify Citizens of policies the insurer is requesting to take out;²⁸
- Maintains and makes available to the agent of record a consolidated list of all insurers requesting a take-out policy; such list must include a description of the coverage offered and the estimated premium for each take-out request; and
- Provides written notice to the policyholder and agent regarding all insurers requesting to take out the policy and the policyholder's option to accept a take-out offer or to reject all take out offers and to remain with the corporation. The notice must be in a format prescribed by the corporation and include, for each take-out offer:
 - The amount of the estimated premium;
 - A description of the coverage; and
 - A comparison of the estimated premium and coverage offered by the insurer to the estimated premium and coverage provided by the corporation.

Citizens Flood Insurance Requirement

Citizens' personal lines residential policyholders must secure and maintain flood insurance that meets certain requirements as a condition of eligibility for Citizens coverage.²⁹ The implementation of this requirement is based on a schedule.³⁰ For Citizens personal lines residential policyholders whose property is located within special hazard flood zones defined by the FEMA, flood coverage must be obtained by April 1, 2023 for Citizens' new policies and July 1, 2023 for Citizens' renewal policies.

For all other risks, the requirement to obtain flood insurance must be implemented for specified Citizens' policyholders as follows:

- March 1, 2024, for policies insuring a structure that has a dwelling replacement cost of \$600,000 or more;
- March 1, 2025, for policies insuring a structure that has a dwelling replacement cost of \$500,000 or more;
- March 1, 2026, for policies insuring a structure that has a dwelling replacement cost of \$400,000 or more; and
- March 1, 2027, for all other policyholders.

The requirement to obtain flood insurance does not apply to policies that do not provide coverage for the peril of wind or to policies that provide coverage under a condominium unit owners form.³¹

²⁷ Chapter 2016-229, Laws of Fla.

²⁸ Such requests from insurers must include a description of the coverage offered and an estimated premium and must be submitted to the corporation in a form and manner prescribed by the corporation.

²⁹ Section 627.351(6)(aa), F.S.

³⁰ *Id.*

³¹ Section 627.351(6)(aa)3., F.S.

III. Effect of Proposed Changes:

The bill amends s. 627.351(6)(a), F.S., to allow Citizens to provide coverage for personal lines residential structures that have a dwelling replacement cost of \$700,000 or more (but not one million dollars or more) or a single condominium unit that has a combined dwelling and contents replacement cost of \$700,000 or more (but not one million dollars or more). To ensure Citizens' rates for these newly authorized policies are not competitive with approved rates charged in the admitted voluntary market, the bill imposes on such policies a surcharge equal to the lesser of \$2,500 or 25 percent of the rate for each policy. Citizens may not offer these policies if the property is offered comparable coverage from an authorized insurer at the insurer's approved rate under a standard policy including wind coverage.

The bill provides the Citizens rate glidepath does not apply to personal lines residential structures that have a dwelling replacement cost of \$700,000 or more or a single condominium unit that has a combined dwelling and contents replacement cost of \$700,000 or more, after Citizens next annual rate change which occurs on or after August 1, 2024. The bill also provides the surcharge on premiums for the higher value homes does not become effective until Citizens next annual rate filing, which occurs on or after August 1, 2024.

This has the effect of not applying the Citizens rate glidepath and adding a surcharge to personal lines residential structures that have a dwelling replacement cost of \$700,000 or more (but not one million dollars or more) or a single condominium unit that has a combined dwelling and contents replacement cost of \$700,000 or more (but not one million dollars or more) that:

- The bill makes eligible for Citizens coverage; and
- Are currently eligible for Citizens coverage because the residential structure or condominium unit is located in a county in which the OIR has determined there is not a reasonable degree of competition (currently Miami-Dade County and Monroe County) pursuant to s. 627.351(6)(a)3., F.S.

The bill is effective August 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 is anticipated to benefit homeowners who are able to obtain coverage from Citizens under the newly authorized coverage. These are homeowners that are currently unable to obtain coverage in the admitted market and coverage from Citizens had been unavailable. Such homeowners have been required to turn to the non-admitted market or go without coverage.

C. Government Sector Impact:

The bill has an indeterminate impact on state revenues and expenditures. The intent is for the premiums collected by Citizens on newly authorized policies to offset the additional covered risk, however it is unknown what the impact will be.

VI. Technical Deficiencies:

The bill makes additional higher value residences eligible for Citizens coverage effective July 1, 2024; however, the effective date of the bill is August 1, 2024.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 627.351 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 Banking and Insurance Committee on January 16, 2024:

The committee substitute makes the following changes:

- Provides that the Citizens rate glidepath and the surcharge created by the bill does not apply to the higher value homes the bill makes eligible for Citizens coverage, until the corporation's next annual rate change which occurs on or after August 1, 2024.

- Provides that the Citizens rate glidepath and the surcharge created by the bill will also apply to policies that are eligible for Citizens because they are located in a county where the OIR has determined there is not a reasonable degree of competition.
- Restores current law relating to personal lines policies that are not subject to the glidepath rate increase limitations. These policies are:
 - Policies that do not cover a primary residence;
 - Policies assumed from an insurer determined by the office to be unsound or an insurer placed in receivership.
- Changes the effective date of the bill to August 1, 2024, to allow Citizens the necessary time to implement the Coverage A limit changes.

B. Amendments:

None.

By the Committee on Banking and Insurance; and Senator Hooper

597-02154-24

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A bill to be entitled

An act relating to coverage by Citizens Property Insurance Corporation; amending s. 627.351, F.S.; revising certain minimum replacement costs as risk amounts ineligible for coverage by Citizens Property Insurance Corporation for personal lines residential structures; providing exceptions to rate increase limitations on single policies issued by the corporation; requiring surcharges for a specified purpose for policies covering certain personal lines residential structures; prohibiting coverage for certain dwelling structures and single condominium units under certain circumstances; providing an effective date.

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

Section 1. Paragraphs (a) and (n) of subsection (6) of section 627.351, Florida Statutes, are amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(a) The public purpose of this subsection is to ensure that there is an orderly market for property insurance for residents and businesses of this state.

1. The Legislature finds that private insurers are unwilling or unable to provide affordable property insurance coverage in this state to the extent sought and needed. The absence of affordable property insurance threatens the public health, safety, and welfare and likewise threatens the economic

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health of the state. The state therefore has a compelling public interest and a public purpose to assist in assuring that property in the state is insured and that it is insured at affordable rates so as to facilitate the remediation, reconstruction, and replacement of damaged or destroyed property in order to reduce or avoid the negative effects otherwise resulting to the public health, safety, and welfare, to the economy of the state, and to the revenues of the state and local governments which are needed to provide for the public welfare. It is necessary, therefore, to provide affordable property insurance to applicants who are in good faith entitled to procure insurance through the voluntary market but are unable to do so. The Legislature intends, therefore, that affordable property insurance be provided and that it continue to be provided, as long as necessary, through Citizens Property Insurance Corporation, a government entity that is an integral part of the state, and that is not a private insurance company. To that end, the corporation shall strive to increase the availability of affordable property insurance in this state, while achieving efficiencies and economies, and while providing service to policyholders, applicants, and agents which is no less than the quality generally provided in the voluntary market, for the achievement of the foregoing public purposes. Because it is essential for this government entity to have the maximum financial resources to pay claims following a catastrophic hurricane, it is the intent of the Legislature that the corporation continue to be an integral part of the state and that the income of the corporation be exempt from federal income taxation and that interest on the debt obligations issued by the

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corporation be exempt from federal income taxation.

2. The Residential Property and Casualty Joint Underwriting Association originally created by this statute shall be known as the Citizens Property Insurance Corporation. The corporation shall provide insurance for residential and commercial property, for applicants who are entitled, but, in good faith, are unable to procure insurance through the voluntary market. The corporation shall operate pursuant to a plan of operation approved by order of the Financial Services Commission. The plan is subject to continuous review by the commission. The commission may, by order, withdraw approval of all or part of a plan if the commission determines that conditions have changed since approval was granted and that the purposes of the plan require changes in the plan. For the purposes of this subsection, residential coverage includes both personal lines residential coverage, which consists of the type of coverage provided by homeowner, mobile home owner, dwelling, tenant, condominium unit owner, and similar policies; and commercial lines residential coverage, which consists of the type of coverage provided by condominium association, apartment building, and similar policies.

3. With respect to coverage for personal lines residential structures, ~~+~~

~~a. effective July 1, 2024 January 1, 2014~~, a structure that has a dwelling replacement cost of \$1 million or more, or a single condominium unit that has a combined dwelling and contents replacement cost of \$1 million or more, is not eligible for coverage by the corporation. ~~Such dwellings insured by the corporation on December 31, 2013, may continue to be covered by~~

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~~the corporation until the end of the policy term. The office shall approve the method used by the corporation for valuing the dwelling replacement cost for the purposes of this subparagraph. If a policyholder is insured by the corporation before being determined to be ineligible pursuant to this subparagraph and such policyholder files a lawsuit challenging the determination, the policyholder may remain insured by the corporation until the conclusion of the litigation.~~

~~b. Effective January 1, 2015, a structure that has a dwelling replacement cost of \$900,000 or more, or a single condominium unit that has a combined dwelling and contents replacement cost of \$900,000 or more, is not eligible for coverage by the corporation. Such dwellings insured by the corporation on December 31, 2014, may continue to be covered by the corporation only until the end of the policy term.~~

~~c. Effective January 1, 2016, a structure that has a dwelling replacement cost of \$800,000 or more, or a single condominium unit that has a combined dwelling and contents replacement cost of \$800,000 or more, is not eligible for coverage by the corporation. Such dwellings insured by the corporation on December 31, 2015, may continue to be covered by the corporation until the end of the policy term.~~

~~d. Effective January 1, 2017, a structure that has a dwelling replacement cost of \$700,000 or more, or a single condominium unit that has a combined dwelling and contents replacement cost of \$700,000 or more, is not eligible for coverage by the corporation. Such dwellings insured by the corporation on December 31, 2016, may continue to be covered by the corporation until the end of the policy term.~~

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~~The requirements of sub-subparagraphs b.-d. do not apply in counties where the office determines there is not a reasonable degree of competition. In such counties a personal lines residential structure that has a dwelling replacement cost of less than \$1 million, or a single condominium unit that has a combined dwelling and contents replacement cost of less than \$1 million, is eligible for coverage by the corporation.~~

4. It is the intent of the Legislature that policyholders, applicants, and agents of the corporation receive service and treatment of the highest possible level but never less than that generally provided in the voluntary market. It is also intended that the corporation be held to service standards no less than those applied to insurers in the voluntary market by the office with respect to responsiveness, timeliness, customer courtesy, and overall dealings with policyholders, applicants, or agents of the corporation.

5.a. Effective January 1, 2009, a personal lines residential structure that is located in the "wind-borne debris region," as defined in s. 1609.2, International Building Code (2006), and that has an insured value on the structure of \$750,000 or more is not eligible for coverage by the corporation unless the structure has opening protections as required under the Florida Building Code for a newly constructed residential structure in that area. A residential structure is deemed to comply with this sub-subparagraph if it has shutters or opening protections on all openings and if such opening protections complied with the Florida Building Code at the time they were installed.

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b. Any major structure, as defined in s. 161.54(6)(a), that is newly constructed, or rebuilt, repaired, restored, or remodeled to increase the total square footage of finished area by more than 25 percent, pursuant to a permit applied for after July 1, 2015, is not eligible for coverage by the corporation if the structure is seaward of the coastal construction control line established pursuant to s. 161.053 or is within the Coastal Barrier Resources System as designated by 16 U.S.C. ss. 3501-3510.

6. With respect to wind-only coverage for commercial lines residential condominiums, effective July 1, 2014, a condominium shall be deemed ineligible for coverage if 50 percent or more of the units are rented more than eight times in a calendar year for a rental agreement period of less than 30 days.

(n)1. Rates for coverage provided by the corporation must be actuarially sound pursuant to s. 627.062 and not competitive with approved rates charged in the admitted voluntary market so that the corporation functions as a residual market mechanism to provide insurance only when insurance cannot be procured in the voluntary market, except as otherwise provided in this paragraph. The office shall provide the corporation such information as would be necessary to determine whether rates are competitive. The corporation shall file its recommended rates with the office at least annually. The corporation shall provide any additional information regarding the rates which the office requires. The office shall consider the recommendations of the board and issue a final order establishing the rates for the corporation within 45 days after the recommended rates are filed. The corporation may not pursue an administrative

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challenge or judicial review of the final order of the office.

2. In addition to the rates otherwise determined pursuant to this paragraph, the corporation shall impose and collect an amount equal to the premium tax provided in s. 624.509 to augment the financial resources of the corporation.

3. After the public hurricane loss-projection model under s. 627.06281 has been found to be accurate and reliable by the Florida Commission on Hurricane Loss Projection Methodology, the model shall be considered when establishing the windstorm portion of the corporation's rates. The corporation may use the public model results in combination with the results of private models to calculate rates for the windstorm portion of the corporation's rates. This subparagraph does not require or allow the corporation to adopt rates lower than the rates otherwise required or allowed by this paragraph.

4. The corporation must make a recommended actuarially sound rate filing for each personal and commercial line of business it writes.

5. Notwithstanding the board's recommended rates and the office's final order regarding the corporation's filed rates under subparagraph 1., the corporation shall annually implement a rate increase which, except for sinkhole coverage, does not exceed the following for any single policy issued by the corporation, excluding coverage changes and surcharges:

- a. Twelve percent for 2023.
- b. Thirteen percent for 2024.
- c. Fourteen percent for 2025.
- d. Fifteen percent for 2026 and all subsequent years.

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Beginning with the implementation of the corporation's next annual rate change on or after August 1, 2024, this subparagraph does not apply to a personal lines residential structure that has a dwelling replacement cost of \$700,000 or more or a single condominium unit that has a combined dwelling and contents replacement cost of \$700,000 or more.

6. The corporation may also implement an increase to reflect the effect on the corporation of the cash buildup factor pursuant to s. 215.555(5)(b).

7. The corporation's implementation of rates as prescribed in subparagraphs 5. and 9. ~~8.~~ shall cease for any line of business written by the corporation upon the corporation's implementation of actuarially sound rates. Thereafter, the corporation shall annually make a recommended actuarially sound rate filing that is not competitive with approved rates in the admitted voluntary market for each commercial and personal line of business the corporation writes.

8. Effective upon implementation of the corporation's next annual rate change on or after August 1, 2024, for the purpose of ensuring that the corporation's rates are not competitive with approved rates charged in the admitted voluntary market as required by subparagraph 1., a surcharge equal to the lesser of \$2,500 or 25 percent of the uncapped premium calculated using the corporation's approved rates applies to each personal lines residential policy insuring a structure that has a dwelling replacement cost of \$700,000 or more and to each policy insuring a single condominium unit that has a combined dwelling and contents replacement cost of \$700,000 or more. Notwithstanding this subsection, effective August 1, 2024, a personal lines

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233 residential structure that has a dwelling replacement cost of
 234 \$700,000 or more and a single condominium unit that has a
 235 combined dwelling and contents replacement cost of \$700,000 or
 236 more are not eligible for coverage by the corporation if the
 237 risk is offered comparable coverage from an authorized insurer
 238 at the insurer's approved rate under a standard policy including
 239 wind coverage.

240 9.8- The following new or renewal personal lines policies
 241 written on or after November 1, 2023, are not subject to the
 242 rate increase limitations in subparagraph 5., but may not be
 243 charged more than 50 percent above, nor less than, the prior
 244 year's established rate for the corporation:

245 a. Policies that do not cover a primary residence;

246 b. New policies under which the coverage for the insured
 247 risk, before the date of application with the corporation, was
 248 last provided by an insurer determined by the office to be
 249 unsound or an insurer placed in receivership under chapter 631;
 250 or

251 c. Subsequent renewals of those policies, including the new
 252 policies in sub-subparagraph b., under which the coverage for
 253 the insured risk, before the date of application with the
 254 corporation, was last provided by an insurer determined by the
 255 office to be unsound or an insurer placed in receivership under
 256 chapter 631.

257 10.9- As used in this paragraph, the term "primary
 258 residence" means the dwelling that is the policyholder's primary
 259 home or is a rental property that is the primary home of the
 260 tenant, and which the policyholder or tenant occupies for more
 261 than 9 months of each year.

597-02154-24 20241106c1

262 Section 2. This act shall take effect August 1, 2024.



The Florida Senate

Committee Agenda Request

To: Senator Jason Brodeur, Chair
Appropriations Committee on Agriculture, Environment, and General
Government

Subject: Committee Agenda Request

Date: January 22, 2024

I respectfully request that **Senate Bill #1106**, relating to Coverage by Citizens Property Insurance Corporation, be placed on the:

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

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

Senator Ed Hooper
Florida Senate, District 21

The Florida Senate
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 Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/CS/SB 1178

INTRODUCER: Appropriations Committee on Agriculture, Environment, and General Government and Regulated Industries Committee and Senator Bradley and others

SUBJECT: Community Associations

DATE: February 15, 2024 REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1178 relates to the governance of condominium and cooperative associations and the practice of community association management. Regarding community association managers (CAMs) and CAM firms, the bill:

- Requires CAMs and CAM firms to return all community association records in their possession within 20 business days of termination of a services agreement or a written request whichever occurs first, with license suspension and civil penalties for noncompliance.
- Provides conflict of interest disclosure requirements and a process for associations to follow when approving contracts with CAMs and CAM firms, or a relative, that may present a conflict of interest. The requirements are similar to the conflicts of interest provisions for condominium associations and their officers and directors.
- Provides grounds to discipline CAMs and CAM firms for failure to disclose a conflict of interest as required by the bill.

Regarding the milestone inspection and structural integrity reserve study (SIRS) requirements, the bill exempts four-family dwelling with three or fewer habitable stories above ground. Current law exempts single-family, two-family, and three-family dwellings from these requirements.

The bill provides that the Florida Building Code must require all residential dwellings to be equipped with a reusable device to prevent water intrusion through the tracks of an exterior

sliding glass door as a condition for a building permit for a new or existing dwelling if the work involves a sliding glass door, and as a condition for the milestone inspection.

Regarding access to the official records of a condominium association, the bill:

- Requires official records be maintained in a manner that facilitates inspection by unit owners.
- Effective January 1, 2026, decreases from 150 units to 25 units the threshold requirement for an association to maintain specified records available for download on the association's website or by an application on a mobile device.
- Requires official records to be provided to the unit owner at no charge if the Division of Condominium, Timeshares, and Mobile Homes (division) subpoenas records an association has failed to timely provide in response to a unit owner's written request.
- Requires associations to maintain additional financial records (e.g., invoices and other documentation that substantiates any receipt or expenditure) to be maintained by a condominium association for inspection by association members as official records.
- Permits associations to fulfill records requests by directing unit owners to the records that are posted on the association's website.
- Requires associations to respond to a records request with a checklist of all records provided.

The bill provides the following criminal penalties related to condominium associations:

- Third degree felony for an officer, director, or manager of a condominium association to knowingly solicit, offer to accept, or accept any thing or service of value or kickback;
- First degree misdemeanor for knowingly or intentionally defacing or destroying required accounting records or knowingly and intentionally failing to create or maintain required accounting records, with the intent of causing harm to the association or one or more of its members;
- Second degree misdemeanor for any director or member of the board or association to knowingly, willfully, and "repeatedly" violate (two or more violations within a 12-month period) any specified requirements relating to inspection and copying of official records of an association; and
- Third degree felony to willfully and knowingly refuse to release or otherwise produce association records, with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape.

In addition, the bill provides that a person commits theft by use of a debit card, if the person uses a debit card issued in the name of, or billed directly to, an association for any expense that is not a lawful obligation of the association.

The bill expands the requirement that officers and directors charged by information or indictment with a criminal violation created in the bill are deemed removed from office and a vacancy declared to include forgery of a ballot envelope or voting certificate, theft or embezzlement involving the association's funds or property, destruction of, or refusal to allow inspection or copying of, an official record in furtherance of any crime, and any criminal violation under ch 718, F.S.

Regarding condominium association budgets, financial reporting, and reserves, the bill:

- Revises the term “deferred maintenance” to “planned maintenance.”
- Prohibits associations from reducing the required type of financial statement (compiled, reviewed, or audited financial statements) for consecutive years.
-
- Revises reserve maintenance requirements to:
 -
 - Require an association to provide unit owners with a notice that the structural integrity reserve study (SIRS) is available for inspection and copying within 45 days of completion of the study. The notice may be provided electronically.
 - Clarify that the turnover report required under s. 718.301(4)(p), F.S., consists of a SIRS.
 - Allow a temporary pause in the funding of reserves or a reduction in reserve funding if the entire condominium building is uninhabitable due to a natural emergency, as defined in s. 252.34, F.S., as determined by the local enforcement agency, upon the approval of a majority of the members. Any reserve account funds held by the association may be expended, pursuant to the board’s determination, to make the condominium building and its structures habitable. Upon the determination by the local building official that the condominium building and its structures are habitable, the association must immediately resume contributing funds to its reserves..

Regarding meetings of the boards of administration for condominium associations, the bill:

- Requires condominium associations of 10 or more units to meet at least once each quarter for the purpose of responding to inquiries from members and informing members on the status of the condominium, including the status of any construction or repair projects, the status of the association's revenue and expenditures during the fiscal year, or other issues affecting the association.
- Requires associations to include a copy of the proposed contract if the notice for a board meeting relates to the approval of a contract.

The bill provides education requirements for the officers and directors of condominium associations to:

- Require newly elected or appointed directors to submit both the written certification that they have read the association’s governing documents, will work to uphold the documents to the best of their ability and will faithfully discharge their duties, and submit a certificate of completion of an approved condominium education course;
- Provide that the written certification and educational certificate are valid for seven years after the date of issuance and does not have to be resubmitted as long as the director serves on the board without interruption during a seven-year period.;
-
- Require directors to annually complete continuing education about recent changes to the condominium laws and rules;
- Extend the time an association must retain a copy of an officer or director’s educational certificate from five years to seven years;
- Require associations to annually certify that all directors have completed the required written certification and educational certificate requirements;
- Allow associations to pay, as an expense of the association, for the cost of a director’s required educational curriculum and certificate; andRequire the education curriculum to be

least four hours long and address director and officer fiduciary duty, milestone inspections under s. 553.899, F.S., structural integrity reserve studies, and at least four of the following topics: budgets and reserves, elections, financial reporting, condominium operations, records maintenance, including unit owner access to records, dispute resolution, and bids and contracts.

Regarding voting in condominium associations, the bill:

- Provides criminal penalties related to fraudulent voting activities that are punishable as first degree misdemeanors, including preventing members from voting, and menacing, threatening, or using bribery to directly or indirectly influence or deter a member from voting.
- Requires associations to send unit owners, whose right to vote has been suspended because of an unpaid financial obligation, a notice of such obligation within 90 days before an election.
- Allows condominium and cooperative unit owners to consent to electronic voting in condominium association elections by using an electronic means of consent. Current law requires the consent to electronic voting to be made in writing.

The bill revises the requirements for the installation of hurricane protection in a condominium building to:

- Create a uniform definition for “hurricane protection,” to include hurricane shutters, impact glass, code-compliant windows or doors, and other code-compliant hurricane protection products used to preserve and protect the condominium property or association property;
- Require condominium declarations to delineate the responsibilities of unit owners and associations for the costs of maintenance, repair, and replacement of hurricane protections, exterior doors, windows, and glass apertures;
- Provide when a majority vote of the unit owners is required to install hurricane protection;
- Provide a uniform procedure for approval of hurricane protection by the unit owners, including requiring the board to record a certificate in the public records evidencing that the association has voted to install hurricane protection; and
- Provide that, unless otherwise provided in a declaration of condominium recorded in the public record before July 1, 2024, unit owners are not responsible for the cost of removal and reinstallation of hurricane protection if the removal is necessary to repair condominium property.

The bill revises the prohibitions against “strategic lawsuits against public participation” or “SLAPP suits,” which occur when association members are sued by individuals, business entities, or governmental entities for matters arising out of a unit owner's appearance and presentation before a governmental entity on matters related to the condominium association.

The bill specifically includes condominium associations in the SLAPP suit prohibition, and protects unit owners from reporting complaints to government agencies or law enforcement, or making public statements critical of the operation or management of an association by:

- Prohibiting associations from retaliating against unit owners, such as by increasing assessments, threatening to bring an action for possession or other civil action, including a defamation, libel, slander, or tortious interference action; and

- Prohibiting associations from spending association funds in support of defamation, libel, or tortious interference actions against a unit owner.

Regarding officers and directors of a condominium association, the bill provides that the attendance of an officer or director at a meeting of the board is sufficient to constitute a quorum for the meeting and for any vote taken in his or her absence when the director is required to leave the room during the discussion and the taking of a vote on a contract in which the director, or his relative, has an interest.

The bill expands the division's post-turnover jurisdiction to include allegations of criminal violations under ch. 718, F.S., and the removal of directors and officers who have been indicted or charged by information under s. 718.112(2)(q), F.S. In addition, the bill:

- Requires that the division must refer to local law enforcement authorities any person whom the division believes has engaged in fraud, theft, embezzlement, or other criminal activity or has cause to believe that fraud, theft, embezzlement, or other criminal activity has occurred.
- Authorizes the division to impose a civil penalty for a violation of ch. 617, F.S., relating to corporations not for profit.
- Provides that the division director or any officer or employee of the division, and the condominium ombudsman or employee of the office of the condominium ombudsman may attend and observe any meeting of the board or any unit owner meeting, including any meeting of a subcommittee or special committee, that is open to members of the association, for the purpose of performing the duties of the division or the office of the ombudsman under ch. 718, F.S.
-

The bill also requires the division to submit findings by February 1, 2025, to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees and appropriate substantive committees, of its review of the website or application requirements for official records under s. 718.111(12)(g), F.S., and make recommendations regarding any additional official records of a condominium association that should be included in the record maintenance requirement.

Regarding cooperative associations, the bill:

- Revises the term “deferred maintenance” to “planned maintenance.”
- Requires an association to provide unit owners with a notice that the structural integrity reserve study is available for inspection and copying within 45 days of completion of the study. The notice may be provided electronically.
- Clarifies that the turnover report required under s. 719.301(4)(p), F.S., consists of a structural reserve study.

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

Except as otherwise expressly provided, the bill takes effect July 1, 2024.

II. Present Situation:

Milestone Inspections

Section 553.899, F.S., requires residential condominium and cooperative buildings that are three stories or more in height, as determined by the Florida Building Code, to have a milestone inspection by December 31 of the year in which the building reaches 30 years of age. However, if a building reaches 30 years of age before July 1, 2022, the initial milestone inspection must be performed before December 31, 2024. If a building reaches 30 years of age on or after July 1, 2022, and before December 31, 2024, the building's milestone inspection must be performed before December 31, 2025. The local enforcement agency will provide written notice of the required inspection to the association.¹

Local enforcement agencies that are responsible with enforcing the milestone inspection requirements may set a 25-year inspection requirement if justified by local environmental conditions, including proximity to seawater.² Local enforcement agencies may also extend the inspection deadline for a building upon a petition showing good cause that the owner or owners of the buildings have entered into a contract with an architect or engineer to perform the milestone inspection services and the milestone inspection cannot reasonably be completed before the deadline.³

The milestone inspection requirement applies to buildings that in whole or in part are subject to the condominium or cooperative forms of ownership, such as mixed-ownership buildings. Consequently, all owners of a mixed-ownership building in which portions of the building are subject to the condominium or cooperative form of ownership are responsible for ensuring compliance and must share the costs of the inspection.

The purpose of a milestone inspection is to determine the life safety and adequacy of the structural components of the building and, to the extent reasonably possible, determine the general structural condition of the building as it affects the safety of such building, including a determination of any necessary maintenance, repair, or replacement of any structural component of the building.⁴ The purpose of such inspection is not to determine if the condition of an existing building is in compliance with the Florida Building Code or the firesafety code.⁵ The milestone inspection services may be provided by a team of professionals with an architect or engineer acting as a registered design professional in responsible charge with all work and reports signed and sealed by the appropriate qualified team member.⁶

In addition, s. 553.899, F.S.:

- Requires that a phase one milestone inspection must commence within 180 days after an association receives a written notice from the local enforcement agency.
- Provides the minimum contents of a milestone inspection report.

¹ Section 553.899(3), F.S.

² Section 553.899(3)(b), F.S.

³ Section 553.899(3)(c), F.S.

⁴ Section 553.899(2)(a), F.S.

⁵ *Id.*

⁶ *Id.*

- Requires inspection report results to be provided to local building officials and the affected association.
- Requires that the contract between an association that is subject to the milestone inspection requirement and a community association manager (CAM) or CAM firm must require compliance with those requirements as directed by the board.
- Requires the local enforcement agency to review and determine if a building is safe for human occupancy if an association fails to submit proof that repairs for substantial deterioration have been scheduled or begun within at least 365 days after the local enforcement agency receives a phase two inspection report.

Within 45 days after receiving a milestone inspection report, the condominium or cooperative association must distribute a copy of an inspector-prepared summary of the inspection report to each condominium unit owner or cooperative unit owner. The inspector-prepared summary must be provided to unit owners, regardless of the findings or recommendations in the report, by United States mail or personal delivery at the mailing address, property address, or any other address of the owner provided to fulfill the association's notice requirements under ch. 718, F.S., or ch. 719, F.S., as applicable, and by electronic transmission to the e-mail address or facsimile number provided to fulfill the association's notice requirements to unit owners who previously consented to receive notice by electronic transmission. The association must also post a copy of the inspector-prepared summary in a conspicuous place on the condominium or cooperative property and must publish the full report and inspector-prepared summary on the association's website, if the association is required to have a website.

Condominium and Cooperative Associations

Chapters 718 and 719, F.S.

Chapter 718, F.S., relating to condominiums, and ch. 719, F.S., relating to cooperatives, provide for the governance of these community associations. The chapters delineate requirements for notices of meetings,⁷ recordkeeping requirements, including which records are accessible to the members of the association,⁸ and financial reporting.⁹ Timeshare condominiums are generally governed by ch. 721, F.S., the “Florida Vacation Plan and Timesharing Act.”

The Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation (DBPR) administers the provisions of chs. 718 and 719, F.S., for condominium and cooperative associations, respectively.

Condominiums

A condominium is a “form of ownership of real property created under ch. 718, F.S.”¹⁰ the “Condominium Act.” Condominium unit owners are in a unique legal position because they are exclusive owners of property within a community, joint owners of community common

⁷ See ss. 718.112(2) and 719.106(2)(c), F.S., for condominium and cooperative associations, respectively.

⁸ See ss. 718.111(12) and 719.104(2), F.S., for condominium and cooperative associations, respectively.

⁹ See ss. 718.111(13) and 719.104(4), F.S., for condominium and cooperative associations, respectively.

¹⁰ Section 718.103(11), F.S.

elements, and members of the condominium association.¹¹ For unit owners, membership in the association is an unalienable right and required condition of unit ownership.¹²

A condominium association is administered by a board of directors referred to as a “board of administration.”¹³ The board of administration is comprised of individual unit owners elected by the members of a community to manage community affairs and represent the interests of the association. Association board members must enforce a community's governing documents and are responsible for maintaining a condominium's common elements which are owned in undivided shares by unit owners.¹⁴

There are approximately 1,529,764 condominium units in Florida operated by 27,588 associations.¹⁵ Approximately 912,376 of these condominium units in Florida are at least 30 years in age.¹⁶ Further breakdown of the age of condominium units in Florida is as follows:

- 105,404 units – 50 years old or older;
- 479,435 units – 40-50 years old;
- 327,537 units – 30-40 years old;
- 141,773 units – 20-30 years old;
- 428,657 units – 10-20 years old; and
- 46,958 units – 0-10 years old.¹⁷

It has been estimated that there are over two million residents occupying condominiums 30 years or older in Florida, based upon census data indicating an average of approximately 2.2 persons living in a condominium unit.¹⁸

Cooperatives

Section 719.103(12), F.S., defines a “cooperative” to mean:

[T]hat form of ownership of real property wherein legal title is vested in a corporation or other entity and the beneficial use is evidenced by an ownership interest in the association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property.

A cooperative differs from a condominium because, in a cooperative, no unit is individually owned. Instead, a cooperative owner receives an exclusive right to occupy the unit based on their ownership interest in the cooperative entity as a whole. A cooperative owner is either a stockholder or member of a cooperative apartment corporation who is entitled, solely by reason

¹¹ See s. 718.103, F.S., for the terms used in the Condominium Act.

¹² *Id.*

¹³ Section 718.103(4), F.S.

¹⁴ Section 718.103(2), F.S.

¹⁵ Report of the Florida Bar RPPTL Condominium Law and Policy Life Safety Advisory Task Force (Task Force Report), p. 4, available at: <https://www-media.floridabar.org/uploads/2021/10/Condominium-Law-and-Policy-Life-Safety-Advisory-Task-Force-Report.pdf> (last visited Jan. 24, 2024).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

of ownership of stock or membership in the corporation, to occupy an apartment in a building owned by the corporation.¹⁹ The cooperative holds the legal title to the unit and all common elements. The cooperative association may assess costs for the maintenance of common expenses.²⁰ There are 778 cooperative associations in Florida that are registered with the DBPR.²¹

Miami-Dade County Grand Jury Report “Addressing Condo Owners’ Pleas for Help: Recommendations for Legislative Action”

The increasing numbers of condominiums in Florida, the increasing numbers of problems for people living in them, and the increasing numbers of complaints against the DBPR, motivated a Miami-Dade County grand jury to conduct an investigation of complaints by condominium residents and the DBPR’s responses to their complaints.²² The grand jury’s report contains numerous findings and recommendations, but those relevant to the provisions of the bill are discussed below.

Additional Issues

For ease of reference to each of the topics addressed in the bill, the Present Situation for each topic will be described in Section III of this analysis, followed immediately by an associated section detailing the Effect of Proposed Changes.

III. Effect of Proposed Changes:

Community Association Managers

Present Situation

Community Association Manager Regulation

Community association managers (CAMs) are licensed and regulated by the Department of Business and Professional Regulation (DBPR or department) pursuant to part VIII of ch. 468, F.S.

Section 468.431(2), F.S., defines “community association management” to mean:

any of the following practices requiring substantial specialized knowledge, judgment, and managerial skill when done for remuneration and when the association or associations served contain more than 10 units or have an annual budget or budgets in excess of \$100,000: controlling or disbursing funds of a

¹⁹ See *Walters v. Agency for Health Care Administration*, 288 So.3d 1215 (Fla. 3d DCA 2019), review dismissed 2020 WL 3442763 (Fla. 2020).

²⁰ See ss. 719.106(1)(g) and 719.107, F.S.

²¹ See Task Force Report, pp. 4-5.

²² *Final Report of the Miami-Dade County Grand Jury (Addressing Condo Owner’s Pleas for Help: Recommendations for Legislative Action)* (Filed Feb. 6, 2017), Eleventh Judicial Circuit, available at <https://miamisao.com/wp-content/uploads/2021/02/2016-Spring-Grand-Jury-Report-Final.pdf> (last visited on Jan. 24, 2024). This document is further cited in this analysis as “*Final Report of the Miami-Dade County Grand Jury*.”

community association, preparing budgets or other financial documents for a community association, assisting in the noticing or conduct of community association meetings, and coordinating maintenance for the residential development and other day-to-day services involved with the operation of a community association.

A license is not required for persons who perform clerical or ministerial functions under the direct supervision and control of a licensed manager or who only perform the maintenance of a community association and do not assist in any of the management services.²³

Community association managers are regulated by the seven-member Regulatory Council of Community Association Managers. Five of the members must be licensed CAMs, one of whom must be a CAM for a timeshare. The other two must not be CAMs. Members are appointed to four-year terms by the Governor and confirmed by the Senate.²⁴

To become licensed as a CAM, a person must apply to the department to take the licensure examination and submit to a background check. Upon determination that the applicant is of good moral character, the applicant must attend a department-approved in-person training prior to taking the examination.²⁵ Community association managers must successfully complete an exam and pay a fee to become licensed. They must also complete continuing education hours as approved by the council to maintain their licenses.²⁶

Practice Standards and Conflicts of Interest

Section 468.4334, F.S., delineates the professional practice standards for CAMs and CAM firms, including the duty to “discharge the duties performed on behalf of the association as authorized by [ch. 468, F.S.], loyally, skillfully, and diligently; dealing honestly and fairly; in good faith; with care and full disclosure to the community association; accounting for all funds; and not charging unreasonable or excessive fees.” In addition, if a CAM or CAM firm has a contract with a community association that has a building on the association’s property that is subject to s. 553.899, F.S., the CAM or firm must comply with that section as directed by the board.

The license of a CAM or CAM firm may be disciplined, including a suspension or revocation of their license, or denial of a license renewal, for the grounds specified in s. 468.436, F.S., including contracting, on behalf of an association, with any entity in which the CAM or CAM firm has a financial interest that is not disclosed to the association.

Section 718.3027, F.S., provides the process for resolving potential conflict of interest for the officers and directors of condominium associations. It requires an officer or director of a condominium association (that is not a timeshare condominium association), to disclose any financial interest of the officer or director (or such person’s relative) in a contract for goods or services, if such activity may reasonably be construed by the board to be a conflict of interest. The board of a condominium association must approve a contract for services or other

²³ Section 468.431(2), F.S.

²⁴ Section 468.4315(1), F.S.

²⁵ Section 468.433, F.S.

²⁶ Sections 468.4336 and 468.4337, F.S.

transactions by an affirmative vote of two-thirds of all other directors present. Current law does not have a comparable process for a CAM's or CAM firm's disclosure of a potential conflict of interest or the process for an association's affirmative acceptance or approval of such a conflict of interest.

Effect of Proposed Changes

The bill revises the following requirements for CAM and CAM firms under part VIII of ch. 468, F.S., which apply to all CAM and CAM firms engaged in community association management in condominium associations under ch. 718, F.S., cooperative associations under ch. 719, F.S., and homeowners' associations under ch. 720, F.S.

The bill creates s. 468.4334(3), F.S., to require a CAM or CAM firm to return all community association records in his or her possession within 20 business days of termination of services agreement or a written request, whichever occurs first. The bill allows a CAM or CAM firm to retain records for up to 20 business days after the contract is terminated in order to complete an ending financial statement or report. If the association fails to provide the CAM or CAM firm access or retention to the accounting records, the CAM or CAM firm is relieved of any further responsibility or liability for preparation of the statement or report. If the CAM or CAM firm fails to timely return all of the official records within its possession to the community association, the successor CAM firm, the bill creates a rebuttable presumption that the CAM or CAM firm willfully failed to comply with this subsection.

However, the bill also provides that a CAM or CAM firm that fails to timely return community association records is subject to suspension of its license under s. 468.436, F.S., and a civil penalty of \$1,000 per day for up to 10 business days, assessed beginning on the 21st business day after termination of a contractual agreement to provide community association management services to the community association or receipt of a written request from the association for return of the records, whichever occurs first.

The bill provides such notice of termination must be sent by:

- Certified mail;
- Return receipt request; or
- In the manner required in the management contract.

The bill creates s. 468.4335, F.S., to provide additional conflict of interest disclosure requirements for CAMs and CAM firms and a process for associations to follow when approving contracts with a CAM or CAM firm, or a relative of a CAM, which may present a conflict of interest. The requirements are similar to those applicable to contracts between condominium associations and their officers and directors.

The bill requires a CAM or CAM firm, including the directors, officers, persons with a financial interest in the CAM firm and relatives of such persons, to provide a written disclosure of any activity which may reasonably be construed by the board to be a conflict of interest. The bill creates a rebuttable presumption of an existing conflict of interest if a CAM or CAM firm, including directors, officers, persons with a financial interest in a CAM firm, or the relative of such persons:

- Enters into a contract for goods or services with the association, other than community association management services.
- Holds an interest in a corporation, limited liability corporation, partnership, limited liability partnership, or other business entity that conducts business with the association or proposes to enter into a contract or other transaction with the association.

Under the bill, if the association receives and considers a bid to provide a good or service, other than community association management services, from a CAM or CAM firm, including directors, officers, persons with a financial interest in a CAM firm, or a relative of such persons, the association must also solicit multiple competitive bids from other third-party providers of such good or service.

The bill requires that the proposed activity that may be a conflict of interest must be listed on, and all contracts and transactional documents related to the proposed activity must be attached to, the board's meeting agenda and entered into the written minutes of the meeting. The board must approve the contract or other transaction by an affirmative vote of two-thirds of all other directors present. At the next regular or special meeting of the members, the existence of the contract or other transaction must be disclosed to the members. If the contract is canceled because the board finds that the CAM or CAM firm has violated the disclosure requirements, the bill provides that the association is liable only for the reasonable value of the management services provided up to the time of cancellation and is not liable for any termination fee, liquidated damages, or other form of penalty for such cancellation.

Under the bill, if the activity has not been properly disclosed as a conflict of interest or potential conflict of interest, the contract is voidable and terminates upon the association filing a written notice terminating the contract.

The bill defines the term "relative" to mean a relative within the third degree of consanguinity²⁷ by blood or marriage of a board member or officer.

The bill provides that the procedures in the bill related to disclosures of financial interests, including the multiple bid requirements, the requirement for a two-thirds vote of approval by the board, and the right to cancel a contract do not apply to conflicts of interest disclosed in the management services contract.

The bill revises the disciplinary grounds for CAMs and CAM firms to provide a disciplinary grounds on the basis of a CAM or CAM firm's failure to disclose a conflict of interest as required by s. 468.4335, F.S.

²⁷ Relatives of the third degree of consanguinity include great grandparent, aunt/uncle, niece/nephew, and great grandchild. See: https://www.uab.edu/humanresources/home/images/M_images/Relations/PDFS/FAMILY%20MEMBER%20CHART.pdf (last visited Jan. 24, 2024).

Florida Building Code - Sliding Glass Doors

Present Situation

Chapter 553, part IV, F.S., is known as the “Florida Building Codes Act” (act). The purpose and intent of the act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.²⁸

The Florida Building Commission (commission) was statutorily created to implement the Building Code. The commission, which is housed within DBPR, is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code.²⁹ The commission reviews several International Codes published by the International Code Council,³⁰ the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated, and adopts an updated Building Code every three years.³¹

Effect of Proposed Changes

The bill creates s. 553.8445, F.S., to require all residential dwellings must be required to be equipped with a reusable device which is attachable to the sliding glass door track and is designed to reduce water intrusion through the tracks of the sliding glass doors by not less than 90 percent with wind not less than 100 miles per hour as a condition for:

- The issuance of a building permit for the construction of new residential dwelling with an exterior sliding glass door.
- The issuance of a building permit for the installation or repair of an exterior sliding glass door in a residential dwelling.
- The completion of a milestone inspection required by s. 553.899, or a similar local requirement, for any dwelling with an exterior sliding glass door.

Section 553.8445, F.S., applies to exterior sliding glass doors contained in any condominium unit, multifamily dwelling, or single-family dwelling.

The bill requires the commission to adopt, by July 1, 2025, the requirements of s. 553.8445, F.S., into the Florida Building Code pursuant to s. 553.73(8), F.S.

²⁸ Section 553.72(1), F.S.

²⁹ Section 553.74, F.S.

³⁰ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to “construct safe, sustainable, affordable and resilient structures.” International Code Council, *About the ICC*, available at <https://www.iccsafe.org/about/who-we-are/> (last visited Feb. 16, 2023).

³¹ Section 553.73(7), F.S.

Milestone Inspections

Present Situation

Condominium and cooperative buildings that are single-family, two-family, and three-family dwellings with three or fewer habitable stories above ground are exempt from the milestone inspection requirement.³²

Effect of Proposed Changes

The bill amends s. 553.899(4), F.S., to exempt four-family dwellings with three or fewer habitable stories above ground from the milestone inspection requirements.

Condominium Officers and Directors

Present Situation

Breaches of a Fiduciary Duty and Prohibited Acts

Officers and directors of a condominium association have a fiduciary relationship to the unit owners, and may be sanctioned for breach of their fiduciary duty.³³ An officer, director, or manager may not solicit, offer to accept, or accept anything or service of value or a kickback for which consideration has not been provided for the benefit of such person (or immediate family members) from any person providing or proposing to provide goods or services to the association.³⁴

Any such officer, director, or manager who knowingly solicits, offers to accept, or accepts anything or service of value or kickback is subject to a civil penalty pursuant to s. 718.501(1)(d), F.S., and, if applicable, a criminal penalty as provided in s. 718.111(1)(d), F.S.

Section 718.111(1)(d), F.S., requires an officer, director, or agent to discharge his or her duties in good faith, with the care an ordinarily prudent person in a similar position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the interests of the association. An officer, director, or agent is liable for monetary damages as provided in s. 617.0834, F.S., if such officer, director, or agent breaches or fails to perform his or her duties. The breach of, or failure to perform, such duties constitutes:

- A violation of criminal law as provided in s. 617.0834, F.S.;
- A transaction from which the officer or director derived an improper personal benefit, either directly or indirectly; or
- Recklessness or an act or omission that was in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

³² Section 533.899(4), F.S.

³³ Section 718.111(1)(a), F.S.

³⁴ Section 718.111(1)(a), F.S., does not prohibit an officer, director, or manager from accepting services or items received in connection with trade fairs or education programs.

Section 617.0834, F.S., relates to the provisions for the civil liability of officers and directors of not-for-profit corporations and associations.³⁵ Section 617.0834(1), F.S., provides that officers and directors of certain not-for-profit corporations and associations are not personally liable for monetary damages to any person for any statement, vote, decision, or failure to take an action, regarding organizational management or policy by an officer or director, unless the officer or director:

- Breached or failed to perform his or her duties as an officer or director; and
- Breached or failed to perform his or her duties, and the breach constitutes:
 - A criminal violation, unless he or she had reasonable cause to believe his or her conduct was lawful or had no reasonable cause to believe his or her conduct was unlawful.³⁶
 - A transaction from which he or she derived an improper personal benefit, directly or indirectly; or
 - A recklessness or an act or omission committed in bad faith or with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

The Miami-Dade County grand jury found:

Although the directors have a legally mandated fiduciary obligation toward their unit owners, it appears that some of them are more involved in self-dealing and looking out for their own financial interests. The position of board director is not generally a paid position. Yet, some directors appear to view the ability to get into office as an opportunity to cash in. This should not be countenanced.³⁷

Criminal Prohibitions

Section 718.111(1)(d), F.S., also criminalizes the following acts:

- Forgery of a ballot envelope or voting certificate used in a condominium association election is punishable as provided in s. 831.01, F.S.;
- Theft or embezzlement of funds of a condominium association is punishable as provided in s. 812.014, F.S.; and
- Destruction of or refusal to allow inspection or copying of an official record of a condominium association that is accessible to unit owners within the time periods required by general law in furtherance of any crime is punishable as tampering with physical evidence as provided in s. 918.13, F.S., or as obstruction of justice as provided in ch. 843, F.S.

Removal from Office

Section 718.112(2)(q), F.S., requires a board to immediately remove from office any officer or director who is charged with felony theft or embezzlement involving association funds. If the charges are resolved without a finding of guilt or without acceptance of a plea of guilt or nolo

³⁵ Corporations that operate residential homeowners' associations are governed by ch. 720, F.S., relating to homeowners' associations, and are subject to part I of ch. 607, F.S., the Florida Business Corporation Act, or ch. 617, F.S., relating to corporations not-for-profit.

³⁶ Section 617.0834, F.S., does not provide criminal penalties nor reference the criminal law that is violated by the officer's or director's breach or failure to perform his or her duties.

³⁷ *Final Report of the Miami-Dade County Grand Jury*, *supra* note 15, at page 10 (citation omitted).

contendere, the director or officer must be reinstated for any remainder of his or her term of office.

Section 718.111(1)(d), F.S., also provides that an officer or director charged by information or indictment with any crime referenced in this paragraph³⁸ must be removed from office, and the vacancy must be filled as provided in s. 718.112(2)(d)2., F.S., until the end of the officer's or director's period of suspension or the end of his or her term of office, whichever occurs first. If a criminal charge is pending against the officer or director, he or she may not be appointed or elected to a position as an officer or a director of any association and may not have access to the official records of any association, except pursuant to a court order. However, if the charges are resolved without a finding of guilt, the officer or director must be reinstated for the remainder of his or her term of office, if any.

Defacing or Destroying Records

Section 718.111(12)(c)2., F.S., provides that any person who knowingly or intentionally defaces or destroys accounting records that are required to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. 718.501(1)(d), F.S.³⁹

Effect of Proposed Changes

Additional Criminal Prohibitions

The bill amends s. 718.111, F.S., to provide the following additional criminal prohibitions relating to the management of a condominium association, and provides penalties for violations:

- Third degree felony⁴⁰ for an officer, director, or manager of a condominium association to knowingly solicit, offer to accept, or accept a kickback, which the bill defines as anything of service of value for which consideration has not been provided for an officer's, a director's, or a manager's benefit or that of his or her immediate family, from any person providing or proposing to provide goods or services to the association;

³⁸ The only crimes specifically referenced in s. 718.111(1)(d), F.S., are the previously-described offenses relating to forgery of a ballot envelope or voting certificate, theft or embezzlement of association funds, and destruction of or refusal to allow inspection or copying of association records. Additionally, s. 718.111(1)(d), F.S., states that an officer, director, or agent shall be liable for monetary damages as provided in s. 617.0834, F.S., if such officer, director, or agent breached or failed to perform his or her duties and the breach of, or failure to perform, his or her duties constitutes a violation of criminal law as provided in s. 617.0834, F.S. The reference to criminal violations in s. 718.111(1)(d), F.S., is slightly different than the reference to criminal violations in s. 718.112(2)(o), F.S., which provides that a director or officer charged by information or indictment with a felony theft or embezzlement offense involving the association's funds or property must be removed from office. The latter provision appears to be more limited than the former provision.

³⁹ Section 718.501(1), F.S., authorizes the division to enforce and ensure compliance with the provisions of the Condominium Act, and rules relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units. The division may impose a civil penalty individually against an officer or board member who willfully and knowingly violates a provision of the Condominium Act, an adopted rule, or a final order of the division.

⁴⁰ Section 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not to exceed five years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not to exceed \$5,000.

- First degree misdemeanor⁴¹ to knowingly or intentionally deface or destroy required accounting records or knowingly and intentionally fail to create or maintain required accounting records, with the intent of causing harm to the association or one or more of its members (and deletes the provision that such an offense is punishable by a civil penalty);⁴²
- Second degree misdemeanor⁴³ for any director or member of the board or association to knowingly, willfully, and “repeatedly” violate (two or more violations within a 12-month period) any specified requirements relating to the inspection and copying of official records of an association; and
- Third degree felony⁴⁴ to willfully and knowingly refuse to release or otherwise produce association records, with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape.⁴⁵

Use of Credit Cards

The bill amends s. 718.111(15), F.S., to revise the prohibitions related to use of an association’s credit card. Under the bill, a person commits theft⁴⁶ by use of a debit card, if the person uses a debit card issued in the name of, or billed directly to, an association for any expense that is not a lawful obligation of the association. The bill defines a “lawful obligation of the association” as an obligation that has been properly preapproved by the board and is reflected in the meeting minutes or the written budget. The bill deletes the provision in current law that the unlawful use of an association’s credit card constitutes credit card fraud pursuant to s. 817.61, F.S.

Removal from Office

The bill amends s. 718.112(2)(q), F.S., to expand the number of crimes for which an officer or director charged by information or indictment must be removed from office to include:

⁴¹ Section 775.082, F.S., provides that a misdemeanor of the first degree is punishable by a term of imprisonment not to exceed one year. Section 775.083, F.S., provides that a misdemeanor of the first degree is punishable by a fine not to exceed \$1,000.

⁴² This provision is similar to the Miami-Dade County grand jury’s recommendation to criminally punish directors and members of the board or association who knowingly or intentionally deface or destroy accounting records or fail to create or maintain such records. The grand jury recommended a second degree misdemeanor for a first offense, and a first degree misdemeanor for any subsequent offenses. *Final Report of the Miami-Dade County Grand Jury*, *supra* note 15, at pages 8-9.

⁴³ Section 775.082, F.S., provides that a misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days. Section 775.083, F.S., provides that a misdemeanor of the second degree is punishable by a fine not to exceed \$500.

⁴⁴ Section 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not to exceed five years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not to exceed \$5,000.

⁴⁵ This provision is similar to the Miami-Dade County grand jury’s recommendation to make it a third degree felony for any association, board director, management company, or management company employee to willfully, knowingly, or intentionally refuse to release or otherwise produce official association records, if such refusal is done to facilitate or cover-up the commission of a crime. *Final Report of the Miami-Dade County Grand Jury*, *supra* note 15, at pages 8-9.

⁴⁶ Theft is generally punishable based upon the value of the property stolen. Petit theft is generally a second degree misdemeanor or first degree misdemeanor. Section 812.014(3)(a) and (b), F.S. Grand theft is generally a third degree felony, second degree felony, or first degree felony. Section 812.014(1)(a)-(c), F.S. A second degree felony is punishable by up to 15 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S. A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to \$10,000. *Id.*

- Forgery of a ballot envelope or voting certificate used in a condominium association election punishable as a felony crime as provided in s. 831.01, F.S.;⁴⁷
- Theft or embezzlement involving the association's funds or property as provided in s. 812.014, F.S.;
- Destruction of, or refusal to allow inspection or copying of, an official record of a condominium association that is accessible to unit owners within the time periods required by general law in furtherance of any crime which is punishable as tampering with physical evidence as provided in s. 918.13, F.S., or as obstruction of justice as provided in ch. 843, F.S.;
- Obstruction of justice under ch. 843, F.S.; and
- Any criminal violation under ch 718, F.S.

Under the bill, a vacancy must be filled as provided by s. 718.112(2)(d), F.S., until the end of the officer's or director's period of suspension or the end of his or her term of office, whichever occurs first.⁴⁸

Under the bill, if a criminal charge is pending against an officer or director, he or she may not have access to the official records of any association, except pursuant to a court order.

Fraudulent Voting Activities

The bill creates s. 718.112(2)(r), F.S, to provide that each of the following actions relating to condominium association elections is a fraudulent voting activity and constitutes a misdemeanor of the first degree:⁴⁹

- Willfully and falsely swearing to or affirming an oath or affirmation, or willfully procuring another person to falsely swear to or affirm an oath or affirmation, in connection with or arising out of voting activities.
- Perpetrating or attempting to perpetrate, or aiding in the perpetration of, fraud in connection with a vote cast, to be cast, or attempted to be cast.
- Preventing a member from voting, or preventing a member from voting as he or she intended, by fraudulently changing or attempting to change a ballot, ballot envelope, vote, or voting certificate of the member.
- Menacing, threatening, or using bribery or any other corruption to attempt, directly or indirectly, to influence, deceive, or deter a member when voting.
- Giving or promising, directly or indirectly, anything of value to another member with the intent to buy the vote of that member or another member or to corruptly influence that member or another member in casting his or her vote. This provision does not apply to any food served which is to be consumed at an election rally or a meeting or to any item of

⁴⁷ Section 831.01, F.S., relates to the crime of forgery. A forgery violation is a felony of the third degree. Section 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not to exceed five years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not to exceed \$5,000.

⁴⁸ Section 720.306(9), F.S., relates to elections and vacancies on a board. It also prohibits convicted felons, including persons who've been convicted in another jurisdiction which would be considered a felony crime in Florida, of serving on a board for at least five years as of the date the person seeks election to the board, unless their civil rights have been restored.

⁴⁹ Section 775.082, F.S., provides that a misdemeanor of the first degree is punishable by a term of imprisonment not to exceed one year. Section 775.083, F.S., provides that a misdemeanor of the first degree is punishable by a fine not to exceed \$1,000.

nominal value which is used as an election advertisement, including a campaign message designed to be worn by a member.

- Using or threatening to use, either directly or indirectly, force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel a member to vote or refrain from voting in an election or on any particular ballot measure.

In addition, the bill provides that the following actions relating to condominium association elections are fraudulent voting activities and constitute a misdemeanor of the first degree:⁵⁰

- Knowingly aiding, abetting, or advising a person in the commission of a fraudulent voting activity related to association elections.
- Agreeing, conspiring, combining, or confederating with at least one other person to commit a fraudulent voting activity related to association elections.
- Having knowledge of a fraudulent voting activity related to association elections and giving any aid to the offender with intent that the offender avoid or escape detection, arrest, trial, or punishment.

The criminal prohibitions in s. 718.112(2)(r), F.S., do not apply to a licensed attorney giving legal advice to a client.

Official Records – Condominiums

Present Situation

Section 718.111(12)(a), F.S., requires a condominium association to maintain various records, including but not limited to, the association's recorded bylaws and amendments to those bylaws, articles of incorporation and amendments to those articles, bills of sale or transfer for association-owned property, accounting records, voting ballots, contracts for work to be performed, and bids.

Section 718.111(12)(b), F.S., requires that some of these records (e.g., bylaws and articles of incorporation) be permanently maintained from the inception of the association. All other official records must be maintained within the state for at least seven years, unless otherwise provided by general law.⁵¹ The records must be made available to a unit owner within 45 miles of the condominium property or within the county in which the condominium property is located within 10 working days after receipt of a written request by the board or its designee. An association must make a copy of the records available for inspection or copying by a unit owner on the condominium property or association property or offer the option of making the records available electronically via the Internet or allow the records to be viewed in electronic format on a computer screen and printed upon request.

Section 718.111(12)(c)1., F.S., provides that official records of the association are open to inspection by any association member or the authorized representative of such member at all

⁵⁰ *Id.*

⁵¹ Section 718.111(12)(b), F.S.

reasonable times.⁵² A renter of a unit has a right to inspect and copy the association's bylaws and rules. The failure of an association to provide the records within 10 working days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with these requirements. A unit owner who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. The failure to permit inspection entitles any person prevailing in an enforcement action to recover reasonable attorney fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records.

Section 718.111(12)(g), F.S., provides that by January 1, 2019, an association managing a condominium with 150 or more units which does not contain timeshare units must post digital copies of specified records on its website. These documents include, but are not limited to: the recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration, the recorded association bylaws and amendments to those bylaws, articles of incorporation of the association and amendments to those articles, the annual and proposed budget, and various contracts, including any contract or document regarding a conflict of interest or possible conflict of interest. The failure of the association to post required information is not in and of itself sufficient to invalidate any action or decision of the association's board or its committees.

Effect of Proposed Changes

The bill amends the official records requirements for condominium associations in s. 718.111(12), F.S., to require official records be kept in a manner that facilitates inspection of the records by unit owners. In addition, if records are lost, destroyed, or otherwise made unavailable, the bill provides that the obligation to maintain official records includes the obligation to recover those records as may reasonably be possible.

Effective January 1, 2026, the bill amends the requirements for condominium associations to maintain specified records available for download on the association's website or by an application on a mobile device to decrease from 150 units to 25 units the threshold for that requirement.

The bill also amends s. 718.111(12), F.S., to:

- Require additional financial records (all invoices, transaction receipts, or deposit slips that substantiate any receipt or expenditure of funds by the association) be maintained by a condominium association and made available for inspection by association members;
- Permit associations to comply with its obligations related to a member's right of access to certain official records and right to copies of such records by posting the records on the association's website and directing an authorized requester to such website;
- Require associations to respond to a statutorily compliant written request to inspect records with a checklist of all records made available, and not made available, for inspection and copying;

⁵² The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the member or authorized representative of such member. The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying.

- Require associations to maintain the checklist provided in response to a written request for seven years (An association delivering a checklist and affidavit creates a rebuttable presumption that the association has complied); and
- Require an association to maintain, and have available for download on the association's website or by an application on a mobile device, building permits related to ongoing or planned construction.

The bill amends s. 718.501(1)(d)7., F.S., to require the division to provide the official records to the unit owner at no charge when the division subpoenas the records the association failed to timely provide in response to a unit owner's written request.

Financial Reporting – Condominiums

Present Situation

Section 718.111(13), F.S., provides the financial reporting requirements for condominium associations. Within 90 days following the end of the fiscal or calendar year, or annually on such date as provided in the association's bylaws, the governing board of the association must complete, or contract with a third party to complete, the financial report. Within 21 days after the financial report is completed by the board or received from the third party, but no later than 120 days after the end of the fiscal year, the board must provide each member of the association a copy of the financial report or a notice that it is available at no charge upon a written request.

The association must deliver the financial report, by mail or hand delivery to each unit owner at the address last furnished to the association by the unit owner, a copy of the most recent financial report or a notice that a copy of the most recent financial report will be mailed or hand delivered to the unit owner, without charge, within 5 business days after receipt of a written request from the unit owner.

The type of financial reporting that an association must perform differs based on the association's total annual revenue. From the least stringent to the most stringent, an association that has a total annual revenue of:

- Less than \$150,000 must prepare a report of cash receipts and expenditures.
- At least \$150,000 but less than \$300,000 must prepare *compiled* financial statements.⁵³
- At least \$300,000 but less than \$500,000 must prepare *reviewed* financial statements.⁵⁴
- \$500,000 or more must prepare *audited* financial statements.⁵⁵

⁵³ A compiled financial statement is an accounting service based on information provided by the entity that is the subject of the financial statement. A compiled financial statement is made without a Certified Public Accountant's (CPA) assurance as to conformity with GAAP. Compiled financial statements must conform to the American Institute of Certified Public Accountants (AICPA) Statements on Standards for Accounting and Review Services. J.G. Siegel and J.K. Shim, *Barron's Business Guides, Dictionary of Accounting Terms*, 3rd ed. (Barron's 2000).

⁵⁴ A reviewed financial statement is an accounting service that provides a board of directors and interested parties some assurance as to the reliability of financial data without the CPA conducting an examination in accordance with GAAP. Reviewed financial statements must comply with AICPA auditing and review standards for public companies or the AICPA review standards for non-public businesses. *Id.*

⁵⁵ An audited financial statement by a CPA verifies the accuracy and completeness of the audited entities records in accordance with GAAP. *Id.*

An association may prepare a more or less stringent type financial report if approved by vote of the majority of the voting interest of the association.⁵⁶ An approval to provide a less stringent type of financial report is effective only for the year in which the vote is taken and for the following fiscal year.⁵⁷

Effect of Proposed Changes

The bill amends the financial reporting requirements in s. 718.111(13), F.S., to:

- Require the financial statement be delivered by hand delivery or mailed to each unit owner, by United States mail or personal delivery at the mailing address, property address, e-mail address, or facsimile number provided to fulfill the association's notice requirements; and
 -
- Prohibit associations from reducing the required type of financial statement for consecutive years
- .
-

Meetings of the Board of Administration – Condominiums

Present Situation

Section 718.112(2)(c), F.S., requires that all meetings of the board in which a quorum is present to be open to all unit owners. Chapter 718, F.S., provides notice requirements for meetings of the board,⁵⁸ but does not mandate the frequency of such meetings.

If the board considers any special or regular assessment against unit owners, the notice for the meeting must specifically state that the assessments will be considered and provide the estimated cost and description of the purposes for such assessments.

Effect of Proposed Changes

The bill amends s. 718.112(2)(c), F.S., to:

- Require condominium associations of 10 or more units to meet at least once each quarter;
- Provide that at least four times each year, the meeting agenda must include an opportunity for members to ask questions;
- Provide that members have the right to ask questions at meetings with respect to reports on the status of construction or repair projects, status of revenues and expenditures during the current fiscal year, and other issues affecting the condominium; and
- Require associations to include a copy of the proposed contract in the notice of a board meeting, or provide electronic access to the contract on the association's website or through an application on a mobile device, if the notice for a board meeting relates to the approval of a contract.

⁵⁶ See s. 718.111(13)(c) and (d), F.S.

⁵⁷ See s. 718.111(13)(d), F.S.

⁵⁸ Section 718.112(2)(c), F.S.

Director and Officer Education – Condominiums

Present Situation

Section 718.112(2)(d)4.b., F.S., provides education or certification requirements for newly elected or appointed members of the board.⁵⁹ Within 90 days after being elected or appointed, a new board member for a condominium, cooperative, and homeowners' association must certify that he or she:

- Has read the declaration of condominium for all condominiums operated by the association and the declaration of condominium, articles of incorporation, bylaws, and current written policies;
- Will work to uphold such documents and policies to the best of his or her ability; and
- Will faithfully discharge his or her fiduciary responsibility to the association's members.

As an alternative to a written certification, the newly elected or appointed director may submit a certificate of satisfactory completion of the educational curriculum within one year before the election or 90 days after the election or appointment.⁶⁰ The curriculum must be administered by a condominium education provider approved by the division.⁶¹ A certification is valid and does not have to be resubmitted as long as the director continuously serves on the board.

A board member is suspended from service on the board until he or she files the written certification or submits a certificate of completion of the educational curriculum.⁶² If a suspension occurs, the board may temporarily fill the vacancy during the period of suspension. The secretary of the association must keep the written certification or educational certificate for inspection by the members for five years after a board director's election or the duration of the director's uninterrupted tenure, whichever is longer.⁶³ The validity of any action by the condominium board is not affected by the association's failure to have the certification on file.⁶⁴

Effect of Proposed Changes

The bill amends the post-election certification requirements in s. 718.112(2)(d)4.b., F.S., to:

- Require newly elected or appointed directors to submit both the written certification that they have read the association's governing documents, will work to uphold the governing documents of the association to the best of their ability and will faithfully discharge their duties, and submit a certificate of completion of an education course and submit certification that they have completed a division-approved condominium education course;
- Require a director that was elected or appointed before July 1, 2024, to comply with the written certification and educational certificate requirement by June 2025;

⁵⁹ Sections 719.106(1)(d)b. and 720.720.303(1)(a), F.S., provide comparable post-election certification requirements for newly elected cooperative and homeowners' association board members, respectively.

⁶⁰ The division's Internet site provides a listing of approved educational providers for the certification of board members. See Department of Business and Professional Regulation, *Condominium & Cooperatives – Education*, available at: <http://www.myfloridalicense.com/DBPR/condominiums-and-cooperatives/education/> (last visited Jan. 24, 2024).

⁶¹ Sections 718.112(2)(d)4.b., F.S.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

- Provide that the written certification and educational certificate are valid for seven years from the date of issuance and does not have to be resubmitted as long as the director serves on the board without interruption during a seven-year period;
- Provide that a director who is appointed by the developer may satisfy the educational certificate requirement for any subsequent appointment to a board by a developer within seven years after the date of issuance of the most recent educational certificate, including any interruption of service on a board or appointment to a board in another association within that seven-year period;
- Require directors to annually complete continuing education on recent changes to the condominium laws and rules;
- Require associations to retain the educational certificates of the directors for seven years, instead of five years; and
- Allow associations to pay, as an expense of the association, for the cost of a director's required educational curriculum and certificate.

The bill requires the education curriculum to be at least four hours long and address director and officer fiduciary duty, milestone inspections under s. 553.899, F.S., structural integrity reserve studies, and at least four of the following topics: budgets and reserves, elections, financial reporting, condominium operations, records maintenance, including unit owner access to records, dispute resolution, and bids and contracts.

The bill also amends s. 718.501, F.S., to:

- Require the division to adopt by rule the educational curriculum required under s. 718.112(2)(d), F.S., for its approval of condominium education providers; and
- Require associations to annually certify that all directors have or have not completed the required written certification and educational certificate requirements. If the association certifies that a director has not completed the written certification and educational certificate requirements, the association must explain on the certification form the reasons the written certification and educational certificate requirements have not been met and provide the date by which the requirements will be met, which may not be more than 60 days after the date the certification form required under this paragraph is submitted to the division. Upon completion of the education requirements in s. 718.112(2)(d)4.b., F.S., the association must notify the division, on a form adopted by rule of the division, that the requirements have been met.

Reserves and Structural Integrity Reserve Studies – Condominiums and Cooperatives

Present Situation

In addition to annual operating expenses, the budget must include reserve accounts for capital expenditures and deferred maintenance. Reserve accounts must include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and any other item that has a deferred maintenance expense or replacement cost that exceeds \$10,000.⁶⁵

⁶⁵ See s. 718.112(2)(f) and 719.106(1)(j), F.S., relating to reserves requirements for condominium and cooperative associations, respectively.

The amount to be reserved must be computed using a formula based upon the estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. Replacement reserve assessments may be adjusted annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance.⁶⁶

A “structural integrity reserve study” (SIRS) is a study of the reserve funds required for future major repairs and replacement of the common elements based on a visual inspection. A SIRS is required for condominium buildings that are three or more stories in height.⁶⁷

Regarding the funding of reserves for the continued maintenance and repair of condominium and cooperative buildings, ss. 718.112(2)(f) and 719.106(1)(j), F.S., relating to condominium and cooperative associations, respectively, associations that are required to have a SIRS may not waive reserves for the SIRS items or use such reserves for other purposes.

Regarding the SIRS, ss. 718.112(2)(g) and 719.106(1)(k), F.S., relating to condominium and cooperative associations, respectively:

- Require condominium associations and cooperative associations to complete a structural integrity reserve study every 10 years for each building in an association that is three stories or higher in height, as determined by the Florida building code.
- Require associations existing on or before July 1, 2022, that are controlled by non-developer unit owners, to have a structural integrity reserve study completed by December 31, 2024.
- Require that the study include a visual inspection, and state the estimated remaining useful life and the estimated replacement cost of the following items (structural integrity items): roof, structure, fireproofing and fire protection systems, plumbing, electrical systems, waterproofing, windows and exterior doors, and any item with a deferred maintenance or replacement cost that exceeds \$10,000.
- Require the visual inspection be performed or verified by a person licensed as an engineer, an architect, reserve specialist, or professional reserve analyst certified by the Community Associations Institute or the Association of Professional Reserve Analysts. However, any qualified person or entity may perform the other components of a SIRS.
- Provide that the SIRS may recommend that reserves do not need to be maintained for any item for which an estimate of useful life and an estimate of replacement cost or deferred maintenance expense cannot be determined or for which the estimate of useful life is greater than 25 years, but the study may recommend a deferred maintenance amount for such items;
- Exempt from the SIRS requirement:
 - Buildings less than three stories in height;
 - Single-family, two-family, or three-family dwellings with three or fewer habitable stories above ground; and
 - Any portion or component of a building that has not been submitted to the condominium or cooperative form of ownership; or any portion or component of a building that is maintained by a party other than the condominium or cooperative association.

⁶⁶ *Id.*

⁶⁷ See s. 718.112(2)(g) and 719.106(1)(k), F.S., relating to SIRS requirements for condominium and cooperative associations, respectively

Members of unit-owner-controlled associations may waive reserves upon a majority vote of the total voting interests of the association. However, after December 31, 2024, unit-owner-controlled condominium and cooperative associations that must obtain a SIRS may not waive reserves. Associations that are required to obtain a SIRS also may not opt to provide less reserves or no reserves than are required for the structural integrity items. Nor may those reserves be used for any other purpose than their intended purpose.⁶⁸

Before turnover of control to the unit owners, ss. 718.301(4)(p) and 719.301(4)(p), F.S., require the developer to perform a turnover inspection performed by a licensed professional engineer or architect, or a reserve specialist or professional reserve analyst certified by the Community Associations Institute or the Association of Professional Reserve Analysts. However, this provision does not require that the inspection comply with the SIRS requirements in ss. 718.112(2)(g) and 719.106(1)(k), F.S., relating to condominium and cooperative associations, respectively.

Effect of Proposed Changes

The bill revises the term “deferred maintenance” to “planned maintenance” in chs. 718 and 719, F.S.

In addition, the bill amends s. 718.112(2), F.S., to:

- Allow condominium associations to waive reserves if the entire condominium building is uninhabitable due to a natural emergency, as defined in s. 252.34, F.S.,⁶⁹ as determined by the local enforcement agency, upon the approval of a majority of the members. Any reserve account funds held by the association may be expended, pursuant to the board’s determination, to make the condominium building and its structures habitable. Upon the determination by the local building official⁷⁰ that the condominium building and its structures are habitable, the association must immediately resume contributing funds to its reserves; and
- Permit the SIRS to recommend a temporary pause in the funding of reserves or a reduction in reserve funding if the condominium building or units are unsafe and uninhabitable due to substantial damage or loss as determined by the local enforcement agency and it is in the best interests of the association to use revenues and existing reserve funds to perform necessary repairs to make the building safe and habitable, but the reserve funding schedule may not pause reserve funding after the building has been declared safe for occupancy by the local enforcement agency.

Relating to the SIRS requirements for condominium and cooperative associations, the bill amends ss. 718.112(2)(f) and 719.106(1)(j), F.S., respectively, to require

⁶⁸ Sections 718.112(2)(f) and 719.106(1)(j), F.S., relating to condominium and cooperative associations, respectively.

⁶⁹ Section 252.34(8), F.S., defines the term “natural emergency” to mean an emergency caused by a natural event, including, but not limited to, a hurricane, a storm, a flood, severe wave action, a drought, or an earthquake.

⁷⁰ See s. 533.71(5), F.S., defining “local enforcement agency.”

- these associations to provide unit owners with a copy of the study or deliver a notice that the structural integrity reserve study is available for inspection and copying upon written request within 45 days of completion of the study. The notice may be provided electronically.⁷¹
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The bill also clarifies that the turnover report required under ss. 718.301(4)(p) and 719.301(4)(p), F.S., consists of a structural integrity reserve study.

Hurricane Protection – Condominiums

Present Situation

Chapter 718, F.S., does not define the term “hurricane protection.”

Section 718.113(5)(b), F.S., provides that a condominium association is responsible for the maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection authorized by this subsection if such property is the responsibility of the association pursuant to the declaration of condominium. If the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection are the responsibility of the unit owners pursuant to the declaration of condominium, the maintenance, repair, and replacement of such items are the responsibility of the unit owner.

Section 718.113(5)(c), F.S., authorizes the board to operate shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection installed pursuant to this subsection without the permission of the unit owners only if such operation is necessary to preserve and protect the condominium property or and association property. The installation, replacement, operation, repair, and maintenance of such shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection in accordance with the procedures set forth in s. 718.113(5)(c), F.S., are not a material alteration to the common elements or association property.⁷²

Section 718.113(5)(d), F.S., provides that, notwithstanding any other provision in the residential condominium documents, if approval is required by the documents, a board may not refuse to approve the installation or replacement of hurricane protection by a unit owner conforming to the specifications adopted by the board.

Section 718.115(1)(e), F.S., requires that the expense of installation, replacement, operation, repair, and maintenance of hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection by the board pursuant to s. 718.113(5), F.S.,

⁷¹ This notice delivery requirement is identical to the requirement for delivery of the inspector-prepared summary of the milestone inspection report required under. s. 553.899, F.S.

⁷² Section 718.110, F.S., provides the procedure for amending the declaration of condominium. It provides that, “unless otherwise provided in the declaration as originally recorded, no amendment may change the configuration or size of any unit in any material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the unit owner shares the common expenses of the condominium and owns the common surplus of the condominium unless the record owner of the unit and all record owners of liens on the unit join in the execution of the amendment and unless all the record owners of all other units in the same condominium approve the amendment.”

constitutes a common expense and shall be collected as provided in this section if the association is responsible for the maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection pursuant to the declaration of condominium. Section 718.115(1)(e)1., F.S., does not indicate that the costs of installation of hurricane protection are enforceable as an assessment and may be collected in the manner provided under s. 718.116, F.S.

Further, s. 718.115(1)(e), F.S., states that a unit owner who has previously installed code-compliant shutters, impact glass, windows, or doors, must receive a credit when code-compliant shutters, impact glass, windows, or doors are installed. A unit owner who has previously installed impact glass or code-compliant windows or doors that comply with the current applicable building code, must receive a credit when the impact glass or code-compliant windows or doors are installed. A unit owner who has installed other types of code-compliant hurricane protection that comply with the currently applicable building code is entitled to receive a credit when the same type of other code-compliant hurricane protection is installed, and the credit must be equal to the pro rata portion of the assessed installation cost assigned to each unit.

Effect of Proposed Changes

The bill substantially revises the existing hurricane protection provisions in ch. 718, F.S.

The bill creates s. 718.103(19), F.S., to define “hurricane protection” to mean “hurricane shutters, impact glass, code-compliant windows or doors, and other code-compliant hurricane protection products used to preserve and protect the condominium property or association property.”

The bill clarifies the responsibilities of unit owners and associations for the costs of maintenance, repair, and replacement of hurricane protections exterior doors, windows, and glass apertures. The bill amends s. 718.104(4)(p), F.S., relating to the creation of condominiums, to require the declarations of residential condominiums and mixed-use condominiums specify whether the unit owner or the association is responsible for the installation, maintenance, repair, or replacement of hurricane protection that is for the preservation and protection of the condominium property and association property.

The bill amends s. 718.113(5), F.S., to provide that, to protect the health, safety, and welfare of the people of this state and to ensure uniformity and consistency in the hurricane protections installed by condominium associations and unit owners, the hurricane protection provisions apply to all residential and mixed-use condominiums in Florida, regardless of when the condominium is created pursuant to the declaration. The bill provides that the installation, maintenance, repair, replacement, and operation of hurricane protection in accordance with the hurricane protection requirements is not considered a material alteration or substantial addition to the common elements or association property.

Under the bill, a vote of the unit owners to require the installation of hurricane protection must be set forth in a certificate attesting to such vote and include the date that the hurricane protection must be installed. The board must record the certificate in the public records of the county where the condominium is located. The certificate must include the recording data

identifying the declaration of the condominium and must be executed in the form required for the execution of a deed. Once the certificate is recorded, the board must mail or hand-deliver a copy of the recorded certificate to the unit owners at the owners' address as reflected in the records of the association. The board may provide a copy of the recorded certificate by electronic transmission to unit owners who previously consented to receive notice by electronic transmission. The board's failure to record the certificate or to send a copy of the recorded certificate to the unit owners does not affect the validity or enforceability of the vote of the unit owners.

The bill allows the board to require that unit owners adhere to an existing unified building scheme regarding the external appearance of the condominium.

Regarding a unit owner's responsibility for the costs of installation or removal of hurricane protection, the bill provides that, unless otherwise provided in a declaration of condominium recorded in the public record before July 1, 2024, the unit owner is not responsible for the cost of any removal or reinstallation of hurricane protection if the unit owner installed the hurricane protection and its removal is necessary for the maintenance, repair, or replacement of the condominium property or association property for which the association is responsible. If such removal or reinstallation is completed by the association, the association may not charge that cost to the unit owner. If such reinstallation or removal is completed by the unit owner, the association must reimburse the unit owner for the cost or apply the cost as a credit toward future assessments.

Under the bill, the board must determine if the removal or reinstallation of hurricane protection is the responsibility of the unit owner, including costs, and if such removal or reinstallation is completed by the association, then the costs incurred by the association may be charged to the unit owner. If the association charges a unit owner for the removal or installation of hurricane protection, such charges are enforceable as an assessment and may be collected in the manner provided under s. 718.116, F.S., for the collection of assessments.

The bill amends s. 718.115(1)(e)1., F.S., to delete the requirement that the expense of installation, replacement, operation, repair, and maintenance of hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection by the board pursuant to s. 718.113(5), F.S., constitutes a common expense and must be collected as a common expense if the association is responsible for the maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection pursuant to the declaration of condominium. Additionally, s. 718.115(1)(e)1., F.S., is also amended to provide that the costs of installation of hurricane protection are enforceable as an assessment and may be collected in the manner provided under s. 718.116, F.S.

The bill amends s. 718.115(1)(e)2., F.S., to delete the requirement that a unit owner who previously installed hurricane shutters in accordance with s. 718.113(5), F.S., that comply with the current applicable building codes receive a credit when the shutters are installed. A unit owner who has previously installed such items must receive a credit when the impact glass or code-compliant windows or doors are installed.

The provision is revised to provide that a credit is applicable if the installation of hurricane protection is for all other units that do not have hurricane protection and the cost of such installation is funded by the association's budget, including the use of reserve funds. The bill adds that the credit must be equal to the amount that the unit owner would have been assessed to install the hurricane protection and that expenses for the installation, replacement, operation, repair, or maintenance of hurricane protection on common elements and association property are common expenses.

SLAPP Defamation Law Suits – Condominiums

Present Situation

Section 718.1224, F.S., prohibits "strategic lawsuits against public participation" or "SLAPP suits," and provides legislative findings that such lawsuits are against the public interest. A SLAPP lawsuit occurs when association members are sued by individuals, business entities, or governmental entities for matters arising out of a unit owner's appearance and presentation before a governmental entity on matters related to the condominium association.⁷³

Under s. 718.1224, F.S., governmental entities, business organizations, and individuals are prohibited from filing or causing to be filed any lawsuit, cause of action, claim, cross-claim, or counterclaim against a condominium unit owner without merit and solely because such condominium unit owner has exercised the right to instruct his or her representatives or the right to petition for redress of grievances before the various governmental entities of this state, as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution. Current law does not specifically prohibit condominium associations from engaging in SLAPP suits, instead the prohibition generally applies to governmental entities, business organizations, and individuals.

Section 718.1224, F.S., provides that unit owners have a right to an expeditious resolution of such an action, including the right to petition for a motion to dismiss or for a summary judgment. The court may award the unit owner actual damages for a violation of this prohibition and may also award treble damages. However, the court must state a basis for an award of treble damages. The court is further required to award the prevailing party reasonable attorney's fees and costs. Governmental entities, business organizations, and individuals are barred from expending funds in prosecuting a SLAPP suit against a unit owner.⁷⁴

Effect of Proposed Changes

The bill amends s. 718.1224, F.S., to revise the SLAPP suits prohibition to protect condominium unit owners' exercise of their free speech rights before their association. The bill specifically prohibits condominium associations from engaging in a SLAPP suit.

The bill also amends s. 718.1224, F.S., to prohibit condominium associations from:

⁷³ See s. 718.1224(1), F.S., providing legislative intent.

⁷⁴ A similar prohibition against SLAPP suits by homeowners' associations is contained in s. 720.304(4), F.S.

- Retaliating against a unit owner, such as by increasing a unit's assessments, discriminatorily decrease services to a unit owner, threatening to bring an action for possession or other civil action, including a defamation, libel, slander, or tortious interference action; and
- Spending association funds in support of defamation, libel, or tortious interference actions against a unit owner.

The unit owner must have acted in good faith and not for any improper purposes, such as to harass or cause unnecessary delay, for frivolous purposes, or needless increase in the cost of litigation in order for the unit owner to raise the defense of retaliatory conduct. The bill provides examples of conduct for which a condominium association, officer, director, or agent of an association may not retaliate include, but are not limited to, situations where:

- The unit owner has in good faith complained to a governmental agency charged with responsibility for enforcement of a building, housing, or health code of a suspected violation applicable to the condominium;
- The unit owner has organized, encouraged, or participated in a unit owners organization;
- The unit owner submitted information or filed a complaint alleging criminal violations or violations of this chapter or the rules of the division with the division, the Office of the Condominium Ombudsman, a law enforcement agency, a state attorney, the Attorney General, or any other governmental agency;
- The unit owner has exercised his or her rights under ch. 718, F.S.;
- The unit owner has complained to the association or any of its representatives for their failure to comply with ch. 718, F.S., or ch. 617, F.S.; or
- The unit owner has made public statements critical of the operation or management of the association.

The bill allows the unit owner to present evidence of retaliatory conduct as a defense in any action brought against him or her for possession.

Electronic Voting – Condominiums

Present Situation

Sections 718.128 and 719.129, F.S., relating to electronic voting in condominium and cooperative associations, respectively, allow these associations to conduct elections and other unit owner votes through an Internet-based online voting system if a unit owner consents, in writing, to online voting and the specified requirements are met, including:

- The association provides each unit owner with:
 - A method to authenticate the unit owner's identity to the online voting system.
 - For elections of the board, a method to transmit an electronic ballot to the online voting system that ensures the secrecy and integrity of each ballot.
 - A method to confirm, at least 14 days before the voting deadline, which the unit owner's electronic device can successfully communicate with the online voting system.
- The association uses an online voting system that is:
 - Able to authenticate the unit owner's identity.
 - Able to authenticate the validity of each electronic vote to ensure that the vote is not altered in transit.

- Able to transmit a receipt from the online voting system to each unit owner who casts an electronic vote.
- For elections of the board of administration, able to permanently separate any authentication or identifying information from the electronic election ballot, rendering it impossible to tie an election ballot to a specific unit owner.
- Able to store and keep electronic votes accessible to election officials for recount, inspection, and review purposes.

Unit owners who vote electronically may be counted as attending the meeting for the purpose of determining a quorum.⁷⁵ A unit owner may opt-out of his or her consent to vote electronically.⁷⁶

Effect of Proposed Changes

The bill amends ss. 718.128 and 719.129, F.S., relating to electronic voting in condominium and cooperative associations, respectively, to allow condominium and cooperative unit owners to consent to electronic voting in condominium and cooperative association elections by using an electronic means of consent.

Conflicts of Interests – Condominiums

Present Situation

Section 718.3027, F.S., provides the process for resolving potential conflict of interest for the officers and directors of condominium associations. It requires an officer or director of a condominium association (that is not a timeshare condominium association), to disclose any financial interest of the officer or director (or such person's relative) in a contract for goods or services, if such activity may reasonably be construed by the board to be a conflict of interest. The board of a condominium association must approve a contract for services or other transactions by an affirmative vote of two-thirds of all other directors present. A director or officer who is a party to, or has an interest in, the activity that may be a potential conflict of interest must leave the board meeting during the discussion and vote, and must recuse himself or herself from the vote.

Effect of Proposed Changes

The bill amends s. 718.3027, F.S., to provide that the attendance of an officer or director at the meeting of the board is sufficient to constitute a quorum for the meeting and for the vote taken in his or her absence when the director is required to leave the room during the discussion and vote on a contract in which the director, or his relative, has an interest.

⁷⁵ Sections 718.128(3) and 719.129(3), F.S., relating to electronic voting in condominium and cooperative associations, respectively.

⁷⁶ Section 718.128(5) and 719.129(5), F.S., relating to electronic voting in condominium and cooperative associations, respectively.

Nonpayment of Monetary Obligations

Present Situation

Section 718.303(5), F.S., allows an association to suspend the voting rights of a unit owner or member due to nonpayment of any fee, fine, or other monetary obligation due to the association which is more than \$1,000 and more than 90 days delinquent. The association must send the unit owner proof of such obligation 30 days before such suspension takes effect. The suspension ends when the full payment of all past due obligations currently due the association are paid.

Effect of Proposed Changes

The bill amends s. 718.303(5), F.S., to require an association to send unit owners, whose right to vote has been suspended because of an unpaid financial obligation, a notice of such obligation within 90 days of an election.

Division of Condominiums, Cooperatives, and Mobile Homes

Present Situation

Section 718.501, F.S., provides the investigative and enforcement authority of the Division of Condominium, Timeshares, and Mobile Homes (division). The division may enforce and ensure compliance with ch. 718, F.S., and rules relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units and complaints related to the procedural completion of milestone inspections under s. 553.899, F.S. The division may investigate complaints and enforce compliance with ch. 718, F.S., for associations that are still under developer control, including investigating complaints against developers involving improper turnover or failure to transfer control to the association.⁷⁷ After control of the condominium is transferred from the developer to the unit owners, the division only has jurisdiction to investigate complaints related to financial issues, elections, and maintenance of and unit owner access to association records.⁷⁸

As part of the division's authority to investigate complaints, the division may subpoena witnesses, take sworn statements from witnesses, issue cease and desist orders, and impose civil penalties against developers, associations, and association board members.⁷⁹

If the division has reasonable cause to believe that a violation of any provision of ch. 718, F.S., or a related rule has occurred, the division may institute enforcement proceedings in its name against any developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents. The division may conduct an investigation and issue an order to cease and desist from unlawful practices and to take affirmative action to carry out the purpose of the applicable chapter. Also, Florida law authorizes the division to petition a court to appoint a receiver or conservator to implement a court order or to enforce an injunction or temporary restraining order. The division may also impose civil penalties.⁸⁰

⁷⁷ *Id.*

⁷⁸ Section 718.501(1), F.S.

⁷⁹ Sections 718.501(1), F.S.

⁸⁰ *Id.*

Effect of Proposed Changes

The bill amends s. 718.501(1), F.S., to delete the limitation on the division's jurisdiction after turnover. The bill expands the division's post-turnover jurisdiction to include only allegations of criminal violations under ch. 718, F.S., and the removal of directors and officers who have been indicted or charged by information under s. 718.112(2)(q), F.S.

In addition, the bill:

- Authorizes the division to impose a civil penalty for a violation of ch. 617, F.S., relating to corporations not for profit.
- Requires the division refer to local law enforcement authorities any person whom the division believes has engaged in fraud, theft, embezzlement, or other criminal activity or has cause to believe that fraud, theft, embezzlement, or other criminal activity has occurred.
- Provides that the division director or any officer or employee of the division, and the condominium ombudsman or employee of the office of the condominium ombudsman,⁸¹ may attend and observe any meeting of the board of administration or unit owner meeting, including any meeting of a subcommittee or special committee, that is open to members of the association for the purpose of performing the duties of the division or the office of the ombudsman under ch. 718, F.S.
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Condominium Ombudsman***Present Situation***

The Office of the Ombudsman (condominium ombudsman) within the division is an attorney appointed by the Governor to be a neutral resource for unit owners and condominium associations. The ombudsman is authorized to prepare and issue reports and recommendations to the Governor, the division, and the Legislature on any matter or subject within the jurisdiction of the division. In addition, the condominium ombudsman may make recommendations to the division for changes in rules and procedures for the filing, investigation, and resolution of complaints.

The condominium ombudsman also acts as a liaison among the division, unit owners, and condominium associations and is responsible for developing policies and procedures to help affected parties understand their rights and responsibilities.

Effect of Proposed Changes

The bill amends s. 718.5011(2), F.S., to provide for the appointment of the Condominium Ombudsman by the secretary of DBPR instead of by the Governor, and deletes the requirement that the ombudsman must be an attorney.

⁸¹ Sections 718.5011-50152, F.S., relate to the Office of the Ombudsman within the division. The ombudsman is an attorney appointed by the Governor to be a neutral resource for unit owners and condominium associations. The ombudsman is authorized to prepare and issue reports and recommendations to the Governor, the division, and the Legislature on any matter or subject within the jurisdiction of the division. In addition, the ombudsman may make recommendations to the division for changes in rules and procedures for the filing, investigation, and resolution of complaints. The ombudsman also acts as a liaison among the division, unit owners, and condominium associations and is responsible for developing policies and procedures to help affected parties understand their rights and responsibilities.

Report to the Legislature

The bill requires the division submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees and appropriate substantive committees, a review of the website or application requirements for official records under s. 718.111(12)(g), F.S., and make recommendations regarding any additional official records of a condominium association that should be included in the record maintenance requirement in the provision.

Effective Date

Except as otherwise provided, 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:

None.

C. Government Sector Impact:

The Department of Business and Professional Regulation (DBPR) states it will incur additional expenses related to the number of positions required to handle the workload needed to implement the bill. The DBPR estimates it will need 65 additional staff and associated costs of \$7,416,268 (\$6,122,390 recurring and \$1,293,879 nonrecurring) from the General Revenue Fund for Fiscal Year 2024-2025.

The Division of Condominiums, Timeshares, and Mobile Homes (division) and the Office of the General Counsel both identified the need for additional positions to address the possible increases of violations and administrative complaints received by the DBPR. The additional staff costs are as follows:

- Office of the General Counsel: 8 positions with \$774,930 of Salaries and Benefits, \$118,129 of Expense, and \$2,880 of Transfer to DMS budget authority.
- Division of Regulation: 4 positions with \$259,346 of Salaries and Benefits, \$56,910 of Expense, \$50,000 of Acquisition of Motor Vehicles, \$6,000 of Operation of Motor Vehicles, and \$1,440 of Transfer to DMS-HR Services in budget authority.
- Division of Condominiums, Timeshares, and Mobile Homes: 53 positions with \$3,783,621 of Salaries and Benefits, \$1,110,777 of Expense, \$393,156 of Contracted Services, \$750,000 of Acquisition of Motor Vehicles, \$90,000 of Operation of Motor Vehicles, and \$19,080 of Transfer to DMS budget authority.

The bill creates new criminal penalties for violations relating to the management of a condominium association. This may have a positive indeterminate prison bed impact (an unquantifiable increase in prison beds) on the Department of Corrections.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 468.4334, 468.436, 553.899, 718.103, 718.104, 718.111, 718.112, 718.113, 718.115, 718.121, 718.1224, 718.128, 718.301, 718.3027, 718.303, 718.501, 718.5011, 718.618, 719.106, 719.129, 719.301, and 719.618.

This bill creates the following sections of the Florida Statutes: 468.4335 and 553.8445.

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 Appropriations Committee on Agriculture, Environment and General Government on February 13, 2024:**

The committee substitute makes several technical and clarifying changes to the bill and the following substantive revisions to the bill:

- Deletes the requirements for the Division of Condominium, Timeshares, and Mobile Homes (division) to provide education programs for director and officer, and to pay for such programs even if performed by a division-approved provider.
- Deletes the requirement for the division to conduct random audits of condominium associations' compliance with the requirement to maintain certain records on their websites.
- Revises the division's post-turnover jurisdiction to include only allegations of criminal violations under ch. 718, F.S., and the removal of directors and officers who have been indicted or charged by information under s. 718.112(2)(q), F.S.
- Removes from the bill all the provisions related to allowing associations to invest reserve funds, and impose contingent special assessments based on a line of credit.
- Exempts four-family dwelling with three or fewer habitable stories above ground from the milestone inspection and structural integrity reserve study (SIRS) requirements.
- Requires all residential dwellings to be equipped with a reusable device to prevent water intrusion through the tracks of an exterior sliding glass door as a condition for a building permit for a new or existing dwelling if the work involves a sliding glass door, and is a condition for the milestone inspection.
- Removes duplicative provisions stating that a director or an officer who commits specified crimes is deemed removed from office and a vacancy declared.
- Defines the term "kickback."
- Deletes the requirement for associations to give members a copy of the accountant's management letter or opinion letter for the financial statement.
- Clarifies the requirement for boards to meet at least quarterly, to provide that members have a right to ask questions with respect to reports on the status of construction or repair projects, the status of revenues and expenditures, and other issues affecting the condominium.
- Requires that the officer and director education curriculum be at least four hours long, specifies the topics that must be addressed, including fiduciary duty and SIRS requirements, and permits associations to pay for directors' education expense.
- Deletes the extension of time to complete the SIRS if the association has a contract to perform a SIRS if the SIRS cannot reasonably be completed before the December 31, 2024 deadline.
- Allows associations to pause reserve funding, with the approval of the majority of the members, if the entire building is unsafe and uninhabitable because of a natural disaster.

- Provides that the provision in s. 718.113(5)(d), F.S., relating to hurricane protection, applies unless the declaration of condominium recorded on or before July 1, 2024 provides otherwise.
- Provides for the appointment of the condominium ombudsman by the secretary of the Department of Business and Professional Regulation instead of by the Governor, and deletes the requirement that the ombudsman be an attorney.

CS by Regulated Industries on January 22, 2024:

The committee substitute makes several technical and clarifying changes to the bill and following substantive revisions to the bill (unless otherwise stated all revisions relate to condominium associations):

- Changes the title from an act relating to condominium and cooperative association to an act relating to community associations.
- Revises for clarity the requirements that condominium association managers (CAMs) and firms return documents to the association to provide that the CAM may retain records for up to 20 days after their contract is terminated in order to complete an ending financial statement or report.
- Revises the requirements for CAMs to disclose a conflict of interest to:
 - Require the board to solicit multiple bids (instead of at least three bids) if the association considers a bid for goods or services for which a CAM has a conflict of interest;
 - Delete the provision allowing association members to void a contract; and
 - Provide that the procedures for resolving conflicts of interest in the bill do not apply to activities or the provision of goods and services that are disclosed in the management services contract.
- Regarding the requirement in the bill related to the maintenance of official records:
 - Deletes the requirement for associations to maintain “other substantiating documentation” which is not necessary;
 - Deletes the requirement in the bill that official records be maintained in an organized manner;
 - Provides that the obligation to maintain official records includes a good faith obligation to recover records as may be reasonably possible in the event records are lost, destroyed, or otherwise unavailable;
 - Provides that associations may satisfy a request for access to records by making the records available for download on the association website or through an application on a mobile device; and
 - Deletes the requirement that the checklist made in response to a records request be accompanied by a sworn affidavit.
- Provides a first degree misdemeanor criminal offense for a person to knowingly or intentionally deface or destroy required accounting records or knowingly and intentionally fail to create or maintain required accounting records, with the intent of causing harm to the association or one or more of its members.
- Provides that officers and directors charged with the criminal violation created in the bill are deemed removed from office and a vacancy declared.
- Requires that meetings of the board must meet at least once each quarter instead of four times a year.

- Revises the requirement in the bill that copies of contracts being considered by the board must be provided to the unit owner with the meeting notice, to allow the copies to be made available for download on the association website or through an application on a mobile device.
- Extends the period associations must retain a copy of an officer or director's educational certificate from 5 years to 7 years.
- Provides an extension of the deadline for completion of a structural integrity reserve study if the condominium or cooperative association has entered into a contract for the performance of the study and the study cannot reasonably be performed or completed by December 31, 2024. The study still must be completed by December 31, 2026.
- Includes contingent special assessments and any line of credit for which a contingent special assessment may be imposed in the list of information that must be included in the estoppel certificate.
- Deletes the requirement in the bill for the recording of special assessments in the public record.
- Deletes the requirement that a notice of such obligation must also be provided to the unit owner at least 90 days before a vote of the members (instead of before an election or vote of the members).
- Allows unit owners to consent to electronic voting in condominium and cooperative association elections by using an electronic means of consent.
- Authorizes the Division of Condominium, Timeshares, and Mobile Homes to impose a civil penalty for a violation of ch. 617, F.S., relating to corporations not for profit.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
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	.	

The Appropriations Committee on Agriculture, Environment, and General Government (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (3) is added to section 468.4334,
Florida Statutes, to read:

468.4334 Professional practice standards; liability.-

(3) A community association manager or a community
association management firm shall return all community
association official records within its possession to the



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community association or successor community association manager
or community association management firm within 20 business days
after termination of a contractual agreement to provide
community association management services to the community
association or receipt of a written request for return of the
official records, whichever occurs first. A notice of
termination of a contractual agreement to provide community
association management services must be sent by certified mail,
return receipt requested, or in the manner required under such
contractual agreement. The community association manager or
community association management firm may retain, for up to 20
business days, those records necessary to complete an ending
financial statement or report. If an association fails to
provide access to or retention of accounting records to prepare
an ending financial statement or report, the community
association manager or community association management firm is
relieved from any further responsibility or liability relating
to the preparation of such ending financial statement or report.
Failure of a community association manager or a community
association management firm to timely return all of the official
records within its possession to the community association
creates a rebuttable presumption that the community association
manager or a community association management firm willfully
failed to comply with this subsection. A community association
manager or a community association management firm that fails to
timely return community association records is subject to
suspension of its license under s. 468.436, and a civil penalty
of \$1,000 per day for up to 10 business days, assessed beginning
on the 21st business day after termination of a contractual



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agreement to provide community association management services
to the community association or receipt of a written request
from the association for return of the records, whichever occurs
first.

Section 2. Section 468.4335, Florida Statutes, is created
to read:

468.4335 Conflicts of interest.—

(1) A community association manager or a community
association management firm, including directors, officers, and
persons with a financial interest in a community association
management firm, or a relative of such persons, must provide a
written disclosure to the board of a community association any
activity that may reasonably be construed to be a conflict of
interest. A rebuttable presumption of a conflict of interest
exists if any of the following occurs without prior notice:

(a) A community association manager or a community
association management firm, including directors, officers, and
persons with a financial interest in a community association
management firm, or a relative of such persons, enters into a
contract with the association for goods or services, other than
community association management services.

(b) A community association manager or a community
association management firm, including directors, officers, and
persons with a financial interest in a community association
management firm, or a relative of such persons, holds an
interest in or receives compensation or any thing of value from
a corporation, limited liability corporation, partnership,
limited liability partnership, or other business entity that
conducts business with the association or proposes to enter into



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a contract or other transaction with the association.

(2) If the association receives and considers a bid to provide a good or service, other than community association management services, from a community association manager or a community association management firm, including directors, officers, and persons with a financial interest in a community association management firm, or a relative of such persons, the association must also solicit multiple competitive bids from other third-party providers of such good or service.

(3) If a community association manager or a community association management firm, including directors, officers, and persons with a financial interest in a community association management firm, or a relative of such persons, proposes to engage in an activity that is a conflict of interest as described in subsection (1), the proposed activity must be listed on, and all contracts and transactional documents related to the proposed activity must be attached to, the meeting agenda of the next board of administration meeting. The disclosures of a possible conflict of interest must be entered into the written minutes of the meeting. Approval of the contract or other transaction requires an affirmative vote of two-thirds of all directors present. At the next regular or special meeting of the members, the existence of the contract or other transaction must be disclosed to the members.

(4) If the board finds that a community association manager or a community association management firm, including directors, officers, and persons with a financial interest in a community association management firm, or a relative of such persons, has violated this section, the association may cancel its community



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association management contract with the community association manager or the community association management firm. If the contract is canceled, the association is liable only for the reasonable value of the management services provided up to the time of cancellation and is not liable for any termination fees, liquidated damages, or other form of penalty for such cancellation.

(5) If an association enters into a contract, other than a contract for community association management services, with a community association manager or a community association management firm, including directors, officers, and persons with a financial interest in a community association management firm, or a relative of such persons, which is a party to or has an interest in an activity that is a possible conflict of interest as described in subsection (1) and that activity has not been properly disclosed as a conflict of interest or potential conflict of interest as required by this section, the contract is voidable and terminates upon the association filing a written notice terminating the contract.

(6) As used in this section, the term "relative" means a relative within the third degree of consanguinity by blood or marriage.

(7) The procedures in subsections (2), (3), and (4) do not apply to any activities or the provision of goods and services that are disclosed in the management services contract as a conflict of interest within the meaning of subsection (1).

Section 3. Paragraph (b) of subsection (2) of section 468.436, Florida Statutes, is amended, and subsection (4) of that section is reenacted, to read:



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468.436 Disciplinary proceedings.—

(2) The following acts constitute grounds for which the disciplinary actions in subsection (4) may be taken:

(b)1. Violation of ~~any provision of~~ this part.

2. Violation of any lawful order or rule rendered or adopted by the department or the council.

3. Being convicted of or pleading nolo contendere to a felony in any court in the United States.

4. Obtaining a license or certification or any other order, ruling, or authorization by means of fraud, misrepresentation, or concealment of material facts.

5. Committing acts of gross misconduct or gross negligence in connection with the profession.

6. Contracting, on behalf of an association, with any entity in which the licensee has a financial interest that is not disclosed.

7. Failing to disclose any conflict of interest as required by s. 468.4335.

8. ~~Violating any provision of~~ chapter 718, chapter 719, or chapter 720 during the course of performing community association management services pursuant to a contract with a community association as defined in s. 468.431(1).

(4) When the department finds any community association manager or firm guilty of any of the grounds set forth in subsection (2), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure.

(b) Revocation or suspension of a license.

(c) Imposition of an administrative fine not to exceed



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\$5,000 for each count or separate offense.

(d) Issuance of a reprimand.

(e) Placement of the community association manager on probation for a period of time and subject to such conditions as the department specifies.

(f) Restriction of the authorized scope of practice by the community association manager.

Section 4. Section 553.8445, Florida Statutes, is created to read:

553.8445 Prevention of water intrusion through the tracks of sliding glass doors.—

(1) All residential dwellings must be required to be equipped with a reusable device which is attachable to the sliding glass door track and is designed to reduce water intrusion through the tracks of the sliding glass doors by not less than 90 percent with wind not less than 100 miles per hour as a condition for:

(a) The issuance of a building permit for the construction of new residential dwelling with an exterior sliding glass door.

(b) The issuance of a building permit for the installation or repair of an exterior sliding glass door in a residential dwelling.

(c) The completion of a milestone inspection required by s. 553.899, or a similar local requirement, for any dwelling with an exterior sliding glass door.

(2) This section shall apply to exterior sliding glass doors contained in any condominium unit, multifamily dwelling, or single-family dwelling.

(3) By July 1, 2025, the commission shall adopt the



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requirements of this section into the Florida Building Code pursuant to s. 553.73(8).

Section 5. Subsection (4) of section 553.899, Florida Statutes, is amended to read:

553.899 Mandatory structural inspections for condominium and cooperative buildings.—

(4) The milestone inspection report must be arranged by a condominium or cooperative association and any owner of any portion of the building which is not subject to the condominium or cooperative form of ownership. The condominium association or cooperative association and any owner of any portion of the building which is not subject to the condominium or cooperative form of ownership are each responsible for ensuring compliance with the requirements of this section. The condominium association or cooperative association is responsible for all costs associated with the milestone inspection attributable to the portions of a building which the association is responsible to maintain under the governing documents of the association. This section does not apply to a single-family, two-family, ~~or~~ three-family, or four-family dwelling with three or fewer habitable stories above ground.

Section 6. Present subsections (19) through (32) of section 718.103, Florida Statutes, are redesignated as subsections (20) through (33), respectively, a new subsection (19) is added to that section, and subsection (1) of that section is amended, to read:

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

(1) "Alternative funding method" means a method approved by the division for funding the capital expenditures and planned



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~~deferred~~ maintenance obligations for a multicondominium association operating at least 25 condominiums which may reasonably be expected to fully satisfy the association's reserve funding obligations by the allocation of funds in the annual operating budget.

(19) "Hurricane protection" means hurricane shutters, impact glass, code-compliant windows or doors, and other code-compliant hurricane protection products used to preserve and protect the condominium property or association property.

Section 7. Paragraph (p) is added to subsection (4) of section 718.104, Florida Statutes, to read:

718.104 Creation of condominiums; contents of declaration.— Every condominium created in this state shall be created pursuant to this chapter.

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

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

Section 8. Paragraph (a) of subsection (1), paragraph (h) of subsection (11), and subsections (12), (13), and (15) of section 718.111, Florida Statutes, are amended to read:

718.111 The association.—

(1) CORPORATE ENTITY.—

(a) The operation of the condominium shall be by the association, which must be a Florida corporation for profit or a



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Florida corporation not for profit. However, any association which was in existence on January 1, 1977, need not be incorporated. The owners of units shall be shareholders or members of the association. The officers and directors of the association have a fiduciary relationship to the unit owners. It is the intent of the Legislature that nothing in this paragraph shall be construed as providing for or removing a requirement of a fiduciary relationship between any manager employed by the association and the unit owners. An officer, director, or manager may not solicit, offer to accept, or accept a kickback. As used in this paragraph, the term "kickback" means any thing or service of value ~~or kickback~~ for which consideration has not been provided for an officer's, a director's, or a manager's ~~his or her~~ own benefit or that of his or her immediate family, from any person providing or proposing to provide goods or services to the association. Any such officer, director, or manager who knowingly so solicits, offers to accept, or accepts a ~~any thing or service of value or~~ kickback commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and is subject to a civil penalty pursuant to s. 718.501(1)(d) ~~and, if applicable, a criminal penalty as provided in paragraph (d).~~ However, this paragraph does not prohibit an officer, director, or manager from accepting services or items received in connection with trade fairs or education programs. An association may operate more than one condominium.

(11) INSURANCE.—In order to protect the safety, health, and welfare of the people of the State of Florida and to ensure consistency in the provision of insurance coverage to condominiums and their unit owners, this subsection applies to



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every residential condominium in the state, regardless of the date of its declaration of condominium. It is the intent of the Legislature to encourage lower or stable insurance premiums for associations described in this subsection.

(h) The association shall maintain insurance or fidelity bonding of all persons who control or disburse funds of the association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the association or its management agent at any one time. Upon receipt of a complaint, the division shall monitor compliance with this paragraph and may issue fines and penalties established by the division for failure of an association to maintain the required insurance policy or fidelity bond. As used in this paragraph, the term "persons who control or disburse funds of the association" includes, but is not limited to, those individuals authorized to sign checks on behalf of the association, and the president, secretary, and treasurer of the association. The association shall bear the cost of any such bonding.

(12) OFFICIAL RECORDS.—

(a) From the inception of the association, the association shall maintain each of the following items, if applicable, which constitutes the official records of the association:

1. A copy of the plans, permits, warranties, and other items provided by the developer under s. 718.301(4).

2. A photocopy of the recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.

3. A photocopy of the recorded bylaws of the association and each amendment to the bylaws.



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4. A certified copy of the articles of incorporation of the association, or other documents creating the association, and each amendment thereto.

5. A copy of the current rules of the association.

6. A book or books that contain the minutes of all meetings of the association, the board of administration, and the unit owners.

7. A current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers. The association shall also maintain the e-mail addresses and facsimile numbers of unit owners consenting to receive notice by electronic transmission. The e-mail addresses and facsimile numbers are not accessible to unit owners if consent to receive notice by electronic transmission is not provided in accordance with sub-subparagraph (c)5.e. ~~(e)3.e.~~ However, the association is not liable for an inadvertent disclosure of the e-mail address or facsimile number for receiving electronic transmission of notices.

8. All current insurance policies of the association and condominiums operated by the association.

9. A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility.

10. Bills of sale or transfer for all property owned by the association.

11. Accounting records for the association and separate accounting records for each condominium that the association operates. Any person who knowingly or intentionally defaces or



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destroys such records, or who knowingly or intentionally fails to create or maintain such records, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. 718.501(1)(d). The accounting records must include, but are not limited to:

a. Accurate, itemized, and detailed records of all receipts and expenditures.

b. All invoices, transaction receipts, or deposit slips that substantiate any receipt or expenditure of funds by the association.

c. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid on the account, and the balance due.

~~d.e.~~ All audits, reviews, accounting statements, structural integrity reserve studies, and financial reports of the association or condominium. Structural integrity reserve studies must be maintained for at least 15 years after the study is completed.

~~e.d.~~ All contracts for work to be performed. Bids for work to be performed are also considered official records and must be maintained by the association for at least 1 year after receipt of the bid.

12. Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by unit owners, which must be maintained for 1 year from the date of the election, vote, or meeting to which the document relates, notwithstanding paragraph (b).



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13. All rental records if the association is acting as agent for the rental of condominium units.

14. A copy of the current question and answer sheet as described in s. 718.504.

15. A copy of the inspection reports described in ss. 553.899 and 718.301(4)(p) and any other inspection report relating to a structural or life safety inspection of condominium property. Such record must be maintained by the association for 15 years after receipt of the report.

16. Bids for materials, equipment, or services.

17. All affirmative acknowledgments made pursuant to s. 718.121(4)(c).

18. A copy of all building permits.

19. All other written records of the association not specifically included in the foregoing which are related to the operation of the association.

(b) The official records specified in subparagraphs (a)1.-6. must be permanently maintained from the inception of the association. Bids for work to be performed or for materials, equipment, or services must be maintained for at least 1 year after receipt of the bid. All other official records must be maintained within the state for at least 7 years, unless otherwise provided by general law. The official records must be maintained in a manner that facilitates inspection of the records by a unit owner. In the event that the records are lost, destroyed, or otherwise unavailable, the obligation to maintain official records includes a good faith obligation to recover those records as may be reasonably possible. The records of the association shall be made available to a unit owner within 45



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miles of the condominium property or within the county in which the condominium property is located within 10 working days after receipt of a written request by the board or its designee. However, such distance requirement does not apply to an association governing a timeshare condominium. This paragraph and paragraph (c) may be complied with by having a copy of the official records of the association available for inspection or copying on the condominium property or association property, or the association may offer the option of making the records available to a unit owner electronically via the Internet as provided under paragraph (g) or by allowing the records to be viewed in electronic format on a computer screen and printed upon request. The association is not responsible for the use or misuse of the information provided to an association member or his or her authorized representative in compliance with this chapter unless the association has an affirmative duty not to disclose such information under this chapter.

(c)1.a. The official records of the association are open to inspection by any association member and any person authorized by an association member as a representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the member and of the person authorized by the association member as a representative of such member. A renter of a unit has a right to inspect and copy only the declaration of condominium, the association's bylaws and rules, and the inspection reports described in ss. 553.899 and 718.301(4)(p). The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record



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inspections and copying but may not require a member to demonstrate any purpose or state any reason for the inspection. The failure of an association to provide the records within 10 working days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with this paragraph. A unit owner who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. Minimum damages are \$50 per calendar day for up to 10 days, beginning on the 11th working day after receipt of the written request. The failure to permit inspection entitles any person prevailing in an enforcement action to recover reasonable attorney fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records. If the requested records are posted on an association's website, or are available for download through an application on a mobile device, the association may fulfill its obligations as provided under this paragraph by directing all persons authorized to request access to official records pursuant to this paragraph to the website or mobile device application.

b. In response to a written request to inspect records, the association must simultaneously provide a checklist to the requestor of all records made available for inspection and copying. The checklist must also identify any of the association's official records that were not made available to the requestor. An association must maintain a checklist provided under this sub-subparagraph for 7 years. An association delivering a checklist pursuant to this sub-subparagraph creates a rebuttable presumption that the association has complied with



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this paragraph.

2. Any director or member of the board or association or a community association manager who knowingly, willfully, and repeatedly violates subparagraph 1. with the intent of causing harm to the association or one or more of its members commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. For purposes of this subparagraph, the term "repeatedly" means two or more violations within a 12-month period.

~~3.2.~~ Any person who knowingly or intentionally defaces or destroys accounting records that are required by this chapter to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and is personally subject to a civil penalty pursuant to s. 718.501(1)(d).

4. Any person who willfully and knowingly refuses to release or otherwise produce association records with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

~~5.3.~~ The association shall maintain an adequate number of copies of the declaration, articles of incorporation, bylaws, and rules, and all amendments to each of the foregoing, as well as the question and answer sheet as described in s. 718.504 and



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year-end financial information required under this section, on the condominium property to ensure their availability to unit owners and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the documents. An association shall allow a member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association's providing the member or his or her authorized representative with a copy of such records. The association may not charge a member or his or her authorized representative for the use of a portable device. Notwithstanding this paragraph, the following records are not accessible to unit owners:

a. Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including a record prepared by an association attorney or prepared at the attorney's express direction, which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.

b. Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a unit.

c. Personnel records of association or management company employees, including, but not limited to, disciplinary, payroll,



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health, and insurance records. For purposes of this sub-
subparagraph, the term "personnel records" does not include
written employment agreements with an association employee or
management company, or budgetary or financial records that
indicate the compensation paid to an association employee.

d. Medical records of unit owners.

e. Social security numbers, driver license numbers, credit
card numbers, e-mail addresses, telephone numbers, facsimile
numbers, emergency contact information, addresses of a unit
owner other than as provided to fulfill the association's notice
requirements, and other personal identifying information of any
person, excluding the person's name, unit designation, mailing
address, property address, and any address, e-mail address, or
facsimile number provided to the association to fulfill the
association's notice requirements. Notwithstanding the
restrictions in this sub-subparagraph, an association may print
and distribute to unit owners a directory containing the name,
unit address, and all telephone numbers of each unit owner.
However, an owner may exclude his or her telephone numbers from
the directory by so requesting in writing to the association. An
owner may consent in writing to the disclosure of other contact
information described in this sub-subparagraph. The association
is not liable for the inadvertent disclosure of information that
is protected under this sub-subparagraph if the information is
included in an official record of the association and is
voluntarily provided by an owner and not requested by the
association.

f. Electronic security measures that are used by the
association to safeguard data, including passwords.



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g. The software and operating system used by the association which allow the manipulation of data, even if the owner owns a copy of the same software used by the association. The data is part of the official records of the association.

h. All affirmative acknowledgments made pursuant to s. 718.121(4)(c).

(d) The association shall prepare a question and answer sheet as described in s. 718.504, and shall update it annually.

(e)1. The association or its authorized agent is not required to provide a prospective purchaser or lienholder with information about the condominium or the association other than information or documents required by this chapter to be made available or disclosed. The association or its authorized agent may charge a reasonable fee to the prospective purchaser, lienholder, or the current unit owner for providing good faith responses to requests for information by or on behalf of a prospective purchaser or lienholder, other than that required by law, if the fee does not exceed \$150 plus the reasonable cost of photocopying and any attorney's fees incurred by the association in connection with the response.

2. An association and its authorized agent are not liable for providing such information in good faith pursuant to a written request if the person providing the information includes a written statement in substantially the following form: "The responses herein are made in good faith and to the best of my ability as to their accuracy."

(f) An outgoing board or committee member must relinquish all official records and property of the association in his or her possession or under his or her control to the incoming board



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within 5 days after the election. The division shall impose a civil penalty as set forth in s. 718.501(1)(d)6. against an outgoing board or committee member who willfully and knowingly fails to relinquish such records and property.

(g)1. By January 1, 2019, an association managing a condominium with 150 or more units which does not contain timeshare units shall post digital copies of the documents specified in subparagraph 2. on its website or make such documents available through an application that can be downloaded on a mobile device.

a. The association's website or application must be:

(I) An independent website, application, or web portal wholly owned and operated by the association; or

(II) A website, application, or web portal operated by a third-party provider with whom the association owns, leases, rents, or otherwise obtains the right to operate a web page, subpage, web portal, collection of subpages or web portals, or an application which is dedicated to the association's activities and on which required notices, records, and documents may be posted or made available by the association.

b. The association's website or application must be accessible through the Internet and must contain a subpage, web portal, or other protected electronic location that is inaccessible to the general public and accessible only to unit owners and employees of the association.

c. Upon a unit owner's written request, the association must provide the unit owner with a username and password and access to the protected sections of the association's website or application which contain any notices, records, or documents



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that must be electronically provided.

2. A current copy of the following documents must be posted in digital format on the association's website or application:

a. The recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.

b. The recorded bylaws of the association and each amendment to the bylaws.

c. The articles of incorporation of the association, or other documents creating the association, and each amendment to the articles of incorporation or other documents. The copy posted pursuant to this sub-subparagraph must be a copy of the articles of incorporation filed with the Department of State.

d. The rules of the association.

e. A list of all executory contracts or documents to which the association is a party or under which the association or the unit owners have an obligation or responsibility and, after bidding for the related materials, equipment, or services has closed, a list of bids received by the association within the past year. Summaries of bids for materials, equipment, or services which exceed \$500 must be maintained on the website or application for 1 year. In lieu of summaries, complete copies of the bids may be posted.

f. The annual budget required by s. 718.112(2)(f) and any proposed budget to be considered at the annual meeting.

g. The financial report required by subsection (13) and any monthly income or expense statement to be considered at a meeting.

h. The certification of each director required by s.



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718.112(2)(d)4.b.

i. All contracts or transactions between the association and any director, officer, corporation, firm, or association that is not an affiliated condominium association or any other entity in which an association director is also a director or officer and financially interested.

j. Any contract or document regarding a conflict of interest or possible conflict of interest as provided in ss. 468.4335, 468.436(2)(b)6., and 718.3027(3).

k. The notice of any unit owner meeting and the agenda for the meeting, as required by s. 718.112(2)(d)3., no later than 14 days before the meeting. The notice must be posted in plain view on the front page of the website or application, or on a separate subpage of the website or application labeled "Notices" which is conspicuously visible and linked from the front page. The association must also post on its website or application any document to be considered and voted on by the owners during the meeting or any document listed on the agenda at least 7 days before the meeting at which the document or the information within the document will be considered.

l. Notice of any board meeting, the agenda, and any other document required for the meeting as required by s. 718.112(2)(c), which must be posted no later than the date required for notice under s. 718.112(2)(c).

m. The inspection reports described in ss. 553.899 and 718.301(4)(p) and any other inspection report relating to a structural or life safety inspection of condominium property.

n. The association's most recent structural integrity reserve study, if applicable.



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649 o. Copies of all building permits issued for ongoing or
650 planned construction.

651 3. The association shall ensure that the information and
652 records described in paragraph (c), which are not allowed to be
653 accessible to unit owners, are not posted on the association's
654 website or application. If protected information or information
655 restricted from being accessible to unit owners is included in
656 documents that are required to be posted on the association's
657 website or application, the association shall ensure the
658 information is redacted before posting the documents.

659 Notwithstanding the foregoing, the association or its agent is
660 not liable for disclosing information that is protected or
661 restricted under this paragraph unless such disclosure was made
662 with a knowing or intentional disregard of the protected or
663 restricted nature of such information.

664 4. The failure of the association to post information
665 required under subparagraph 2. is not in and of itself
666 sufficient to invalidate any action or decision of the
667 association's board or its committees.

668 (13) FINANCIAL REPORTING.—Within 90 days after the end of
669 the fiscal year, or annually on a date provided in the bylaws,
670 the association shall prepare and complete, or contract for the
671 preparation and completion of, a financial report for the
672 preceding fiscal year. Within 21 days after the final financial
673 report is completed by the association or received from the
674 third party, but not later than 120 days after the end of the
675 fiscal year or other date as provided in the bylaws, the
676 association shall deliver ~~mail~~ to each unit owner, by United
677 States mail or personal delivery at the mailing address,



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property address, e-mail address, or facsimile number provided
to fulfill the association's notice requirements at the address
~~last furnished to the association by the unit owner, or hand~~
~~deliver to each unit owner,~~ a copy of the most recent financial
report or a notice that a copy of the most recent financial
report will be mailed or hand delivered to the unit owner,
without charge, within 5 business days after receipt of a
written request from the unit owner. The division shall adopt
rules setting forth uniform accounting principles and standards
to be used by all associations and addressing the financial
reporting requirements for multicondominium associations. The
rules must include, but not be limited to, standards for
presenting a summary of association reserves, including a good
faith estimate disclosing the annual amount of reserve funds
that would be necessary for the association to fully fund
reserves for each reserve item based on the straight-line
accounting method. This disclosure is not applicable to reserves
funded via the pooling method. In adopting such rules, the
division shall consider the number of members and annual
revenues of an association. Financial reports shall be prepared
as follows:

(a) An association that meets the criteria of this
paragraph shall prepare a complete set of financial statements
in accordance with generally accepted accounting principles. The
financial statements must be based upon the association's total
annual revenues, as follows:

1. An association with total annual revenues of \$150,000 or
more, but less than \$300,000, shall prepare compiled financial
statements.



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2. An association with total annual revenues of at least \$300,000, but less than \$500,000, shall prepare reviewed financial statements.

3. An association with total annual revenues of \$500,000 or more shall prepare audited financial statements.

(b)1. An association with total annual revenues of less than \$150,000 shall prepare a report of cash receipts and expenditures.

2. A report of cash receipts and disbursements must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and expense classifications, including, but not limited to, the following, as applicable: costs for security, professional and management fees and expenses, taxes, costs for recreation facilities, expenses for refuse collection and utility services, expenses for lawn care, costs for building maintenance and repair, insurance costs, administration and salary expenses, and reserves accumulated and expended for capital expenditures, planned ~~deferred~~ maintenance, and any other category for which the association maintains reserves.

(c) An association may prepare, without a meeting of or approval by the unit owners:

1. Compiled, reviewed, or audited financial statements, if the association is required to prepare a report of cash receipts and expenditures;

2. Reviewed or audited financial statements, if the association is required to prepare compiled financial statements; or

3. Audited financial statements if the association is



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required to prepare reviewed financial statements.

(d) If approved by a majority of the voting interests present at a properly called meeting of the association, an association may prepare:

1. A report of cash receipts and expenditures in lieu of a compiled, reviewed, or audited financial statement;

2. A report of cash receipts and expenditures or a compiled financial statement in lieu of a reviewed or audited financial statement; or

3. A report of cash receipts and expenditures, a compiled financial statement, or a reviewed financial statement in lieu of an audited financial statement.

Such meeting and approval must occur before the end of the fiscal year and is effective only for the fiscal year in which the vote is taken. An association may not prepare a financial report pursuant to this paragraph for consecutive fiscal years, ~~except that the approval may also be effective for the following fiscal year.~~ If the developer has not turned over control of the association, all unit owners, including the developer, may vote on issues related to the preparation of the association's financial reports, from the date of incorporation of the association through the end of the second fiscal year after the fiscal year in which the certificate of a surveyor and mapper is recorded pursuant to s. 718.104(4)(e) or an instrument that transfers title to a unit in the condominium which is not accompanied by a recorded assignment of developer rights in favor of the grantee of such unit is recorded, whichever occurs first. Thereafter, all unit owners except the developer may vote



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on such issues until control is turned over to the association by the developer. Any audit or review prepared under this section shall be paid for by the developer if done before turnover of control of the association.

(e) A unit owner may provide written notice to the division of the association's failure to mail or hand deliver him or her a copy of the most recent financial report within 5 business days after he or she submitted a written request to the association for a copy of such report. If the division determines that the association failed to mail or hand deliver a copy of the most recent financial report to the unit owner, the division shall provide written notice to the association that the association must mail or hand deliver a copy of the most recent financial report to the unit owner and the division within 5 business days after it receives such notice from the division. An association that fails to comply with the division's request may not waive the financial reporting requirement provided in paragraph (d) for the fiscal year in which the unit owner's request was made and the following fiscal year. A financial report received by the division pursuant to this paragraph shall be maintained, and the division shall provide a copy of such report to an association member upon his or her request.

(15) DEBIT CARDS.—

(a) An association and its officers, directors, employees, and agents may not use a debit card issued in the name of the association, or billed directly to the association, for the payment of any association expense.

(b) A person who uses ~~Use of~~ a debit card issued in the



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name of the association, or billed directly to the association, for any expense that is not a lawful obligation of the association commits theft under s. 812.014. For the purposes of this paragraph, the term "lawful obligation of the association" means an obligation that has been properly preapproved by the board and is reflected in the meeting minutes or the written budget ~~may be prosecuted as credit card fraud pursuant to s. 817.61.~~

Section 9. Effective January 1, 2026, paragraph (g) of subsection (12) of section 718.111, Florida Statutes, as amended by this act, is amended to read:

718.111 The association.—

(12) OFFICIAL RECORDS.—

(g)1. ~~By January 1, 2019,~~ An association managing a condominium with 25 ~~150~~ or more units which does not contain timeshare units shall post digital copies of the documents specified in subparagraph 2. on its website or make such documents available through an application that can be downloaded on a mobile device.

a. The association's website or application must be:

(I) An independent website, application, or web portal wholly owned and operated by the association; or

(II) A website, application, or web portal operated by a third-party provider with whom the association owns, leases, rents, or otherwise obtains the right to operate a web page, subpage, web portal, collection of subpages or web portals, or an application which is dedicated to the association's activities and on which required notices, records, and documents may be posted or made available by the association.



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b. The association's website or application must be accessible through the Internet and must contain a subpage, web portal, or other protected electronic location that is inaccessible to the general public and accessible only to unit owners and employees of the association.

c. Upon a unit owner's written request, the association must provide the unit owner with a username and password and access to the protected sections of the association's website or application which contain any notices, records, or documents that must be electronically provided.

2. A current copy of the following documents must be posted in digital format on the association's website or application:

a. The recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.

b. The recorded bylaws of the association and each amendment to the bylaws.

c. The articles of incorporation of the association, or other documents creating the association, and each amendment to the articles of incorporation or other documents. The copy posted pursuant to this sub-subparagraph must be a copy of the articles of incorporation filed with the Department of State.

d. The rules of the association.

e. A list of all executory contracts or documents to which the association is a party or under which the association or the unit owners have an obligation or responsibility and, after bidding for the related materials, equipment, or services has closed, a list of bids received by the association within the past year. Summaries of bids for materials, equipment, or



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services which exceed \$500 must be maintained on the website or application for 1 year. In lieu of summaries, complete copies of the bids may be posted.

f. The annual budget required by s. 718.112(2)(f) and any proposed budget to be considered at the annual meeting.

g. The financial report required by subsection (13) and any monthly income or expense statement to be considered at a meeting.

h. The certification of each director required by s. 718.112(2)(d)4.b.

i. All contracts or transactions between the association and any director, officer, corporation, firm, or association that is not an affiliated condominium association or any other entity in which an association director is also a director or officer and financially interested.

j. Any contract or document regarding a conflict of interest or possible conflict of interest as provided in ss. 468.4335, 468.436(2)(b)6., and 718.3027(3).

k. The notice of any unit owner meeting and the agenda for the meeting, as required by s. 718.112(2)(d)3., no later than 14 days before the meeting. The notice must be posted in plain view on the front page of the website or application, or on a separate subpage of the website or application labeled "Notices" which is conspicuously visible and linked from the front page. The association must also post on its website or application any document to be considered and voted on by the owners during the meeting or any document listed on the agenda at least 7 days before the meeting at which the document or the information within the document will be considered.



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1. Notice of any board meeting, the agenda, and any other document required for the meeting as required by s. 718.112(2)(c), which must be posted no later than the date required for notice under s. 718.112(2)(c).

m. The inspection reports described in ss. 553.899 and 718.301(4)(p) and any other inspection report relating to a structural or life safety inspection of condominium property.

n. The association's most recent structural integrity reserve study, if applicable.

o. Copies of all building permits issued for ongoing or planned construction.

3. The association shall ensure that the information and records described in paragraph (c), which are not allowed to be accessible to unit owners, are not posted on the association's website or application. If protected information or information restricted from being accessible to unit owners is included in documents that are required to be posted on the association's website or application, the association shall ensure the information is redacted before posting the documents.

Notwithstanding the foregoing, the association or its agent is not liable for disclosing information that is protected or restricted under this paragraph unless such disclosure was made with a knowing or intentional disregard of the protected or restricted nature of such information.

4. The failure of the association to post information required under subparagraph 2. is not in and of itself sufficient to invalidate any action or decision of the association's board or its committees.

Section 10. Paragraphs (c), (d), (f), (g), and (q) of



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subsection (2) of section 718.112, Florida Statutes, are amended, and paragraph (r) is added to that section, to read:

718.112 Bylaws.—

(2) REQUIRED PROVISIONS.—The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(c) *Board of administration meetings.*—In a residential condominium association of more than 10 units, the board of administration shall meet at least once each quarter. At least four times each year, the meeting agenda must include an opportunity for members to ask questions. Meetings of the board of administration at which a quorum of the members is present are open to all unit owners. Members of the board of administration may use e-mail as a means of communication but may not cast a vote on an association matter via e-mail. A unit owner may tape record or videotape the meetings. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items, and the right to ask questions with respect to reports on the status of construction or repair projects, status of revenues and expenditures during the current fiscal year, and other issues affecting the condominium. The division shall adopt reasonable rules governing the tape recording and videotaping of the meeting. The association may adopt written reasonable rules governing the frequency, duration, and manner of unit owner statements.

1. Adequate notice of all board meetings, which must specifically identify all agenda items, must be posted conspicuously on the condominium property at least 48 continuous



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hours before the meeting except in an emergency. If 20 percent of the voting interests petition the board to address an item of business, the board, within 60 days after receipt of the petition, shall place the item on the agenda at its next regular board meeting or at a special meeting called for that purpose. An item not included on the notice may be taken up on an emergency basis by a vote of at least a majority plus one of the board members. Such emergency action must be noticed and ratified at the next regular board meeting. Written notice of a meeting at which a nonemergency special assessment or an amendment to rules regarding unit use will be considered must be mailed, delivered, or electronically transmitted to the unit owners and posted conspicuously on the condominium property at least 14 days before the meeting. Evidence of compliance with this 14-day notice requirement must be made by an affidavit executed by the person providing the notice and filed with the official records of the association. ~~Notice of any meeting in which regular or special assessments against unit owners are to be considered must specifically state that assessments will be considered and provide the estimated cost and description of the purposes for such assessments.~~

2. Upon notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium property where all notices of board meetings must be posted. If there is no condominium property where notices can be posted, notices shall be mailed, delivered, or electronically transmitted to each unit owner at least 14 days before the meeting. In lieu of or in addition to the physical posting of the notice on the condominium property, the association may, by



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reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the condominium association. However, if broadcast notice is used in lieu of a notice physically posted on condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. If broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any of the authorized means of providing notice of a meeting of the board, the association may, by rule, adopt a procedure for conspicuously posting the meeting notice and the agenda on a website serving the condominium association for at least the minimum period of time for which a notice of a meeting is also required to be physically posted on the condominium property. Any rule adopted shall, in addition to other matters, include a requirement that the association send an electronic notice in the same manner as a notice for a meeting of the members, which must include a hyperlink to the website where the notice is posted, to unit owners whose e-mail addresses are included in the association's official records.

3. Notice of any meeting in which regular or special assessments against unit owners are to be considered must specifically state that assessments will be considered and provide the estimated cost and description of the purposes for such assessments. If an agenda item relates to the approval of a



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contract for goods or services, a copy of the contract must be provided with the notice, made available for inspection and copying upon a written request from a unit owner, or made available on the association's website or through an application that can be downloaded on a mobile device.

~~4.2.~~ Meetings of a committee to take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to this paragraph. Meetings of a committee that does not take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to this section, unless those meetings are exempted from this section by the bylaws of the association.

~~5.3.~~ Notwithstanding any other law, the requirement that board meetings and committee meetings be open to the unit owners does not apply to:

a. Meetings between the board or a committee and the association's attorney, with respect to proposed or pending litigation, if the meeting is held for the purpose of seeking or rendering legal advice; or

b. Board meetings held for the purpose of discussing personnel matters.

(d) *Unit owner meetings.*—

1. An annual meeting of the unit owners must be held at the location provided in the association bylaws and, if the bylaws are silent as to the location, the meeting must be held within 45 miles of the condominium property. However, such distance requirement does not apply to an association governing a timeshare condominium.

2. Unless the bylaws provide otherwise, a vacancy on the



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board caused by the expiration of a director's term must be filled by electing a new board member, and the election must be by secret ballot. An election is not required if the number of vacancies equals or exceeds the number of candidates. For purposes of this paragraph, the term "candidate" means an eligible person who has timely submitted the written notice, as described in sub-subparagraph 4.a., of his or her intention to become a candidate. Except in a timeshare or nonresidential condominium, or if the staggered term of a board member does not expire until a later annual meeting, or if all members' terms would otherwise expire but there are no candidates, the terms of all board members expire at the annual meeting, and such members may stand for reelection unless prohibited by the bylaws. Board members may serve terms longer than 1 year if permitted by the bylaws or articles of incorporation. A board member may not serve more than 8 consecutive years unless approved by an affirmative vote of unit owners representing two-thirds of all votes cast in the election or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy. Only board service that occurs on or after July 1, 2018, may be used when calculating a board member's term limit. If the number of board members whose terms expire at the annual meeting equals or exceeds the number of candidates, the candidates become members of the board effective upon the adjournment of the annual meeting. Unless the bylaws provide otherwise, any remaining vacancies shall be filled by the affirmative vote of the majority of the directors making up the newly constituted board even if the directors constitute less than a quorum or there is only one director. In a residential



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1055 condominium association of more than 10 units or in a
1056 residential condominium association that does not include
1057 timeshare units or timeshare interests, co-owners of a unit may
1058 not serve as members of the board of directors at the same time
1059 unless they own more than one unit or unless there are not
1060 enough eligible candidates to fill the vacancies on the board at
1061 the time of the vacancy. A unit owner in a residential
1062 condominium desiring to be a candidate for board membership must
1063 comply with sub-subparagraph 4.a. and must be eligible to be a
1064 candidate to serve on the board of directors at the time of the
1065 deadline for submitting a notice of intent to run in order to
1066 have his or her name listed as a proper candidate on the ballot
1067 or to serve on the board. A person who has been suspended or
1068 removed by the division under this chapter, or who is delinquent
1069 in the payment of any assessment due to the association, is not
1070 eligible to be a candidate for board membership and may not be
1071 listed on the ballot. For purposes of this paragraph, a person
1072 is delinquent if a payment is not made by the due date as
1073 specifically identified in the declaration of condominium,
1074 bylaws, or articles of incorporation. If a due date is not
1075 specifically identified in the declaration of condominium,
1076 bylaws, or articles of incorporation, the due date is the first
1077 day of the assessment period. A person who has been convicted of
1078 any felony in this state or in a United States District or
1079 Territorial Court, or who has been convicted of any offense in
1080 another jurisdiction which would be considered a felony if
1081 committed in this state, is not eligible for board membership
1082 unless such felon's civil rights have been restored for at least
1083 5 years as of the date such person seeks election to the board.



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The validity of an action by the board is not affected if it is later determined that a board member is ineligible for board membership due to having been convicted of a felony. This subparagraph does not limit the term of a member of the board of a nonresidential or timeshare condominium.

3. The bylaws must provide the method of calling meetings of unit owners, including annual meetings. Written notice of an annual meeting must include an agenda; be mailed, hand delivered, or electronically transmitted to each unit owner at least 14 days before the annual meeting; and be posted in a conspicuous place on the condominium property or association property at least 14 continuous days before the annual meeting. Written notice of a meeting other than an annual meeting must include an agenda; be mailed, hand delivered, or electronically transmitted to each unit owner; and be posted in a conspicuous place on the condominium property or association property within the timeframe specified in the bylaws. If the bylaws do not specify a timeframe for written notice of a meeting other than an annual meeting, notice must be provided at least 14 continuous days before the meeting. Upon notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium property or association property where all notices of unit owner meetings must be posted. This requirement does not apply if there is no condominium property for posting notices. In lieu of, or in addition to, the physical posting of meeting notices, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving



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1113 the condominium association. However, if broadcast notice is
1114 used in lieu of a notice posted physically on the condominium
1115 property, the notice and agenda must be broadcast at least four
1116 times every broadcast hour of each day that a posted notice is
1117 otherwise required under this section. If broadcast notice is
1118 provided, the notice and agenda must be broadcast in a manner
1119 and for a sufficient continuous length of time so as to allow an
1120 average reader to observe the notice and read and comprehend the
1121 entire content of the notice and the agenda. In addition to any
1122 of the authorized means of providing notice of a meeting of the
1123 board, the association may, by rule, adopt a procedure for
1124 conspicuously posting the meeting notice and the agenda on a
1125 website serving the condominium association for at least the
1126 minimum period of time for which a notice of a meeting is also
1127 required to be physically posted on the condominium property.
1128 Any rule adopted shall, in addition to other matters, include a
1129 requirement that the association send an electronic notice in
1130 the same manner as a notice for a meeting of the members, which
1131 must include a hyperlink to the website where the notice is
1132 posted, to unit owners whose e-mail addresses are included in
1133 the association's official records. Unless a unit owner waives
1134 in writing the right to receive notice of the annual meeting,
1135 such notice must be hand delivered, mailed, or electronically
1136 transmitted to each unit owner. Notice for meetings and notice
1137 for all other purposes must be mailed to each unit owner at the
1138 address last furnished to the association by the unit owner, or
1139 hand delivered to each unit owner. However, if a unit is owned
1140 by more than one person, the association must provide notice to
1141 the address that the developer identifies for that purpose and



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thereafter as one or more of the owners of the unit advise the association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the association, or the manager or other person providing notice of the association meeting, must provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association affirming that the notice was mailed or hand delivered in accordance with this provision.

4. The members of the board of a residential condominium shall be elected by written ballot or voting machine. Proxies may not be used in electing the board in general elections or elections to fill vacancies caused by recall, resignation, or otherwise, unless otherwise provided in this chapter. This subparagraph does not apply to an association governing a timeshare condominium.

a. At least 60 days before a scheduled election, the association shall mail, deliver, or electronically transmit, by separate association mailing or included in another association mailing, delivery, or transmission, including regularly published newsletters, to each unit owner entitled to a vote, a first notice of the date of the election. A unit owner or other eligible person desiring to be a candidate for the board must give written notice of his or her intent to be a candidate to the association at least 40 days before a scheduled election. Together with the written notice and agenda as set forth in subparagraph 3., the association shall mail, deliver, or electronically transmit a second notice of the election to all unit owners entitled to vote, together with a ballot that lists



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all candidates not less than 14 days or more than 34 days before the date of the election. Upon request of a candidate, an information sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished by the candidate at least 35 days before the election, must be included with the mailing, delivery, or transmission of the ballot, with the costs of mailing, delivery, or electronic transmission and copying to be borne by the association. The association is not liable for the contents of the information sheets prepared by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. The division shall by rule establish voting procedures consistent with this sub-subparagraph, including rules establishing procedures for giving notice by electronic transmission and rules providing for the secrecy of ballots. Elections shall be decided by a plurality of ballots cast. There is no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election. A unit owner may not authorize any other person to vote his or her ballot, and any ballots improperly cast are invalid. A unit owner who violates this provision may be fined by the association in accordance with s. 718.303. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain such assistance. The regular election must occur on the date of the annual meeting. Notwithstanding this sub-subparagraph, an election is not required unless more candidates file notices of intent to run or are nominated than board vacancies exist.

b. A director of a ~~Within 90 days after being elected or appointed to the~~ board of an association of a residential



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~~condominium, each newly elected or appointed director shall:~~

(I) Certify in writing to the secretary of the association
that he or she has read the association's declaration of
condominium, articles of incorporation, bylaws, and current
written policies; that he or she will work to uphold such
documents and policies to the best of his or her ability; and
that he or she will faithfully discharge his or her fiduciary
responsibility to the association's members. ~~In lieu of this
written certification, within 90 days after being elected or
appointed to the board, the newly elected or appointed director
may~~

(II) Submit to the secretary of the association a
certificate of having satisfactorily completed the educational
curriculum administered by a division-approved condominium
education provider ~~within 1 year before or 90 days after the~~
~~date of election or appointment.~~ The education curriculum must
be least 4 hours long and address director and officer fiduciary
duty, milestone inspections under s. 553.899, structural
integrity reserve studies, and at least four of the following
topics: budgets and reserves, elections, financial reporting,
condominium operations, records maintenance, including unit
owner access to records, dispute resolution, and bids and
contracts.

Each newly elected or appointed director must submit the written
certification and educational certificate to the secretary of
the association within 1 year before being elected or appointed
or within 90 days after the date of election or appointment. A
director of an association of a residential condominium who was



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1229 elected or appointed before July 1, 2024, shall comply with the

1230 written certification and educational certificate requirements

1231 in this sub-subparagraph by June 30, 2025. The written

1232 certification and ~~or~~ educational certificate is valid for 7

1233 years from the date of issuance and does not have to be

1234 resubmitted as long as the director serves on the board without

1235 interruption during the 7-year period. A director who is

1236 appointed by the developer may satisfy the educational

1237 certificate requirement in sub-sub-subparagraph (II) for any

1238 subsequent appointment to a board by a developer within 7 years

1239 after the date of issuance of the most recent educational

1240 certificate, including any interruption of service on a board or

1241 an appointment to a board in another association within that 7-

1242 year period. Additionally, one year after submission of the most

1243 recent written certification and educational certificate, and

1244 annually thereafter, a director of an association of a

1245 residential condominium must submit to the secretary of the

1246 association a certificate of having satisfactorily completed an

1247 educational curriculum administered by a division-approved

1248 condominium education provider, relating to any recent changes

1249 to this chapter and the related administrative rules during the

1250 past year. The cost of a required educational curriculum and

1251 certificate is an expense of the association which the

1252 association may pay on behalf of the director or reimburse the

1253 director for his or her expense. A director of an association of

1254 a residential condominium who fails to timely file the written

1255 certification and ~~or~~ educational certificate is suspended from

1256 service on the board until he or she complies with this sub-

1257 paragraph. The board may temporarily fill the vacancy during



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the period of suspension. The secretary shall cause the association to retain a director's written certification and ~~or~~ educational certificate for inspection by the members for 7 ~~5~~ years after a director's election or the duration of the director's uninterrupted tenure, whichever is longer. Failure to have such written certification and ~~or~~ educational certificate on file does not affect the validity of any board action.

c. Any challenge to the election process must be commenced within 60 days after the election results are announced.

5. Any approval by unit owners called for by this chapter or the applicable declaration or bylaws, including, but not limited to, the approval requirement in s. 718.111(8), must be made at a duly noticed meeting of unit owners and is subject to all requirements of this chapter or the applicable condominium documents relating to unit owner decisionmaking, except that unit owners may take action by written agreement, without meetings, on matters for which action by written agreement without meetings is expressly allowed by the applicable bylaws or declaration or any law that provides for such action.

6. Unit owners may waive notice of specific meetings if allowed by the applicable bylaws or declaration or any law. Notice of meetings of the board of administration; unit owner meetings, except unit owner meetings called to recall board members under paragraph (1); and committee meetings may be given by electronic transmission to unit owners who consent to receive notice by electronic transmission. A unit owner who consents to receiving notices by electronic transmission is solely responsible for removing or bypassing filters that block receipt of mass e-mails sent to members on behalf of the association in



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the course of giving electronic notices.

7. Unit owners have the right to participate in meetings of unit owners with reference to all designated agenda items.

However, the association may adopt reasonable rules governing the frequency, duration, and manner of unit owner participation.

8. A unit owner may tape record or videotape a meeting of the unit owners subject to reasonable rules adopted by the division.

9. Unless otherwise provided in the bylaws, any vacancy occurring on the board before the expiration of a term may be filled by the affirmative vote of the majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to sub-subparagraph 4.a. unless the association governs 10 units or fewer and has opted out of the statutory election process, in which case the bylaws of the association control. Unless otherwise provided in the bylaws, a board member appointed or elected under this section shall fill the vacancy for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by paragraph (1) and rules adopted by the division.

10. This chapter does not limit the use of general or limited proxies, require the use of general or limited proxies, or require the use of a written ballot or voting machine for any agenda item or election at any meeting of a timeshare condominium association or nonresidential condominium association.



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Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an association of 10 or fewer units may, by affirmative vote of a majority of the total voting interests, provide for different voting and election procedures in its bylaws, which may be by a proxy specifically delineating the different voting and election procedures. The different voting and election procedures may provide for elections to be conducted by limited or general proxy.

(f) *Annual budget.*—

1. The proposed annual budget of estimated revenues and expenses must be detailed and must show the amounts budgeted by accounts and expense classifications, including, at a minimum, any applicable expenses listed in s. 718.504(21). The board shall adopt the annual budget at least 14 days before the start of the association's fiscal year. In the event that the board fails to timely adopt the annual budget a second time, it is deemed a minor violation and the prior year's budget shall continue in effect until a new budget is adopted. A multicondominium association must adopt a separate budget of common expenses for each condominium the association operates and must adopt a separate budget of common expenses for the association. In addition, if the association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements as provided for in s. 718.113(1), the budget or a schedule attached to it must show the amount budgeted for this maintenance. If, after turnover of control of the association to the unit owners, any of the expenses listed in s. 718.504(21) are not applicable, they do not need to be listed.



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2.a. In addition to annual operating expenses, the budget must include reserve accounts for capital expenditures and planned ~~deferred~~ maintenance. These accounts must include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of planned ~~deferred~~ maintenance expense or replacement cost, and any other item that has a planned ~~deferred~~ maintenance expense or replacement cost that exceeds \$10,000. The amount to be reserved must be computed using a formula based upon estimated remaining useful life and estimated replacement cost or planned ~~deferred~~ maintenance expense of the reserve item. In a budget adopted by an association that is required to obtain a structural integrity reserve study, reserves must be maintained for the items identified in paragraph (g) for which the association is responsible pursuant to the declaration of condominium, and the reserve amount for such items must be based on the findings and recommendations of the association's most recent structural integrity reserve study. With respect to items for which an estimate of useful life is not readily ascertainable or with an estimated remaining useful life of greater than 25 years, an association is not required to reserve replacement costs for such items, but an association must reserve the amount of planned ~~deferred~~ maintenance expense, if any, which is recommended by the structural integrity reserve study for such items. The association may adjust replacement reserve assessments annually to take into account an inflation adjustment and any changes in estimates or extension of the useful life of a reserve item caused by planned ~~deferred~~ maintenance. The members of a unit-owner-controlled association



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may determine, by a majority vote of the total voting interests of the association, to provide no reserves or less reserves than required by this subsection. For a budget adopted on or after December 31, 2024, the members of a unit-owner-controlled association that must obtain a structural integrity reserve study may not determine to provide no reserves or less reserves than required by this subsection for items listed in paragraph (g), except that members of an association operating a multicondominium may determine to provide no reserves or less reserves than required by this subsection if an alternative funding method has been approved by the division. If the local building official, as defined in s. 468.603, determines that the entire condominium building is uninhabitable due to a natural emergency, as defined in s. 252.34, the board, upon the approval of a majority of its members, may pause the contribution to its reserves or reduce reserve funding until the local building official determines that the condominium building is habitable. Any reserve account funds held by the association may be expended, pursuant to the board's determination, to make the condominium building and its structures habitable. Upon the determination by the local building official that the condominium building and its structures are habitable, the association must immediately resume contributing funds to its reserves.

b. Before turnover of control of an association by a developer to unit owners other than a developer under s. 718.301, the developer-controlled association may not vote to waive the reserves or reduce funding of the reserves. If a meeting of the unit owners has been called to determine whether



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to waive or reduce the funding of reserves and no such result is achieved or a quorum is not attained, the reserves included in the budget shall go into effect. After the turnover, the developer may vote its voting interest to waive or reduce the funding of reserves.

3. Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and may be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote of all the total voting interests of the association. Before turnover of control of an association by a developer to unit owners other than the developer pursuant to s. 718.301, the developer-controlled association may not vote to use reserves for purposes other than those for which they were intended. For a budget adopted on or after December 31, 2024, members of a unit-owner-controlled association that must obtain a structural integrity reserve study may not vote to use reserve funds, or any interest accruing thereon, for any other purpose other than the replacement or planned ~~deferred~~ maintenance costs of the components listed in paragraph (g).

4. The only voting interests that are eligible to vote on questions that involve waiving or reducing the funding of reserves, or using existing reserve funds for purposes other than purposes for which the reserves were intended, are the voting interests of the units subject to assessment to fund the reserves in question. Proxy questions relating to waiving or reducing the funding of reserves or using existing reserve funds for purposes other than purposes for which the reserves were intended must contain the following statement in capitalized,



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bold letters in a font size larger than any other used on the face of the proxy ballot: WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

(g) *Structural integrity reserve study.*—

1. A residential condominium association must have a structural integrity reserve study completed at least every 10 years after the condominium's creation for each building on the condominium property that is three stories or higher in height, as determined by the Florida Building Code, which includes, at a minimum, a study of the following items as related to the structural integrity and safety of the building:

a. Roof.

b. Structure, including load-bearing walls and other primary structural members and primary structural systems as those terms are defined in s. 627.706.

c. Fireproofing and fire protection systems.

d. Plumbing.

e. Electrical systems.

f. Waterproofing and exterior painting.

g. Windows and exterior doors.

h. Any other item that has a planned ~~deferred~~ maintenance expense or replacement cost that exceeds \$10,000 and the failure to replace or maintain such item negatively affects the items listed in sub-subparagraphs a.-g., as determined by the visual inspection portion of the structural integrity reserve study.

2. A structural integrity reserve study is based on a visual inspection of the condominium property. A structural



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integrity reserve study may be performed by any person qualified to perform such study. However, the visual inspection portion of the structural integrity reserve study must be performed or verified by an engineer licensed under chapter 471, an architect licensed under chapter 481, or a person certified as a reserve specialist or professional reserve analyst by the Community Associations Institute or the Association of Professional Reserve Analysts.

3. At a minimum, a structural integrity reserve study must identify each item of the condominium property being visually inspected, state the estimated remaining useful life and the estimated replacement cost or planned ~~deferred~~ maintenance expense of each item of the condominium property being visually inspected, and provide a reserve funding schedule with a recommended annual reserve amount that achieves the estimated replacement cost or planned ~~deferred~~ maintenance expense of each item of condominium property being visually inspected by the end of the estimated remaining useful life of the item. The structural integrity reserve study may recommend that reserves do not need to be maintained for any item for which an estimate of useful life and an estimate of replacement cost cannot be determined, or the study may recommend a planned ~~deferred~~ maintenance expense amount for such item. The structural integrity reserve study may recommend that reserves for replacement costs do not need to be maintained for any item with an estimated remaining useful life of greater than 25 years, but the study may recommend a planned ~~deferred~~ maintenance expense amount for such item. If the condominium building or units are unsafe and uninhabitable due to substantial damage or loss as



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determined by the local enforcement agency, as defined in s. 533.71(5), and it is in the best interests of the association to use revenues and existing reserve funds to perform necessary repairs to make the building safe and habitable, the structural integrity reserve study may recommend a temporary pause in reserve funding or reduced reserve funding, but the association may not pause reserve funding after the building has been declared safe for occupancy by the local enforcement agency.

4. This paragraph does not apply to buildings less than three stories in height; single-family, two-family, ~~or~~ three-family, or four-family dwellings with three or fewer habitable stories above ground; any portion or component of a building that has not been submitted to the condominium form of ownership; or any portion or component of a building that is maintained by a party other than the association.

5. Before a developer turns over control of an association to unit owners other than the developer, the developer must have a turnover inspection report in compliance with s. 718.301(4)(p) and (q) for each building on the condominium property that is three stories or higher in height.

6. Associations existing on or before July 1, 2022, which are controlled by unit owners other than the developer, must have a structural integrity reserve study completed by December 31, 2024, for each building on the condominium property that is three stories or higher in height. An association that is required to complete a milestone inspection in accordance with s. 553.899 on or before December 31, 2026, may complete the structural integrity reserve study simultaneously with the milestone inspection. In no event may the structural integrity



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reserve study be completed after December 31, 2026.

7. If the milestone inspection required by s. 553.899, or an inspection completed for a similar local requirement, was performed within the past 5 years and meets the requirements of this paragraph, such inspection may be used in place of the visual inspection portion of the structural integrity reserve study.

8. If the officers or directors of an association willfully and knowingly fail to complete a structural integrity reserve study pursuant to this paragraph, such failure is a breach of an officer's and director's fiduciary relationship to the unit owners under s. 718.111(1).

9. Within 45 days after receiving the structural integrity reserve study, the association must distribute a copy of the study to each unit owner or deliver to each unit owner a notice that the completed study is available for inspection and copying upon a written request. Distribution of a copy of the study or notice must be made by United States mail or personal delivery at the mailing address, property address, or any other address of the owner provided to fulfill the association's notice requirements under this chapter, or by electronic transmission to the e-mail address or facsimile number provided to fulfill the association's notice requirements to unit owners who previously consented to receive notice by electronic transmission.

(q) *Director or officer offenses.*—

1. A director or an officer charged by information or indictment with any of the following crimes is deemed removed from office and a vacancy declared:



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a. Forgery of a ballot envelope or voting certificate used in a condominium association election as provided in s. 831.01.

b. Theft or embezzlement involving the association's funds or property as provided in s. 812.014.

c. Destruction of, or the refusal to allow inspection or copying of, an official record of a condominium association which is accessible to unit owners within the time periods required by general law, in furtherance of any crime. Such act constitutes tampering with physical evidence as provided in s. 918.13.

d. Obstruction of justice under chapter 843.

e. Any criminal violation under this chapter.

2. The board shall fill the vacancy in accordance with paragraph (2) (d) ~~a felony theft or embezzlement offense involving the association's funds or property must be removed from office, creating a vacancy in the office to be filled according to law~~ until the end of the period of the suspension or the end of the director's term of office, whichever occurs first. While such director or officer has such criminal charge pending, he or she may not be appointed or elected to a position as a director or an officer of any association and may not have access to the official records of any association, except pursuant to a court order. However, if the charges are resolved without a finding of guilt, the director or officer shall be reinstated for the remainder of his or her term of office, if any.

(r) *Fraudulent voting activities relating to association elections; penalties.*

1. A person who engages in the following acts of fraudulent



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voting activity relating to association elections commits a
misdemeanor of the first degree, punishable as provided in s.
775.082 or s. 775.083:

a. Willfully and falsely swearing to or affirming an oath
or affirmation, or willfully procuring another person to falsely
swear to or affirm an oath or affirmation, in connection with or
arising out of voting activities.

b. Perpetrating or attempting to perpetrate, or aiding in
the perpetration of, fraud in connection with a vote cast, to be
cast, or attempted to be cast.

c. Preventing a member from voting or preventing a member
from voting as he or she intended by fraudulently changing or
attempting to change a ballot, ballot envelope, vote, or voting
certificate of the member.

d. Menacing, threatening, or using bribery or any other
corruption to attempt, directly or indirectly, to influence,
deceive, or deter a member when the member is voting.

e. Giving or promising, directly or indirectly, anything of
value to another member with the intent to buy the vote of that
member or another member or to corruptly influence that member
or another member in casting his or her vote. This subsection
does not apply to any food served which is to be consumed at an
election rally or a meeting or to any item of nominal value
which is used as an election advertisement, including a campaign
message designed to be worn by a member.

f. Using or threatening to use, directly or indirectly,
force, violence, or intimidation or any tactic of coercion or
intimidation to induce or compel a member to vote or refrain
from voting in an election or on a particular ballot measure.



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2. Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

a. Knowingly aiding, abetting, or advising a person in the commission of a fraudulent voting activity related to association elections.

b. Agreeing, conspiring, combining, or confederating with at least one other person to commit a fraudulent voting activity related to association elections.

c. Having knowledge of a fraudulent voting activity related to association elections and giving any aid to the offender with intent that the offender avoid or escape detection, arrest, trial, or punishment.

This subparagraph does not apply to a licensed attorney giving legal advice to a client.

3. Any person charged by information or indictment for any of the crimes in this paragraph shall be deemed removed from office and a vacancy declared.

Section 11. Subsection (5) of section 718.113, Florida Statutes, is amended to read:

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

(5) To protect the health, safety, and welfare of the people of this state and to ensure uniformity and consistency in the hurricane protections installed by condominium associations and unit owners, this subsection applies to all residential and mixed-use condominiums in this state, regardless of when the



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condominium is created pursuant to the declaration of
condominium. Each board of administration of a residential
condominium or mixed-use condominium shall adopt hurricane
protection shutter specifications for each building within each
condominium operated by the association which may ~~shall~~ include
color, style, and other factors deemed relevant by the board.
All specifications adopted by the board must comply with the
applicable building code. The installation, maintenance, repair,
replacement, and operation of hurricane protection in accordance
with this subsection is not considered a material alteration or
substantial addition to the common elements or association
property within the meaning of this section.

(a) The board may, subject to s. 718.3026 and the approval
of a majority of voting interests of the residential condominium
or mixed-use condominium, install or require that unit owners
install hurricane ~~shutters, impact glass, code-compliant windows~~
~~or doors, or other types of code-compliant hurricane~~ protection
that complies ~~comply~~ with or exceeds ~~exceed~~ the applicable
building code. A vote of the unit owners to require the
installation of hurricane protection must be set forth in a
certificate attesting to such vote and include the date that the
hurricane protection must be installed. The board must record
the certificate in the public records of the county where the
condominium is located. The certificate must include the
recording data identifying the declaration of condominium and
must be executed in the form required for the execution of a
deed. Once the certificate is recorded, the board must mail or
hand deliver a copy of the recorded certificate to the unit
owners at the owners' addresses, as reflected in the records of



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the association. The board may provide a copy of the recorded certificate by electronic transmission to unit owners who previously consented to receive notice by electronic transmission. The failure to record the certificate or send a copy of the recorded certificate to the unit owners does not affect the validity or enforceability of the vote of the unit owners. ~~However,~~ A vote of the unit owners under this paragraph is not required if the installation, maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection, or any exterior windows, doors, or other apertures protected by the hurricane protection, is are the responsibility of the association pursuant to the declaration of condominium as originally recorded or as amended, or if the unit owners are required to install hurricane protection pursuant to the declaration of condominium as originally recorded or as amended. If hurricane protection ~~or laminated glass or window film architecturally designed to function as hurricane protection~~ that complies with or exceeds the current applicable building code has been previously installed, the board may not install the same type of hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection or require that unit owners install the same type of hurricane protection unless the installed hurricane protection has reached the end of its useful life or unless it is necessary to prevent damage to the common elements or to a unit except upon approval by a majority vote of the voting interests.

~~(b) The association is responsible for the maintenance,~~



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~~repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection authorized by this subsection if such property is the responsibility of the association pursuant to the declaration of condominium. If the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection are the responsibility of the unit owners pursuant to the declaration of condominium, the maintenance, repair, and replacement of such items are the responsibility of the unit owner.~~

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

~~(c)(d) Notwithstanding any other provision in the residential condominium or mixed-use condominium documents, if approval is required by the documents, a board may not refuse to approve the installation or replacement of hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection by a unit owner which conforms ~~conforming~~ to the specifications adopted by the board.~~



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However, a board may require the unit owner to adhere to an existing unified building scheme regarding the external appearance of the condominium.

(d) Unless otherwise provided in a declaration of condominium recorded in the public record before July 1, 2024, a unit owner is not responsible for the cost of any removal or reinstallation of hurricane protection, and any exterior window, door, or other aperture protected by the hurricane protection, if its removal is necessary for the maintenance, repair, or replacement of other condominium property or association property for which the association is responsible. The board shall determine if the removal or reinstallation of hurricane protection must be completed by the unit owner or the association. If such removal or reinstallation is completed by the association, the costs incurred by the association may not be charged to the unit owner. If such removal or reinstallation is completed by the unit owner, the association must reimburse the unit owner for the cost of the removal or reinstallation or the association must apply the unit owner's cost of removal or reinstallation as a credit toward future assessments.

(e) If the removal or installation of hurricane protection or of any exterior windows, doors, or other apertures protected by the hurricane protection are the responsibility of the unit owner, such removal or installation is completed by the association, and the association then charges the unit owner for such removal or installation, such charges are enforceable as an assessment and may be collected in the manner provided under s. 718.116.

Section 12. Paragraph (e) of subsection (1) of section



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718.115, Florida Statutes, is amended to read:

718.115 Common expenses and common surplus.—

(1)

(e) 1. Except as provided in s. 718.113(5)(d) The expense of installation, replacement, operation, repair, and maintenance of hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection by the board pursuant to s. 718.113(5) constitutes a common expense and shall be collected as provided in this section if the association is responsible for the maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection pursuant to the declaration of condominium. However, if the installation of maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection is are the responsibility of the unit owners pursuant to the declaration of condominium or a vote of the unit owners under s. 718.113(5), the cost of the installation of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection by the association is not a common expense and must shall be charged individually to the unit owners based on the cost of installation of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection appurtenant to the unit. The costs of installation of hurricane protection are enforceable as an assessment and may be collected in the manner provided under s. 718.116.



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2. Notwithstanding s. 718.116(9), and regardless of whether ~~or not~~ the declaration requires the association or unit owners to install, maintain, repair, or replace ~~hurricane shutters, impact glass, code-compliant windows or doors, or other types of~~ code-compliant hurricane protection, the a-unit owner of a unit where who has previously installed hurricane shutters in accordance with s. 718.113(5) that comply with the current applicable building code shall receive a credit when the shutters are installed; a unit owner who has previously installed impact glass or code-compliant windows or doors that comply with the current applicable building code shall receive a credit when the impact glass or code-compliant windows or doors are installed; and a unit owner who has installed other types of code-compliant hurricane protection that complies comply with the current applicable building code has been installed is excused from any assessment levied by the association or shall receive a credit if when the same type of other code-compliant hurricane protection is installed by the association, and the credit shall be equal to the pro rata portion of the assessed installation cost assigned to each unit. A credit is applicable if the installation of hurricane protection is for all other units that do not have hurricane protection and the cost of such installation is funded by the association's budget, including the use of reserve funds. The credit must be equal to the amount that the unit owner would have been assessed to install the hurricane protection. However, such unit owner remains responsible for the pro rata share of expenses for ~~hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection installed on~~



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common elements and association property by the board pursuant to s. 718.113(5) and remains responsible for a pro rata share of the expense of the replacement, operation, repair, and maintenance of such ~~shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection. Expenses for the installation, replacement, operation, repair, or maintenance of hurricane protection on common elements and association property are common expenses.

Section 13. Paragraph (a) of subsection (4) of section 718.121, Florida Statutes, is amended to read:

718.121 Liens.—

(4) (a) If an association sends out an invoice for assessments or a unit's statement of the account described in s. 718.111(12) (a) 11.c. ~~s. 718.111(12) (a) 11.b.~~, the invoice for assessments or the unit's statement of account must be delivered to the unit owner by first-class United States mail or by electronic transmission to the unit owner's e-mail address maintained in the association's official records.

Section 14. Section 718.1224, Florida Statutes, is amended to read:

718.1224 Prohibition against SLAPP suits; other prohibited actions.—

(1) It is the intent of the Legislature to protect the right of condominium unit owners to exercise their rights to instruct their representatives and petition for redress of grievances before their condominium association and the various governmental entities of this state as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution. The Legislature recognizes that



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strategic lawsuits against public participation, or "SLAPP suits," as they are typically referred to, have occurred when association members are sued by condominium associations, individuals, business entities, or governmental entities arising out of a condominium unit owner's appearance and presentation before the board of the condominium association or a governmental entity on matters related to the condominium association. However, it is the public policy of this state that condominium associations, governmental entities, business organizations, and individuals not engage in SLAPP suits, because such actions are inconsistent with the right of condominium unit owners to participate in their condominium association and in the state's institutions of government. Therefore, the Legislature finds and declares that prohibiting such lawsuits by condominium associations, governmental entities, business entities, and individuals against condominium unit owners who address matters concerning their condominium association will preserve this fundamental state policy, preserve the constitutional rights of condominium unit owners, ~~and~~ ensure the continuation of representative government in this state, and ensure unit owner participation in condominium associations. It is the intent of the Legislature that such lawsuits be expeditiously disposed of by the courts. As used in this subsection, the term "governmental entity" means the state, including the executive, legislative, and judicial branches of government; law enforcement agencies; the independent establishments of the state, counties, municipalities, districts, authorities, boards, or commissions; or any agencies of these branches that are subject to chapter 286.



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(2) A condominium association, a governmental entity, a business organization, or an individual in this state may not file or cause to be filed through its employees or agents any lawsuit, cause of action, claim, cross-claim, or counterclaim against a condominium unit owner without merit and solely because such condominium unit owner has exercised the right to instruct his or her representatives or the right to petition for redress of grievances before the condominium association or the various governmental entities of this state, as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution.

(3) A condominium association may not fine, discriminatorily increase a unit owner's assessments or discriminatorily decrease services to a unit owner, or bring or threaten to bring an action for possession or other civil action, including a defamation, libel, slander, or tortious interference action, based on conduct described in paragraphs (a)-(f). In order for the unit owner to raise the defense of retaliatory conduct, the unit owner must have acted in good faith and not for any improper purposes, such as to harass or to cause unnecessary delay or for frivolous purpose or needless increase in the cost of litigation. Examples of conduct for which a condominium association, officer, director, or agent of an association may not retaliate include, but are not limited to, situations where:

(a) The unit owner has in good faith complained to a governmental agency charged with responsibility for enforcement of a building, housing, or health code of a suspected violation applicable to the condominium;



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(b) The unit owner has organized, encouraged, or participated in a unit owners' organization;

(c) The unit owner submitted information or filed a complaint alleging criminal violations or violations of this chapter or the rules of the division with the division, the Office of the Condominium Ombudsman, a law enforcement agency, a state attorney, the Attorney General, or any other governmental agency;

(d) The unit owner has exercised his or her rights under this chapter;

(e) The unit owner has complained to the association or any of its representatives for their failure to comply with this chapter or chapter 617; or

(f) The unit owner has made public statements critical of the operation or management of the association.

(4) Evidence of retaliatory conduct may be raised by the unit owner as a defense in any action brought against him or her for possession.

(5) A condominium unit owner sued by a condominium association, governmental entity, business organization, or individual in violation of this section has a right to an expeditious resolution of a claim that the suit is in violation of this section. A condominium unit owner may petition the court for an order dismissing the action or granting final judgment in favor of that condominium unit owner. The petitioner may file a motion for summary judgment, together with supplemental affidavits, seeking a determination that the condominium association's, governmental entity's, business organization's, or individual's lawsuit has been brought in violation of this



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section. The condominium association, governmental entity, business organization, or individual shall thereafter file its response and any supplemental affidavits. As soon as practicable, the court shall set a hearing on the petitioner's motion, which shall be held at the earliest possible time after the filing of the condominium association's, governmental entity's, business organization's, or individual's response. The court may award the condominium unit owner sued by the condominium association, governmental entity, business organization, or individual actual damages arising from the condominium association's, governmental entity's, individual's, or business organization's violation of this section. A court may treble the damages awarded to a prevailing condominium unit owner and shall state the basis for the treble damages award in its judgment. The court shall award the prevailing party reasonable attorney's fees and costs incurred in connection with a claim that an action was filed in violation of this section.

(6) ~~(4)~~ Condominium associations may not expend association funds in prosecuting a SLAPP suit against a condominium unit owner.

(7) Condominium associations may not expend association funds in support of a defamation, libel, slander, or tortious interference action against a unit owner or any other claim against a unit owner based on conduct described in paragraphs (3) (a) - (f) .

Section 15. Section 718.128, Florida Statutes, is amended to read:

718.128 Electronic voting.—The association may conduct elections and other unit owner votes through an Internet-based



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online voting system if a unit owner consents, electronically or
in writing, to online voting and if the following requirements
are met:

(1) The association provides each unit owner with:

(a) A method to authenticate the unit owner's identity to
the online voting system.

(b) For elections of the board, a method to transmit an
electronic ballot to the online voting system that ensures the
secrecy and integrity of each ballot.

(c) A method to confirm, at least 14 days before the voting
deadline, that the unit owner's electronic device can
successfully communicate with the online voting system.

(2) The association uses an online voting system that is:

(a) Able to authenticate the unit owner's identity.

(b) Able to authenticate the validity of each electronic
vote to ensure that the vote is not altered in transit.

(c) Able to transmit a receipt from the online voting
system to each unit owner who casts an electronic vote.

(d) For elections of the board of administration, able to
permanently separate any authentication or identifying
information from the electronic election ballot, rendering it
impossible to tie an election ballot to a specific unit owner.

(e) Able to store and keep electronic votes accessible to
election officials for recount, inspection, and review purposes.

(3) A unit owner voting electronically pursuant to this
section shall be counted as being in attendance at the meeting
for purposes of determining a quorum. A substantive vote of the
unit owners may not be taken on any issue other than the issues
specifically identified in the electronic vote, when a quorum is



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established based on unit owners voting electronically pursuant to this section.

(4) This section applies to an association that provides for and authorizes an online voting system pursuant to this section by a board resolution. The board resolution must provide that unit owners receive notice of the opportunity to vote through an online voting system, must establish reasonable procedures and deadlines for unit owners to consent, electronically or in writing, to online voting, and must establish reasonable procedures and deadlines for unit owners to opt out of online voting after giving consent. Written notice of a meeting at which the resolution will be considered must be mailed, delivered, or electronically transmitted to the unit owners and posted conspicuously on the condominium property or association property at least 14 days before the meeting. Evidence of compliance with the 14-day notice requirement must be made by an affidavit executed by the person providing the notice and filed with the official records of the association.

(5) A unit owner's consent to online voting is valid until the unit owner opts out of online voting according to the procedures established by the board of administration pursuant to subsection (4).

(6) This section may apply to any matter that requires a vote of the unit owners who are not members of a timeshare condominium association.

Section 16. Paragraph (p) of subsection (4) of section 718.301, Florida Statutes, is amended to read:

718.301 Transfer of association control; claims of defect by association.—



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(4) At the time that unit owners other than the developer elect a majority of the members of the board of administration of an association, the developer shall relinquish control of the association, and the unit owners shall accept control. Simultaneously, or for the purposes of paragraph (c) not more than 90 days thereafter, the developer shall deliver to the association, at the developer's expense, all property of the unit owners and of the association which is held or controlled by the developer, including, but not limited to, the following items, if applicable, as to each condominium operated by the association:

(p) Notwithstanding when the certificate of occupancy was issued or the height of the building, a turnover inspection report included in the official records, under seal of an architect or engineer authorized to practice in this state or a person certified as a reserve specialist or professional reserve analyst by the Community Associations Institute or the Association of Professional Reserve Analysts, and consisting of a structural integrity reserve study attesting to required maintenance, condition, useful life, and replacement costs of the following applicable condominium property:

1. Roof.
2. Structure, including load-bearing walls and primary structural members and primary structural systems as those terms are defined in s. 627.706.
3. Fireproofing and fire protection systems.
4. Plumbing.
5. Electrical systems.
6. Waterproofing and exterior painting.



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7. Windows and exterior doors.

Section 17. Subsections (4) and (5) of section 718.3027, Florida Statutes, are amended to read:

718.3027 Conflicts of interest.—

(4) A director or an officer, or a relative of a director or an officer, who is a party to, or has an interest in, an activity that is a possible conflict of interest, as described in subsection (1), may attend the meeting at which the activity is considered by the board and is authorized to make a presentation to the board regarding the activity. After the presentation, the director or officer, and any ~~or the~~ relative of the director or officer, must leave the meeting during the discussion of, and the vote on, the activity. A director or an officer who is a party to, or has an interest in, the activity must recuse himself or herself from the vote. The attendance of a director with a possible conflict of interest at the meeting of the board is sufficient to constitute a quorum for the meeting and the vote in his or her absence on the proposed activity.

(5) A contract entered into between a director or an officer, or a relative of a director or an officer, and the association, which is not a timeshare condominium association, that has not been properly disclosed as a conflict of interest or potential conflict of interest as required by this section or s. 617.0832 ~~s. 718.111(12)(g)~~ is voidable and terminates upon the filing of a written notice terminating the contract with the board of directors which contains the consent of at least 20 percent of the voting interests of the association.

Section 18. Subsection (5) of section 718.303, Florida



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Statutes, is amended to read:

718.303 Obligations of owners and occupants; remedies.—

(5) An association may suspend the voting rights of a unit owner or member due to nonpayment of any fee, fine, or other monetary obligation due to the association which is more than \$1,000 and more than 90 days delinquent. Proof of such obligation must be provided to the unit owner or member 30 days before such suspension takes effect. Notice of such obligation must also be provided to the unit owner at least 90 days before an election. A voting interest or consent right allocated to a unit owner or member which has been suspended by the association shall be subtracted from the total number of voting interests in the association, which shall be reduced by the number of suspended voting interests when calculating the total percentage or number of all voting interests available to take or approve any action, and the suspended voting interests shall not be considered for any purpose, including, but not limited to, the percentage or number of voting interests necessary to constitute a quorum, the percentage or number of voting interests required to conduct an election, or the percentage or number of voting interests required to approve an action under this chapter or pursuant to the declaration, articles of incorporation, or bylaws. The suspension ends upon full payment of all obligations currently due or overdue the association. The notice and hearing requirements under subsection (3) do not apply to a suspension imposed under this subsection.

Section 19. Subsections (1) and (2) of section 718.501, Florida Statutes, are amended to read:

718.501 Authority, responsibility, and duties of Division



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of Florida Condominiums, Timeshares, and Mobile Homes.—

(1) The division may enforce and ensure compliance with this chapter and rules relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units and complaints related to the procedural completion of milestone inspections under s. 553.899. In performing its duties, the division has complete jurisdiction to investigate complaints and enforce compliance with respect to associations that are still under developer control or the control of a bulk assignee or bulk buyer pursuant to part VII of this chapter and complaints against developers, bulk assignees, or bulk buyers involving improper turnover or failure to turnover, pursuant to s. 718.301. However, after turnover has occurred, the division has jurisdiction to investigate complaints related only to financial issues, elections, and the maintenance of and unit owner access to association records under s. 718.111(12), allegations of criminal violations under this chapter, the removal of a director or an officer under s. 718.112(2)(g), and the procedural completion of structural integrity reserve studies under s. 718.112(2)(g).

(a)1. The division may make necessary public or private investigations within or outside this state to determine whether any person has violated this chapter or any rule or order hereunder, to aid in the enforcement of this chapter, or to aid in the adoption of rules or forms.

2. The division may submit any official written report, worksheet, or other related paper, or a duly certified copy thereof, compiled, prepared, drafted, or otherwise made by and duly authenticated by a financial examiner or analyst to be



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admitted as competent evidence in any hearing in which the financial examiner or analyst is available for cross-examination and attests under oath that such documents were prepared as a result of an examination or inspection conducted pursuant to this chapter.

(b) The division may require or permit any person to file a statement in writing, under oath or otherwise, as the division determines, as to the facts and circumstances concerning a matter to be investigated.

(c) For the purpose of any investigation under this chapter, the division director or any officer or employee designated by the division director may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon the failure by a person to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all affected persons, the division may apply to the circuit court for an order compelling compliance.

(d) Notwithstanding any remedies available to unit owners and associations, if the division has reasonable cause to believe that a violation of any provision of this chapter or related rule has occurred, the division may institute enforcement proceedings in its own name against any developer,



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bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents, as follows:

1. The division may permit a person whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against the person.

2. The division may issue an order requiring the developer, bulk assignee, bulk buyer, association, developer-designated officer, or developer-designated member of the board of administration, developer-designated assignees or agents, bulk assignee-designated assignees or agents, bulk buyer-designated assignees or agents, community association manager, or community association management firm to cease and desist from the unlawful practice and take such affirmative action as in the judgment of the division carry out the purposes of this chapter. If the division finds that a developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents, is violating or is about to violate any provision of this chapter, any rule adopted or order issued by the division, or any written agreement entered into with the division, and presents an immediate danger to the public requiring an immediate final order, it may issue an emergency cease and desist order reciting with particularity the facts underlying such findings. The emergency cease and desist order is effective for 90 days. If the division begins nonemergency cease and desist proceedings, the emergency cease and desist order remains effective until the conclusion of the



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proceedings under ss. 120.569 and 120.57.

3. If a developer, bulk assignee, or bulk buyer fails to pay any restitution determined by the division to be owed, plus any accrued interest at the highest rate permitted by law, within 30 days after expiration of any appellate time period of a final order requiring payment of restitution or the conclusion of any appeal thereof, whichever is later, the division must bring an action in circuit or county court on behalf of any association, class of unit owners, lessees, or purchasers for restitution, declaratory relief, injunctive relief, or any other available remedy. The division may also temporarily revoke its acceptance of the filing for the developer to which the restitution relates until payment of restitution is made.

4. The division may petition the court for appointment of a receiver or conservator. If appointed, the receiver or conservator may take action to implement the court order to ensure the performance of the order and to remedy any breach thereof. In addition to all other means provided by law for the enforcement of an injunction or temporary restraining order, the circuit court may impound or sequester the property of a party defendant, including books, papers, documents, and related records, and allow the examination and use of the property by the division and a court-appointed receiver or conservator.

5. The division may apply to the circuit court for an order of restitution whereby the defendant in an action brought under subparagraph 4. is ordered to make restitution of those sums shown by the division to have been obtained by the defendant in violation of this chapter. At the option of the court, such restitution is payable to the conservator or receiver appointed



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under subparagraph 4. or directly to the persons whose funds or assets were obtained in violation of this chapter.

6. The division may impose a civil penalty against a developer, bulk assignee, or bulk buyer, or association, or its assignee or agent, for any violation of this chapter, or related rule, or chapter 617. The division may impose a civil penalty individually against an officer or board member who willfully and knowingly violates this chapter, an adopted rule, or a final order of the division; may order the removal of such individual as an officer or from the board of administration or as an officer of the association; and may prohibit such individual from serving as an officer or on the board of a community association for a period of time. The term "willfully and knowingly" means that the division informed the officer or board member that his or her action or intended action violates this chapter, a rule adopted under this chapter, or a final order of the division and that the officer or board member refused to comply with the requirements of this chapter, a rule adopted under this chapter, or a final order of the division. The division, before initiating formal agency action under chapter 120, must afford the officer or board member an opportunity to voluntarily comply, and an officer or board member who complies within 10 days is not subject to a civil penalty. A penalty may be imposed on the basis of each day of continuing violation, but the penalty for any offense may not exceed \$5,000. The division shall adopt, by rule, penalty guidelines applicable to possible violations or to categories of violations of this chapter or rules adopted by the division. The guidelines must specify a meaningful range of civil penalties for each such violation of



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2244 the statute and rules and must be based upon the harm caused by
2245 the violation, upon the repetition of the violation, and upon
2246 such other factors deemed relevant by the division. For example,
2247 the division may consider whether the violations were committed
2248 by a developer, bulk assignee, or bulk buyer, or owner-
2249 controlled association, the size of the association, and other
2250 factors. The guidelines must designate the possible mitigating
2251 or aggravating circumstances that justify a departure from the
2252 range of penalties provided by the rules. It is the legislative
2253 intent that minor violations be distinguished from those which
2254 endanger the health, safety, or welfare of the condominium
2255 residents or other persons and that such guidelines provide
2256 reasonable and meaningful notice to the public of likely
2257 penalties that may be imposed for proscribed conduct. This
2258 subsection does not limit the ability of the division to
2259 informally dispose of administrative actions or complaints by
2260 stipulation, agreed settlement, or consent order. All amounts
2261 collected shall be deposited with the Chief Financial Officer to
2262 the credit of the Division of Florida Condominiums, Timeshares,
2263 and Mobile Homes Trust Fund. If a developer, bulk assignee, or
2264 bulk buyer fails to pay the civil penalty and the amount deemed
2265 to be owed to the association, the division shall issue an order
2266 directing that such developer, bulk assignee, or bulk buyer
2267 cease and desist from further operation until such time as the
2268 civil penalty is paid or may pursue enforcement of the penalty
2269 in a court of competent jurisdiction. If an association fails to
2270 pay the civil penalty, the division shall pursue enforcement in
2271 a court of competent jurisdiction, and the order imposing the
2272 civil penalty or the cease and desist order is not effective



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until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in the county where the violation occurred.

7. If a unit owner presents the division with proof that the unit owner has requested access to official records in writing by certified mail, and that after 10 days the unit owner again made the same request for access to official records in writing by certified mail, and that more than 10 days has elapsed since the second request and the association has still failed or refused to provide access to official records as required by this chapter, the division shall issue a subpoena requiring production of the requested records where the records are kept pursuant to s. 718.112. Upon receipt of the records, the division shall provide without charge the produced official records to the unit owner who was denied access to such records.

8. In addition to subparagraph 6., the division may seek the imposition of a civil penalty through the circuit court for any violation for which the division may issue a notice to show cause under paragraph (s) ~~(r)~~. The civil penalty shall be at least \$500 but no more than \$5,000 for each violation. The court may also award to the prevailing party court costs and reasonable attorney fees and, if the division prevails, may also award reasonable costs of investigation.

(e) The division may prepare and disseminate a prospectus and other information to assist prospective owners, purchasers, lessees, and developers of residential condominiums in assessing the rights, privileges, and duties pertaining thereto.

(f) The division may adopt rules to administer and enforce



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this chapter.

(g) The division shall establish procedures for providing notice to an association and the developer, bulk assignee, or bulk buyer during the period in which the developer, bulk assignee, or bulk buyer controls the association if the division is considering the issuance of a declaratory statement with respect to the declaration of condominium or any related document governing such condominium community.

(h) The division shall furnish each association that pays the fees required by paragraph (2)(a) a copy of this chapter, as amended, and the rules adopted thereto on an annual basis.

(i) The division shall annually provide each association with a summary of declaratory statements and formal legal opinions relating to the operations of condominiums which were rendered by the division during the previous year.

(j) The division shall provide training and educational programs for condominium association board members and unit owners. The training may, in the division's discretion, include web-based electronic media and live training and seminars in various locations throughout the state. The division may review and approve education and training programs for board members and unit owners offered by providers and shall maintain a current list of approved programs and providers and make such list available to board members and unit owners in a reasonable and cost-effective manner. The division shall adopt by rule the educational curriculum required under s. 718.112(2)(d) for its approval of condominium education providers.

(k) The division shall maintain a toll-free telephone number accessible to condominium unit owners.



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(1) The division shall develop a program to certify both volunteer and paid mediators to provide mediation of condominium disputes. The division shall provide, upon request, a list of such mediators to any association, unit owner, or other participant in alternative dispute resolution proceedings under s. 718.1255 requesting a copy of the list. The division shall include on the list of volunteer mediators only the names of persons who have received at least 20 hours of training in mediation techniques or who have mediated at least 20 disputes. In order to become initially certified by the division, paid mediators must be certified by the Supreme Court to mediate court cases in county or circuit courts. However, the division may adopt, by rule, additional factors for the certification of paid mediators, which must be related to experience, education, or background. Any person initially certified as a paid mediator by the division must, in order to continue to be certified, comply with the factors or requirements adopted by rule.

(m) If a complaint is made, the division must conduct its inquiry with due regard for the interests of the affected parties. Within 30 days after receipt of a complaint, the division shall acknowledge the complaint in writing and notify the complainant whether the complaint is within the jurisdiction of the division and whether additional information is needed by the division from the complainant. The division shall conduct its investigation and, within 90 days after receipt of the original complaint or of timely requested additional information, take action upon the complaint. However, the failure to complete the investigation within 90 days does not prevent the division from continuing the investigation,



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accepting or considering evidence obtained or received after 90 days, or taking administrative action if reasonable cause exists to believe that a violation of this chapter or a rule has occurred. If an investigation is not completed within the time limits established in this paragraph, the division shall, on a monthly basis, notify the complainant in writing of the status of the investigation. When reporting its action to the complainant, the division shall inform the complainant of any right to a hearing under ss. 120.569 and 120.57. The division may adopt rules regarding the submission of a complaint against an association.

(n) Condominium association directors, officers, and employees; condominium developers; bulk assignees, bulk buyers, and community association managers; and community association management firms have an ongoing duty to reasonably cooperate with the division in any investigation under this section. The division shall refer to local law enforcement authorities any person whom the division believes has altered, destroyed, concealed, or removed any record, document, or thing required to be kept or maintained by this chapter with the purpose to impair its verity or availability in the department's investigation. The division shall refer to local law enforcement authorities any person whom the division believes has engaged in fraud, theft, embezzlement, or other criminal activity or when the division has cause to believe that fraud, theft, embezzlement, or other criminal activity has occurred.

(o) The division director or any officer or employee of the division, and the condominium ombudsman or employee of the Office of the Condominium Ombudsman may attend and observe any



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meeting of the board of administration or unit owner meeting,
including any meeting of a subcommittee or special committee,
that is open to members of the association for the purpose of
performing the duties of the division or the Office of the
Condominium Ombudsman under this chapter.

(p) The division may:

1. Contract with agencies in this state or other
jurisdictions to perform investigative functions; or

2. Accept grants-in-aid from any source.

(q)~~(p)~~ The division shall cooperate with similar agencies
in other jurisdictions to establish uniform filing procedures
and forms, public offering statements, advertising standards,
and rules and common administrative practices.

(r)~~(q)~~ The division shall consider notice to a developer,
bulk assignee, or bulk buyer to be complete when it is delivered
to the address of the developer, bulk assignee, or bulk buyer
currently on file with the division.

(s)~~(r)~~ In addition to its enforcement authority, the
division may issue a notice to show cause, which must provide
for a hearing, upon written request, in accordance with chapter
120.

(t)~~(s)~~ The division shall submit to the Governor, the
President of the Senate, the Speaker of the House of
Representatives, and the chairs of the legislative
appropriations committees an annual report that includes, but
need not be limited to, the number of training programs provided
for condominium association board members and unit owners, the
number of complaints received by type, the number and percent of
complaints acknowledged in writing within 30 days and the number



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and percent of investigations acted upon within 90 days in accordance with paragraph (m), and the number of investigations exceeding the 90-day requirement. The annual report must also include an evaluation of the division's core business processes and make recommendations for improvements, including statutory changes. The report shall be submitted by September 30 following the end of the fiscal year.

(2) (a) Each condominium association which operates more than two units shall pay to the division an annual fee in the amount of \$4 for each residential unit in condominiums operated by the association. The annual fee must be filed together with the annual certification described in paragraph (c). If the fee is not paid by March 1, the association shall be assessed a penalty of 10 percent of the amount due, and the association will not have standing to maintain or defend any action in the courts of this state until the amount due, plus any penalty, is paid.

(b) All fees shall be deposited in the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund as provided by law.

(c) On the certification form provided by rule of the division, the directors of the association shall certify that all directors of the association have or have not completed the written certification and educational certificate requirements in s. 718.112(2)(d)4.b. If the association certifies that a director has not completed the written certification and educational certificate requirements, the association must explain on the certification form the reasons the written certification and educational certificate requirements have not



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been met and provide the date by which the requirements will be met, which may not be more than 60 days after the date the certification form required under this paragraph is submitted to the division. Upon completion of the requirements in s. 718.112(2)(d)4.b., the association must notify the division, on a form adopted by rule of the division, that the requirements have been met.

Section 20. Subsection (2) of section 718.5011, Florida Statutes, is amended to read:

718.5011 Ombudsman; appointment; administration.—

(2) The secretary of the Department of Business and Professional Regulation ~~Governor~~ shall appoint the ombudsman. ~~The ombudsman must be an attorney admitted to practice before the Florida Supreme Court~~ and shall serve at the pleasure of the secretary ~~Governor~~. A vacancy in the office shall be filled in the same manner as the original appointment. An officer or full-time employee of the ombudsman's office may not actively engage in any other business or profession that directly or indirectly relates to or conflicts with his or her work in the ombudsman's office; serve as the representative of any political party, executive committee, or other governing body of a political party; serve as an executive, officer, or employee of a political party; receive remuneration for activities on behalf of any candidate for public office; or engage in soliciting votes or other activities on behalf of a candidate for public office. The ombudsman or any employee of his or her office may not become a candidate for election to public office unless he or she first resigns from his or her office or employment.

Section 21. Subsection (1) of section 718.618, Florida



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Statutes, is amended to read:

718.618 Converter reserve accounts; warranties.—

(1) When existing improvements are converted to ownership as a residential condominium, the developer shall establish converter reserve accounts for capital expenditures and planned ~~deferred~~ maintenance, or give warranties as provided by subsection (6), or post a surety bond as provided by subsection (7). The developer shall fund the converter reserve accounts in amounts calculated as follows:

(a)1. When the existing improvements include an air-conditioning system serving more than one unit or property which the association is responsible to repair, maintain, or replace, the developer shall fund an air-conditioning reserve account. The amount of the reserve account shall be the product of the estimated current replacement cost of the system, as disclosed and substantiated pursuant to s. 718.616(3)(b), multiplied by a fraction, the numerator of which shall be the lesser of the age of the system in years or 9, and the denominator of which shall be 10. When such air-conditioning system is within 1,000 yards of the seacoast, the numerator shall be the lesser of the age of the system in years or 3, and the denominator shall be 4.

2. The developer shall fund a plumbing reserve account. The amount of the funding shall be the product of the estimated current replacement cost of the plumbing component, as disclosed and substantiated pursuant to s. 718.616(3)(b), multiplied by a fraction, the numerator of which shall be the lesser of the age of the plumbing in years or 36, and the denominator of which shall be 40.

3. The developer shall fund a roof reserve account. The



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amount of the funding shall be the product of the estimated current replacement cost of the roofing component, as disclosed and substantiated pursuant to s. 718.616(3)(b), multiplied by a fraction, the numerator of which shall be the lesser of the age of the roof in years or the numerator listed in the following table. The denominator of the fraction shall be determined based on the roof type, as follows:

Roof Type	Numerator	Denominator
a. Built-up roof without insulation	4	5
b. Built-up roof with insulation	4	5
c. Cement tile roof	45	50
d. Asphalt shingle roof	14	15
e. Copper roof		
f. Wood shingle roof	9	10
g. All other types	18	20

(b) The age of any component or structure for which the



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developer is required to fund a reserve account shall be measured in years, rounded to the nearest whole year. The amount of converter reserves to be funded by the developer for each structure or component shall be based on the age of the structure or component as disclosed in the inspection report. The architect or engineer shall determine the age of the component from the later of:

1. The date when the component or structure was replaced or substantially renewed, if the replacement or renewal of the component at least met the requirements of the then-applicable building code; or

2. The date when the installation or construction of the existing component or structure was completed.

(c) When the age of a component or structure is to be measured from the date of replacement or renewal, the developer shall provide the division with a certificate, under the seal of an architect or engineer authorized to practice in this state, verifying:

1. The date of the replacement or renewal; and

2. That the replacement or renewal at least met the requirements of the then-applicable building code.

(d) In addition to establishing the reserve accounts specified above, the developer shall establish those other reserve accounts required by s. 718.112(2)(f), and shall fund those accounts in accordance with the formula provided therein. The vote to waive or reduce the funding or reserves required by s. 718.112(2)(f) does not affect or negate the obligations arising under this section.

Section 22. Paragraphs (j) and (k) of subsection (1) of



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section 719.106, Florida Statutes, are amended to read:

719.106 Bylaws; cooperative ownership.—

(1) MANDATORY PROVISIONS.—The bylaws or other cooperative documents shall provide for the following, and if they do not, they shall be deemed to include the following:

(j) *Annual budget*.—

1. The proposed annual budget of common expenses must be detailed and must show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in s. 719.504(20). The board of administration shall adopt the annual budget at least 14 days before the start of the association's fiscal year. In the event that the board fails to timely adopt the annual budget a second time, it is deemed a minor violation and the prior year's budget shall continue in effect until a new budget is adopted.

2. In addition to annual operating expenses, the budget must include reserve accounts for capital expenditures and planned ~~deferred~~ maintenance. These accounts must include, but not be limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of planned ~~deferred~~ maintenance expense or replacement cost, and for any other items for which the planned ~~deferred~~ maintenance expense or replacement cost exceeds \$10,000. The amount to be reserved must be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost or planned ~~deferred~~ maintenance expense of the reserve item. In a budget adopted by an association that is required to obtain a structural integrity reserve study, reserves must be maintained for the items identified in paragraph (k) for which the



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2581 association is responsible pursuant to the declaration, and the
2582 reserve amount for such items must be based on the findings and
2583 recommendations of the association's most recent structural
2584 integrity reserve study. With respect to items for which an
2585 estimate of useful life is not readily ascertainable or with an
2586 estimated remaining useful life of greater than 25 years, an
2587 association is not required to reserve replacement costs for
2588 such items, but an association must reserve the amount of
2589 planned ~~deferred~~ maintenance expense, if any, which is
2590 recommended by the structural integrity reserve study for such
2591 items. The association may adjust replacement reserve
2592 assessments annually to take into account an inflation
2593 adjustment and any changes in estimates or extension of the
2594 useful life of a reserve item caused by planned ~~deferred~~
2595 maintenance. The members of a unit-owner-controlled association
2596 may determine, by a majority vote of the total voting interests
2597 of the association, for a fiscal year to provide no reserves or
2598 reserves less adequate than required by this subsection. Before
2599 turnover of control of an association by a developer to unit
2600 owners other than a developer under s. 719.301, the developer-
2601 controlled association may not vote to waive the reserves or
2602 reduce funding of the reserves. For a budget adopted on or after
2603 December 31, 2024, a unit-owner-controlled association that must
2604 obtain a structural integrity reserve study may not determine to
2605 provide no reserves or reserves less adequate than required by
2606 this paragraph for items listed in paragraph (k). If a meeting
2607 of the unit owners has been called to determine to provide no
2608 reserves, or reserves less adequate than required, and such
2609 result is not attained or a quorum is not attained, the reserves



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as included in the budget shall go into effect.

3. Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and shall be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a vote of the majority of the total voting interests of the association. Before turnover of control of an association by a developer to unit owners other than the developer under s. 719.301, the developer may not vote to use reserves for purposes other than that for which they were intended. For a budget adopted on or after December 31, 2024, members of a unit-owner-controlled association that must obtain a structural integrity reserve study may not vote to use reserve funds, or any interest accruing thereon, for purposes other than the replacement or planned ~~deferred~~ maintenance costs of the components listed in paragraph (k).

(k) *Structural integrity reserve study.*—

1. A residential cooperative association must have a structural integrity reserve study completed at least every 10 years for each building on the cooperative property that is three stories or higher in height, as determined by the Florida Building Code, that includes, at a minimum, a study of the following items as related to the structural integrity and safety of the building:

a. Roof.

b. Structure, including load-bearing walls and other primary structural members and primary structural systems as those terms are defined in s. 627.706.

c. Fireproofing and fire protection systems.



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d. Plumbing.
e. Electrical systems.
f. Waterproofing and exterior painting.
g. Windows and exterior doors.
h. Any other item that has a planned ~~deferred~~ maintenance expense or replacement cost that exceeds \$10,000 and the failure to replace or maintain such item negatively affects the items listed in sub-subparagraphs a.-g., as determined by the visual inspection portion of the structural integrity reserve study.

2. A structural integrity reserve study is based on a visual inspection of the cooperative property. A structural integrity reserve study may be performed by any person qualified to perform such study. However, the visual inspection portion of the structural integrity reserve study must be performed or verified by an engineer licensed under chapter 471, an architect licensed under chapter 481, or a person certified as a reserve specialist or professional reserve analyst by the Community Associations Institute or the Association of Professional Reserve Analysts.

3. At a minimum, a structural integrity reserve study must identify each item of the cooperative property being visually inspected, state the estimated remaining useful life and the estimated replacement cost or planned ~~deferred~~ maintenance expense of each item of the cooperative property being visually inspected, and provide a reserve funding schedule with a recommended annual reserve amount that achieves the estimated replacement cost or planned ~~deferred~~ maintenance expense of each item of cooperative property being visually inspected by the end of the estimated remaining useful life of the item. The



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structural integrity reserve study may recommend that reserves do not need to be maintained for any item for which an estimate of useful life and an estimate of replacement cost cannot be determined, or the study may recommend a planned ~~deferred~~ maintenance expense amount for such item. The structural integrity reserve study may recommend that reserves for replacement costs do not need to be maintained for any item with an estimated remaining useful life of greater than 25 years, but the study may recommend a planned ~~deferred~~ maintenance expense amount for such item.

4. This paragraph does not apply to buildings less than three stories in height; single-family, two-family, ~~or~~ three-family, or four-family dwellings with three or fewer habitable stories above ground; any portion or component of a building that has not been submitted to the cooperative form of ownership; or any portion or component of a building that is maintained by a party other than the association.

5. Before a developer turns over control of an association to unit owners other than the developer, the developer must have a turnover inspection report in compliance with s. 719.301(4)(p) and (q) for each building on the cooperative property that is three stories or higher in height.

6. Associations existing on or before July 1, 2022, which are controlled by unit owners other than the developer, must have a structural integrity reserve study completed by December 31, 2024, for each building on the cooperative property that is three stories or higher in height. An association that is required to complete a milestone inspection on or before December 31, 2026, in accordance with s. 553.899 may complete



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the structural integrity reserve study simultaneously with the milestone inspection. In no event may the structural integrity reserve study be completed after December 31, 2026.

7. If the milestone inspection required by s. 553.899, or an inspection completed for a similar local requirement, was performed within the past 5 years and meets the requirements of this paragraph, such inspection may be used in place of the visual inspection portion of the structural integrity reserve study.

8. If the officers or directors of an association willfully and knowingly fail to complete a structural integrity reserve study pursuant to this paragraph, such failure is a breach of an officer's and director's fiduciary relationship to the unit owners under s. 719.104(9).

9. Within 45 days after receiving the structural integrity reserve study, the association shall distribute a copy of the study to each unit owner or deliver to each unit owner a notice that the completed study is available for inspection and copying upon a written request. Distribution of a copy of the study or notice must be made by United States mail or personal delivery at the mailing address, property address, or any other address of the owner provided to fulfill the association's notice requirements under this chapter, or by electronic transmission to the e-mail address or facsimile number provided to fulfill the association's notice requirements to unit owners who previously consented to receive notice by electronic transmission.

Section 23. Section 719.129, Florida Statutes, is amended to read:



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719.129 Electronic voting.—The association may conduct elections and other unit owner votes through an Internet-based online voting system if a unit owner consents, electronically or in writing, to online voting and if the following requirements are met:

(1) The association provides each unit owner with:

(a) A method to authenticate the unit owner's identity to the online voting system.

(b) For elections of the board, a method to transmit an electronic ballot to the online voting system that ensures the secrecy and integrity of each ballot.

(c) A method to confirm, at least 14 days before the voting deadline, that the unit owner's electronic device can successfully communicate with the online voting system.

(2) The association uses an online voting system that is:

(a) Able to authenticate the unit owner's identity.

(b) Able to authenticate the validity of each electronic vote to ensure that the vote is not altered in transit.

(c) Able to transmit a receipt from the online voting system to each unit owner who casts an electronic vote.

(d) For elections of the board of administration, able to permanently separate any authentication or identifying information from the electronic election ballot, rendering it impossible to tie an election ballot to a specific unit owner.

(e) Able to store and keep electronic votes accessible to election officials for recount, inspection, and review purposes.

(3) A unit owner voting electronically pursuant to this section shall be counted as being in attendance at the meeting for purposes of determining a quorum. A substantive vote of the



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unit owners may not be taken on any issue other than the issues specifically identified in the electronic vote, when a quorum is established based on unit owners voting electronically pursuant to this section.

(4) This section applies to an association that provides for and authorizes an online voting system pursuant to this section by a board resolution. The board resolution must provide that unit owners receive notice of the opportunity to vote through an online voting system, must establish reasonable procedures and deadlines for unit owners to consent, electronically or in writing, to online voting, and must establish reasonable procedures and deadlines for unit owners to opt out of online voting after giving consent. Written notice of a meeting at which the resolution will be considered must be mailed, delivered, or electronically transmitted to the unit owners and posted conspicuously on the condominium property or association property at least 14 days before the meeting. Evidence of compliance with the 14-day notice requirement must be made by an affidavit executed by the person providing the notice and filed with the official records of the association.

(5) A unit owner's consent to online voting is valid until the unit owner opts out of online voting pursuant to the procedures established by the board of administration pursuant to subsection (4).

(6) This section may apply to any matter that requires a vote of the unit owners who are not members of a timeshare cooperative association.

Section 24. Paragraph (p) of subsection (4) of section 719.301, Florida Statutes, is amended to read:



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719.301 Transfer of association control.—

(4) When unit owners other than the developer elect a majority of the members of the board of administration of an association, the developer shall relinquish control of the association, and the unit owners shall accept control.

Simultaneously, or for the purpose of paragraph (c) not more than 90 days thereafter, the developer shall deliver to the association, at the developer's expense, all property of the unit owners and of the association held or controlled by the developer, including, but not limited to, the following items, if applicable, as to each cooperative operated by the association:

(p) Notwithstanding when the certificate of occupancy was issued or the height of the building, a turnover inspection report included in the official records, under seal of an architect or engineer authorized to practice in this state or a person certified as a reserve specialist or professional reserve analyst by the Community Associations Institute or the Association of Professional Reserve Analysts, consisting of a structural integrity reserve study attesting to required maintenance, condition, useful life, and replacement costs of the following applicable cooperative property:

1. Roof.

2. Structure, including load-bearing walls and primary structural members and primary structural systems as those terms are defined in s. 627.706.

3. Fireproofing and fire protection systems.

4. Plumbing.

5. Electrical systems.



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6. Waterproofing and exterior painting.

7. Windows and exterior doors.

Section 25. Subsection (1) of section 719.618, Florida Statutes, is amended to read:

719.618 Converter reserve accounts; warranties.—

(1) When existing improvements are converted to ownership as a residential cooperative, the developer shall establish planned ~~reserve~~ accounts for capital expenditures and deferred maintenance, or give warranties as provided by subsection (6), or post a surety bond as provided by subsection (7). The developer shall fund the reserve accounts in amounts calculated as follows:

(a)1. When the existing improvements include an air-conditioning system serving more than one unit or property which the association is responsible to repair, maintain, or replace, the developer shall fund an air-conditioning reserve account. The amount of the reserve account shall be the product of the estimated current replacement cost of the system, as disclosed and substantiated pursuant to s. 719.616(3)(b), multiplied by a fraction, the numerator of which shall be the lesser of the age of the system in years or 9, and the denominator of which shall be 10. When such air-conditioning system is within 1,000 yards of the seacoast, the numerator shall be the lesser of the age of the system in years or 3, and the denominator shall be 4.

2. The developer shall fund a plumbing reserve account. The amount of the funding shall be the product of the estimated current replacement cost of the plumbing component, as disclosed and substantiated pursuant to s. 719.616(3)(b), multiplied by a fraction, the numerator of which shall be the lesser of the age



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of the plumbing in years or 36, and the denominator of which shall be 40.

3. The developer shall fund a roof reserve account. The amount of the funding shall be the product of the estimated current replacement cost of the roofing component, as disclosed and substantiated pursuant to s. 719.616(3)(b), multiplied by a fraction, the numerator of which shall be the lesser of the age of the roof in years or the numerator listed in the following table. The denominator of the fraction shall be determined based on the roof type, as follows:

Roof Type	Numerator	Denominator
a. Built-up roof without insulation	4	5
b. Built-up roof with insulation	4	5
c. Cement tile roof	45	50
d. Asphalt shingle roof	14	15
e. Copper roof		
f. Wood shingle roof	9	10
g. All other types	18	20



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(b) The age of any component or structure for which the developer is required to fund a reserve account shall be measured in years from the later of:

1. The date when the component or structure was replaced or substantially renewed, if the replacement or renewal of the component at least met the requirements of the then-applicable building code; or

2. The date when the installation or construction of the existing component or structure was completed.

(c) When the age of a component or structure is to be measured from the date of replacement or renewal, the developer shall provide the division with a certificate, under the seal of an architect or engineer authorized to practice in this state, verifying:

1. The date of the replacement or renewal; and

2. That the replacement or renewal at least met the requirements of the then-applicable building code.

Section 26. The Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation shall complete a review of the website or application requirements for official records under s. 718.111(12)(g), Florida Statutes, and make recommendations regarding any additional official records of a condominium association that should be included in the record maintenance requirement in the statute. The division shall submit the findings of its review to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the



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chairs of the legislative appropriations committees and
appropriate substantive committees with jurisdiction over
chapter 718, Florida Statutes, by February 1, 2025.

Section 27. Except as otherwise expressly provided in this
act, this act shall take effect July 1, 2024.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to community associations; amending s.
468.4334, F.S.; requiring community associations or
successor community association managers and
management firms to return official records of an
association within a specified period following
termination of a contract; specifying the manner of
delivery for the notice of termination; authorizing
the manager or management firm to retain records for a
specified purpose within a specified timeframe;
relieving a manager or management firm from
responsibility if the association fails to provide
access to the records necessary to complete an ending
financial statement or report; providing a rebuttable
presumption regarding noncompliance; providing
penalties for the failure to timely return official
records; creating s. 468.4335, F.S.; requiring
community association managers and management firms to
provide a written disclosure of certain conflicts of



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2918 interest to the association's board; providing a
2919 rebuttable presumption as to the existence of a
2920 conflict; requiring an association to solicit multiple
2921 competitive bids for goods or services under certain
2922 circumstances; providing requirements for an
2923 association to approve any contract or transaction
2924 deemed a conflict of interest; authorizing that any
2925 such contract may be canceled, subject to certain
2926 requirements; specifying liability and nonliability of
2927 the association upon cancellation of such a contract;
2928 authorizing an association to cancel a contract with a
2929 community association manager or management firm upon
2930 a finding of a violation of certain provisions;
2931 specifying liability and nonliability of the
2932 association upon cancellation of such a contract;
2933 authorizing an association to void certain contracts
2934 if certain conflicts were not disclosed in accordance
2935 with the act; defining the term "relative"; providing
2936 applicability amending s. 468.436, F.S.; revising the
2937 list of grounds for which the Department of Business
2938 and Professional Regulation may take disciplinary
2939 actions against community association managers or
2940 firms to conform to changes made by the act; amending
2941 s. 553.8445, F.S.; providing that all residential
2942 dwellings must be required to be equipped with a
2943 certain reusable device designed for a specified
2944 purpose as a condition for the issuance of certain
2945 permits and completion of a certain inspections;
2946 providing applicability; requiring the Florida



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2947 Building Commission to adopt certain rules; amending
2948 s. 553.899, F.S.; revising applicability; amending s.
2949 718.103, F.S.; revising the definition of the term
2950 "alternative funding method" to conform to changes
2951 made by the act; defining the term "hurricane
2952 protection"; amending s. 718.104, F.S.; requiring that
2953 declarations specify the entity responsible for the
2954 installation, maintenance, repair, or replacement of
2955 hurricane protection; amending s. 718.111, F.S.;
2956 defining the term "kickback"; providing criminal
2957 penalties for any officer, director, or manager of an
2958 association who knowingly solicits, offers to accept,
2959 or accepts a kickback; requiring the Division of
2960 Florida Condominiums, Timeshares, and Mobile Homes to
2961 monitor compliance and issue fines and penalties for
2962 failure of an association to maintain the required
2963 insurance policy or fidelity bonding; revising the
2964 list of records that constitute the official records
2965 of an association; revising maintenance requirements
2966 for official records; revising requirements regarding
2967 requests to inspect or copy association records;
2968 requiring an association to provide a checklist in
2969 response to certain records requests; providing a
2970 rebuttable presumption regarding compliance; providing
2971 criminal penalties for certain violations regarding
2972 noncompliance with records requirements; defining the
2973 term "repeatedly"; requiring that copies of certain
2974 building permits be posted on an association's website
2975 or application; modifying the method of delivery of



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2976 certain letters regarding association financial
2977 reports to unit owners; conforming a provision to
2978 changes made by the act; revising circumstances under
2979 which an association may prepare certain reports;
2980 revising applicable law for criminal penalties for
2981 persons who unlawfully use a debit card issued in the
2982 name of an association; defining the term "lawful
2983 obligation of the association"; revising the threshold
2984 for associations that must post certain documents on
2985 its website or through an application; amending s.
2986 718.112, F.S.; requiring the boards of administration
2987 of associations consisting of more than a specified
2988 number of units to meet a minimum number of times each
2989 quarter; revising requirements regarding notice of
2990 such meetings; requiring a director of a board of an
2991 association to provide a written certification and
2992 complete an educational requirement upon election or
2993 appointment to the board; requiring the association to
2994 bear the costs of the required educational curriculum
2995 and certificate; providing transitional provisions;
2996 requiring that an association's budget include reserve
2997 amounts for planned maintenance, in lieu of deferred
2998 maintenance; providing that, upon a determination by a
2999 specified local building official that an entire
3000 condominium building is uninhabitable due to a natural
3001 emergency, the board, upon the approval of a majority
3002 of its members, may pause contribution to reserves or
3003 reduce reserve funding for a specified period of time;
3004 authorizing an association to expend any reserve



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3005 accounts held by the association to make the building
3006 and its structures habitable; requiring the
3007 association to immediately resume contributing funds
3008 to its reserve once the local building official
3009 determines the building and its structures are
3010 habitable; requiring an association to distribute or
3011 deliver copies of a structural integrity reserve study
3012 to unit owners within a specified timeframe;
3013 specifying the manner of distribution or delivery;
3014 revising the circumstances under which a director or
3015 an officer must be removed from office after being
3016 charged by information or indictment; prohibiting such
3017 officers and directors with pending criminal charges
3018 from accessing the official records of any
3019 association; providing an exception; providing
3020 criminal penalties for certain fraudulent voting
3021 activities relating to association elections;
3022 requiring any person charged to be removed from office
3023 and a vacancy be declared; amending s. 718.113, F.S.;
3024 providing applicability; authorizing, rather than
3025 requiring, certain hurricane protection
3026 specifications; specifying that certain actions are
3027 not material alterations or substantial additions;
3028 authorizing the boards of residential and mixed-use
3029 condominiums to install or require the unit owners to
3030 install hurricane protection; requiring a vote of the
3031 unit owners for the installation of hurricane
3032 protection; requiring that such vote be attested to in
3033 a certificate and recorded in certain public records;



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3034 providing requirements for such certificate; providing
3035 that the validity or enforceability of a vote of the
3036 unit owners is not affected if the board fails to
3037 record a certificate or send a copy of the recorded
3038 certificate to the unit owners; providing that a vote
3039 of the unit owners is not required under certain
3040 circumstances; prohibiting installation of the same
3041 type of hurricane protection previously installed;
3042 providing exceptions; prohibiting the boards of
3043 residential and mixed-use condominiums from refusing
3044 to approve certain hurricane protections; authorizing
3045 the board to require owners to adhere to certain
3046 guidelines regarding the external appearance of a
3047 condominium; revising responsibility for the cost of
3048 removal or reinstallation of hurricane protection and
3049 certain exterior windows, doors, or apertures in
3050 certain circumstances; requiring the board to make a
3051 certain determination; providing that costs incurred
3052 by the association in connection with such removal or
3053 reinstallation completed by the association may not be
3054 charged to the unit owner; requiring reimbursement of
3055 the unit owner, or application of a credit toward
3056 future assessments, in certain circumstances;
3057 authorizing the association to collect charges if the
3058 association removes or installs hurricane protection
3059 and making such charges enforceable as an assessment;
3060 amending s. 718.115, F.S.; specifying when the cost of
3061 installation of hurricane protection is not a common
3062 expense; authorizing certain expenses to be



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3063 enforceable as assessments; requiring that certain
3064 unit owners be excused from certain assessments or to
3065 receive a credit for hurricane protection that has
3066 been installed; providing credit applicability under
3067 certain circumstances; providing for the amount of
3068 credit that a unit owner must receive; specifying that
3069 certain expenses are common expenses; amending s.
3070 718.121, F.S.; conforming a cross-reference; amending
3071 s. 718.1224, F.S.; revising legislative findings and
3072 intent to conform to changes made by the act; revising
3073 the definition of the term "governmental entity";
3074 prohibiting a condominium association from filing
3075 strategic lawsuits against public participation;
3076 prohibiting an association from taking certain action
3077 against a unit owner in response to specified conduct;
3078 prohibiting associations from expending association
3079 funds in support of certain actions against a unit
3080 owner; conforming provisions to changes made by the
3081 act; amending s. 718.128, F.S.; authorizing a
3082 condominium association to conduct elections and other
3083 unit owner votes through an online voting system if a
3084 unit owner consents, either electronically or in
3085 writing, to online voting; revising applicability;
3086 amending s. 718.301, F.S.; revising items that
3087 developers are required to deliver to an association
3088 upon relinquishing control of the association;
3089 amending s. 718.3027, F.S.; revising requirements
3090 regarding attendance at a board meeting in the event
3091 of a conflict of interest; modifying circumstances



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3092 under which a contract may be voided; amending s.
3093 718.303, F.S.; requiring that a notice of nonpayment
3094 be provided to a unit owner by a specified time before
3095 an election; amending s. 718.501, F.S.; revising
3096 circumstances under which the Division of Florida
3097 Condominiums, Timeshares, and Mobile Homes has
3098 jurisdiction to investigate and enforce certain
3099 matters; requiring the division to provide official
3100 records, without charge, to a unit owner denied
3101 access; requiring the division to adopt rules related
3102 to the approval of educational curriculum providers;
3103 requiring the division to refer suspected criminal
3104 acts to the appropriate law enforcement authority;
3105 authorizing certain division officials to attend
3106 association meetings; requiring that an association's
3107 annual fee be filed concurrently with the annual
3108 certification; specifying requirements for the annual
3109 certification; requiring an association to explain on
3110 the certification the reasons any certification
3111 requirements have not been met; requiring an
3112 association to complete the certifications within a
3113 specified timeframe; requiring the association to
3114 notify the division when the certification is
3115 completed; conforming a provision to changes made by
3116 the act; amending s. 718.5011, F.S.; revising that the
3117 secretary of the Department of Business and
3118 Professional Regulation shall appoint the condominium
3119 ombudsman; amending s. 718.618, F.S.; conforming a
3120 provision to changes made by the act; amending s.



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3121 719.106, F.S.; requiring that a cooperative
3122 association's budget include reserve amounts for
3123 planned maintenance, in lieu of deferred maintenance;
3124 providing an exception for certain associations to
3125 complete a structural integrity reserve study by a
3126 certain date; requiring an association to distribute
3127 or deliver copies of a structural integrity reserve
3128 study to unit owners within a specified timeframe;
3129 specifying the manner of distribution or delivery;
3130 conforming provisions to changes made by the act;
3131 amending s. 719.129, F.S.; authorizing cooperative
3132 associations to conduct elections and other unit owner
3133 votes through an online voting system if a unit owner
3134 consents, either electronically or in writing, to
3135 online voting; revising applicability; amending s.
3136 719.301, F.S.; revising items that developers are
3137 required to deliver to a cooperative association upon
3138 relinquishing control of association property;
3139 amending s. 719.618, F.S.; conforming a provision to
3140 changes made by the act; requiring the division to
3141 conduct a review of statutory requirements regarding
3142 posting of official records on a condominium
3143 association's website or application; requiring the
3144 division to submit its findings, including any
3145 recommendations, to the Governor and the Legislature
3146 by a specified date; providing effective dates.

By the Committee on Regulated Industries; and Senators Bradley, Pizzo, and Osgood

580-02351-24

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1 A bill to be entitled
 2 An act relating to community associations; amending s.
 3 468.4334, F.S.; requiring community associations or
 4 successor community association managers and
 5 management firms to return official records of an
 6 association within a specified period following
 7 termination of a contract; specifying the manner of
 8 delivery for the notice of termination; authorizing
 9 the manager to retain records for a specified purpose
 10 within a specified timeframe; relieving a manager from
 11 responsibility if the association fails to provide
 12 access to the records necessary to complete an ending
 13 financial statement or report; providing a rebuttable
 14 presumption regarding noncompliance; providing
 15 penalties for the failure to timely return official
 16 records; creating s. 468.4335, F.S.; requiring
 17 community association managers and management firms to
 18 provide a written disclosure of certain conflicts of
 19 interest to the association's board; providing a
 20 rebuttable presumption as to the existence of a
 21 conflict; requiring an association to solicit multiple
 22 competitive bids for goods or services under certain
 23 circumstances; providing requirements for an
 24 association to approve any contract or transaction
 25 deemed a conflict of interest; authorizing that any
 26 such contract may be canceled, subject to certain
 27 requirements; specifying liability and nonliability of
 28 the association upon cancellation of such a contract;
 29 authorizing an association to cancel a contract with a

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

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30 community association manager or management firm upon
 31 a finding of a violation of certain provisions;
 32 specifying liability and nonliability of the
 33 association upon cancellation of such a contract;
 34 authorizing an association to void certain contracts
 35 if certain conflicts were not disclosed in accordance
 36 with the act; defining the term "relative"; providing
 37 applicability amending s. 468.436, F.S.; revising the
 38 list of grounds for which the Department of Business
 39 and Professional Regulation may take disciplinary
 40 actions against community association managers or
 41 firms to conform to changes made by the act; amending
 42 s. 718.103, F.S.; revising the definition of the term
 43 "alternative funding method" to conform to changes
 44 made by the act; defining the term "hurricane
 45 protection"; amending s. 718.104, F.S.; requiring that
 46 declarations specify the entity responsible for the
 47 installation, maintenance, repair, or replacement of
 48 hurricane protection; amending s. 718.111, F.S.;
 49 providing criminal penalties for any officer,
 50 director, or manager of an association who unlawfully
 51 solicits, offers to accept, or accepts any thing or
 52 service of value or kickback; requiring any officer,
 53 director, or manager of an association be removed from
 54 office for such solicitations or kickbacks; revising
 55 the list of records that constitute the official
 56 records of an association; revising maintenance
 57 requirements for official records; revising
 58 requirements regarding requests to inspect or copy

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59 association records; requiring an association to
 60 provide a checklist in response to certain records
 61 requests; providing a rebuttable presumption regarding
 62 compliance; providing criminal penalties for certain
 63 violations regarding noncompliance with records
 64 requirements; requiring a member of the board or
 65 association be removed from office for noncompliance
 66 with records requirements; requiring the officer be
 67 removed and a vacancy declared; defining the term
 68 "repeatedly"; requiring that copies of certain
 69 building permits be posted on an association's website
 70 or application; modifying the method of delivery of
 71 certain letters regarding association financial
 72 reports to unit owners; conforming a provision to
 73 changes made by the act; revising circumstances under
 74 which an association may prepare certain reports;
 75 requiring an association to prepare certain financial
 76 statements if it invests funds in a certain manner;
 77 revising applicable law for criminal penalties for
 78 persons who unlawfully use a debit card issued in the
 79 name of an association; defining the term "lawful
 80 obligation of the association"; providing requirements
 81 for associations investing funds in certain investment
 82 products; providing duties of the board and any
 83 investment adviser selected by the board; revising the
 84 threshold for associations that must post certain
 85 documents on its website or through an application;
 86 amending s. 718.112, F.S.; requiring the boards of
 87 administration of associations consisting of more than

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88 a specified number of units to meet a minimum number
 89 of times each quarter; revising requirements regarding
 90 notice of such meetings; requiring a director of a
 91 board of an association to provide a written
 92 certification and complete an educational requirement
 93 upon election or appointment to the board; providing
 94 transitional provisions; requiring that an
 95 association's budget include reserve amounts for
 96 planned maintenance, in lieu of deferred maintenance;
 97 authorizing the structural integrity reserve study to
 98 temporarily pause or limit reserve funding if certain
 99 conditions exist; providing an exception for certain
 100 associations to complete a structural integrity
 101 reserve study by a certain date; requiring an
 102 association to distribute or deliver copies of a
 103 structural integrity reserve study to unit owners
 104 within a specified timeframe; specifying the manner of
 105 distribution or delivery; authorizing certain boards
 106 to approve contingent special assessments in order to
 107 secure a line of credit under certain circumstances;
 108 specifying requirements and limitations for any line
 109 of credit secured; revising the circumstances under
 110 which a director or an officer must be removed from
 111 office after being charged by information or
 112 indictment; prohibiting such officers and directors
 113 with pending criminal charges from accessing the
 114 official records of any association; providing an
 115 exception; providing criminal penalties for certain
 116 fraudulent voting activities relating to association

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117 elections; requiring any person charged to be removed
 118 from office and a vacancy be declared; amending s.
 119 718.113, F.S.; providing applicability; authorizing,
 120 rather than requiring, certain hurricane protection
 121 specifications; specifying that certain actions are
 122 not material alterations or substantial additions;
 123 authorizing the boards of residential and mixed-use
 124 condominiums to install or require the unit owners to
 125 install hurricane protection; requiring a vote of the
 126 unit owners for the installation of hurricane
 127 protection; requiring that such vote be attested to in
 128 a certificate and recorded in certain public records;
 129 providing requirements for such certificate; providing
 130 that the validity or enforceability of a vote of the
 131 unit owners is not affected if the board fails to
 132 record a certificate or send a copy of the recorded
 133 certificate to the unit owners; providing that a vote
 134 of the unit owners is not required under certain
 135 circumstances; prohibiting installation of the same
 136 type of hurricane protection previously installed;
 137 providing exceptions; prohibiting the boards of
 138 residential and mixed-use condominiums from refusing
 139 to approve certain hurricane protections; authorizing
 140 the board to require owners to adhere to certain
 141 guidelines regarding the external appearance of a
 142 condominium; revising responsibility for the cost of
 143 removal or reinstallation of hurricane protection and
 144 certain exterior windows, doors, or apertures in
 145 certain circumstances; requiring the board to make a

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146 certain determination; providing that costs incurred
 147 by the association in connection with such removal or
 148 installation completed by the association may not be
 149 charged to the unit owner; requiring reimbursement of
 150 the unit owner, or application of a credit toward
 151 future assessments, in certain circumstances;
 152 authorizing the association to collect charges if the
 153 association removes or installs hurricane protection
 154 and making such charges enforceable as an assessment;
 155 amending s. 718.115, F.S.; specifying when the cost of
 156 installation of hurricane protection is not a common
 157 expense; authorizing certain expenses to be
 158 enforceable as assessments; requiring that certain
 159 unit owners be excused from certain assessments or to
 160 receive a credit for hurricane protection that has
 161 been installed; providing credit applicability under
 162 certain circumstances; providing for the amount of
 163 credit that a unit owner must receive; specifying that
 164 certain expenses are common expenses; amending s.
 165 718.116, F.S.; revising the itemized lists of certain
 166 assessments and lines of credit for special
 167 assessments imposed to be included in an estoppel
 168 certificate; conforming a cross-reference; amending s.
 169 718.121, F.S.; conforming a cross-reference; amending
 170 s. 718.1224, F.S.; revising legislative findings and
 171 intent to conform to changes made by the act; revising
 172 the definition of the term "governmental entity";
 173 prohibiting a condominium association from filing
 174 strategic lawsuits against public participation;

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175 prohibiting an association from taking certain action
 176 against a unit owner in response to specified conduct;
 177 prohibiting associations from expending association
 178 funds in support of certain actions against a unit
 179 owner; conforming provisions to changes made by the
 180 act; amending s. 718.128, F.S.; authorizing a
 181 condominium association to conduct elections and other
 182 unit owner votes through an online voting system if a
 183 unit owner consents, either electronically or in
 184 writing, to online voting; revising applicability;
 185 amending s. 718.301, F.S.; revising items that
 186 developers are required to deliver to an association
 187 upon relinquishing control of the association;
 188 amending s. 718.3026, F.S.; exempting contracts for
 189 registered investment advisers from certain contract
 190 requirements; amending s. 718.3027, F.S.; revising
 191 requirements regarding attendance at a board meeting
 192 in the event of a conflict of interest; modifying
 193 circumstances under which a contract may be voided;
 194 amending s. 718.303, F.S.; requiring that a notice of
 195 nonpayment be provided to a unit owner by a specified
 196 time before an election; amending s. 718.501, F.S.;
 197 revising circumstances under which the Division of
 198 Florida Condominiums, Timeshares, and Mobile Homes has
 199 jurisdiction to investigate and enforce certain
 200 matters; requiring the division to provide official
 201 records, without charge, to a unit owner denied
 202 access; requiring the division to provide educational
 203 curriculum and issue a certificate, free of charge, to

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204 directors of a board of administration; requiring the
 205 division to refer suspected criminal acts to the
 206 appropriate law enforcement authority; authorizing
 207 certain division officials to attend association
 208 meetings; requiring the division to conduct random
 209 audits of associations for specified purposes;
 210 requiring that an association's annual fee be filed
 211 concurrently with the annual certification; specifying
 212 requirements for the annual certification; amending s.
 213 718.618, F.S.; conforming a provision to changes made
 214 by the act; amending s. 719.106, F.S.; requiring that
 215 a cooperative association's budget include reserve
 216 amounts for planned maintenance, in lieu of deferred
 217 maintenance; providing an exception for certain
 218 associations to complete a structural integrity
 219 reserve study by a certain date; requiring an
 220 association to distribute or deliver copies of a
 221 structural integrity reserve study to unit owners
 222 within a specified timeframe; specifying the manner of
 223 distribution or delivery; conforming provisions to
 224 changes made by the act; amending s. 719.129, F.S.;
 225 authorizing cooperative associations to conduct
 226 elections and other unit owner votes through an online
 227 voting system if a unit owner consents, either
 228 electronically or in writing, to online voting;
 229 revising applicability; amending s. 719.301, F.S.;
 230 revising items that developers are required to deliver
 231 to a cooperative association upon relinquishing
 232 control of association property; amending s. 719.618,

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233 F.S.; conforming a provision to changes made by the
 234 act; requiring the division to conduct a review of
 235 statutory requirements regarding posting of official
 236 records on a condominium association's website or
 237 application; requiring the division to submit its
 238 findings, including any recommendations, to the
 239 Governor and the Legislature by a specified date;
 240 providing effective dates.

241
 242 Be It Enacted by the Legislature of the State of Florida:

243
 244 Section 1. Subsection (3) is added to section 468.4334,
 245 Florida Statutes, to read:

246 468.4334 Professional practice standards; liability.—

247 (3) A community association manager or a community
 248 association management firm shall return all community
 249 association official records within its possession to the
 250 community association or successor community association manager
 251 or community association management firm within 20 business days
 252 after termination of a contractual agreement to provide
 253 community association management services to the community
 254 association or receipt of a written request for return of the
 255 official records, whichever occurs first. The notice of
 256 termination must be sent by certified mail, return receipt
 257 requested, or in the manner required under the management
 258 services contract. The manager may retain, for up to 20 business
 259 days, those records necessary to complete an ending financial
 260 statement or report. Failure of the association to provide
 261 access or retention of accounting records to prepare the

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262 statement or report shall relieve the manager of any further
 263 responsibility or liability for preparation of the statement or
 264 report. Failure of a community association manager or a
 265 community association management firm to timely return all of
 266 the official records within its possession to the community
 267 association creates a rebuttable presumption that the community
 268 association manager or a community association management firm
 269 willfully failed to comply with this subsection. A community
 270 association manager or a community association management firm
 271 that fails to timely return community association records is
 272 subject to suspension of its license under s. 468.436, and a
 273 civil penalty of \$1,000 per day for up to 10 days, assessed
 274 beginning on the 21st business day after termination of a
 275 contractual agreement to provide community association
 276 management services to the community association or receipt of a
 277 written request from the association for return of the records,
 278 whichever occurs first.

279 Section 2. Section 468.4335, Florida Statutes, is created
 280 to read:

281 468.4335 Conflicts of interest.—

282 (1) A community association manager or a community
 283 association management firm, including directors, officers,
 284 persons with a financial interest in a community association
 285 management firm, and the relatives of such persons, must provide
 286 a written disclosure to the board any activity that may
 287 reasonably be construed to be a conflict of interest. A
 288 rebuttable presumption of a conflict of interest exists if any
 289 of the following occurs without prior notice, as required in
 290 subsection (5):

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291 (a) A community association manager or a community
 292 association management firm, including directors, officers,
 293 persons with a financial interest in a community association
 294 management firm, or the relative of such persons, enters into a
 295 contract with the association for goods or services, other than
 296 community association management services.

297 (b) A community association manager or a community
 298 association management firm, including directors, officers,
 299 persons with a financial interest in a community association
 300 management firm, or the relative of such persons, holds an
 301 interest in a corporation, limited liability corporation,
 302 partnership, limited liability partnership, or other business
 303 entity that conducts business with the association or proposes
 304 to enter into a contract or other transaction with the
 305 association.

306 (2) If the association receives and considers a bid to
 307 provide a good or service, other than community association
 308 management services, from a community association manager or a
 309 community association management firm, including directors,
 310 officers, persons with a financial interest in a community
 311 association management firm, or a relative of such persons, the
 312 association must also solicit multiple competitive bids from
 313 other third-party providers of such good or service.

314 (3) If a community association manager or a community
 315 association management firm, including directors, officers,
 316 persons with a financial interest in a community association
 317 management firm, or the relative of such persons, proposes to
 318 engage in an activity that is a conflict of interest as
 319 described in subsection (1), the proposed activity must be

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320 listed on, and all contracts and transactional documents related
 321 to the proposed activity must be attached to, the meeting
 322 agenda. The disclosures must be entered into the written minutes
 323 of the meeting. Approval of any contract or other transaction
 324 requires an affirmative vote of two-thirds of all directors
 325 present. At the next regular or special meeting of the members,
 326 the existence of any contract or other transaction must be
 327 disclosed to the members.

328 (4) If the board finds that a community association manager
 329 or a community association management firm, including directors,
 330 officers, persons with a financial interest in a community
 331 association management firm, or the relative of such persons,
 332 has violated this section, the association may cancel its
 333 community association management contract with the community
 334 association manager or the community association management
 335 firm. If the contract is canceled, the association is liable
 336 only for the reasonable value of the management services
 337 provided up to the time of cancellation and is not liable for
 338 any termination fee, liquidated damages, or other form of
 339 penalty for such cancellation.

340 (5) If an association enters into a contract, other than a
 341 contract for community association management services, with a
 342 community association manager or a community association
 343 management firm, including directors, officers, persons with a
 344 financial interest in a community association management firm,
 345 or the relative of such persons, which is a party to or has an
 346 interest in an activity that is a possible conflict of interest
 347 as described in subsection (1) and that activity has not been
 348 properly disclosed as a conflict of interest or potential

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349 conflict of interest as required by this section, the contract
 350 is voidable and terminates upon the association filing a written
 351 notice terminating the contract.

352 (6) As used in this section, the term "relative" means a
 353 relative within the third degree of consanguinity by blood or
 354 marriage.

355 (7) The procedures in subsections (2), (3), and (4) do not
 356 apply to any activities or the provision of goods and services
 357 that are disclosed in the management services contract as a
 358 conflict of interest within the meaning of subsection (1).

359 Section 3. Paragraph (b) of subsection (2) of section
 360 468.436, Florida Statutes, is amended to read:

361 468.436 Disciplinary proceedings.—

362 (2) The following acts constitute grounds for which the
 363 disciplinary actions in subsection (4) may be taken:

364 (b)1. Violation of ~~any provision of~~ this part.

365 2. Violation of any lawful order or rule rendered or
 366 adopted by the department or the council.

367 3. Being convicted of or pleading nolo contendere to a
 368 felony in any court in the United States.

369 4. Obtaining a license or certification or any other order,
 370 ruling, or authorization by means of fraud, misrepresentation,
 371 or concealment of material facts.

372 5. Committing acts of gross misconduct or gross negligence
 373 in connection with the profession.

374 6. Contracting, on behalf of an association, with any
 375 entity in which the licensee has a financial interest that is
 376 not disclosed.

377 7. Failing to disclose any conflict of interest as required

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378 by s. 468.4335.

379 ~~8. Violating any provision of~~ chapter 718, chapter 719, or
 380 chapter 720 during the course of performing community
 381 association management services pursuant to a contract with a
 382 community association as defined in s. 468.431(1).

383 Section 4. Present subsections (19) through (32) of section
 384 718.103, Florida Statutes, are redesignated as subsections (20)
 385 through (33), respectively, a new subsection (19) is added to
 386 that section, and subsection (1) of that section is amended, to
 387 read:

388 718.103 Definitions.—As used in this chapter, the term:

389 (1) "Alternative funding method" means a method approved by
 390 the division for funding the capital expenditures and planned
 391 ~~deferred~~ maintenance obligations for a multicondominium
 392 association operating at least 25 condominiums which may
 393 reasonably be expected to fully satisfy the association's
 394 reserve funding obligations by the allocation of funds in the
 395 annual operating budget.

396 (19) "Hurricane protection" means hurricane shutters,
 397 impact glass, code-compliant windows or doors, and other code-
 398 compliant hurricane protection products used to preserve and
 399 protect the condominium property or association property.

400 Section 5. Paragraph (p) is added to subsection (4) of
 401 section 718.104, Florida Statutes, to read:

402 718.104 Creation of condominiums; contents of declaration.—
 403 Every condominium created in this state shall be created
 404 pursuant to this chapter.

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

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407 (p) For both residential condominiums and mixed-use
 408 condominiums, a statement that specifies whether the unit owner
 409 or the association is responsible for the installation,
 410 maintenance, repair, or replacement of hurricane protection that
 411 is for the preservation and protection of the condominium
 412 property and association property.

413 Section 6. Paragraph (a) of subsection (1) and subsections
 414 (12), (13), and (15) of section 718.111, Florida Statutes, are
 415 amended, and subsection (16) is added to that section, to read:

416 718.111 The association.—

417 (1) CORPORATE ENTITY.—

418 (a) The operation of the condominium shall be by the
 419 association, which must be a Florida corporation for profit or a
 420 Florida corporation not for profit. However, any association
 421 which was in existence on January 1, 1977, need not be
 422 incorporated. The owners of units shall be shareholders or
 423 members of the association. The officers and directors of the
 424 association have a fiduciary relationship to the unit owners. It
 425 is the intent of the Legislature that nothing in this paragraph
 426 shall be construed as providing for or removing a requirement of
 427 a fiduciary relationship between any manager employed by the
 428 association and the unit owners. An officer, director, or
 429 manager may not solicit, offer to accept, or accept any thing or
 430 service of value or kickback for which consideration has not
 431 been provided for his or her own benefit or that of his or her
 432 immediate family, from any person providing or proposing to
 433 provide goods or services to the association. Any such officer,
 434 director, or manager who knowingly so solicits, offers to
 435 accept, or accepts any thing or service of value or kickback,

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436 for which consideration has not been provided for his or her own
 437 benefit or that of his or her immediate family, from any person
 438 providing or proposing to provide goods or services to the
 439 association commits a felony of the third degree, punishable as
 440 provided in s. 775.082, s. 775.083, or s. 775.084, shall be
 441 deemed removed from office and a vacancy declared, and is
 442 subject to a civil penalty pursuant to s. 718.501(1)(d) and, if
 443 applicable, a criminal penalty as provided in paragraph (d).
 444 However, this paragraph does not prohibit an officer, director,
 445 or manager from accepting services or items received in
 446 connection with trade fairs or education programs. An
 447 association may operate more than one condominium.

448 (12) OFFICIAL RECORDS.—

449 (a) From the inception of the association, the association
 450 shall maintain each of the following items, if applicable, which
 451 constitutes the official records of the association:

452 1. A copy of the plans, permits, warranties, and other
 453 items provided by the developer under s. 718.301(4).

454 2. A photocopy of the recorded declaration of condominium
 455 of each condominium operated by the association and each
 456 amendment to each declaration.

457 3. A photocopy of the recorded bylaws of the association
 458 and each amendment to the bylaws.

459 4. A certified copy of the articles of incorporation of the
 460 association, or other documents creating the association, and
 461 each amendment thereto.

462 5. A copy of the current rules of the association.

463 6. A book or books that contain the minutes of all meetings
 464 of the association, the board of administration, and the unit

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owners.

7. A current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers. The association shall also maintain the e-mail addresses and facsimile numbers of unit owners consenting to receive notice by electronic transmission. The e-mail addresses and facsimile numbers are not accessible to unit owners if consent to receive notice by electronic transmission is not provided in accordance with sub-subparagraph (c)5.e. ~~(e)3.e.~~ However, the association is not liable for an inadvertent disclosure of the e-mail address or facsimile number for receiving electronic transmission of notices.

8. All current insurance policies of the association and condominiums operated by the association.

9. A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility.

10. Bills of sale or transfer for all property owned by the association.

11. Accounting records for the association and separate accounting records for each condominium that the association operates. Any person who knowingly or intentionally defaces or destroys such records, or who knowingly or intentionally fails to create or maintain such records, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. 718.501(1)(d). The accounting records must include, but are not limited to:

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a. Accurate, itemized, and detailed records of all receipts and expenditures.

b. All invoices, transaction receipts, or deposit slips that substantiate any receipt or expenditure of funds by the association.

c. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid on the account, and the balance due.

~~d.e.~~ All audits, reviews, accounting statements, structural integrity reserve studies, and financial reports of the association or condominium. Structural integrity reserve studies must be maintained for at least 15 years after the study is completed.

~~e.d.~~ All contracts for work to be performed. Bids for work to be performed are also considered official records and must be maintained by the association for at least 1 year after receipt of the bid.

12. Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by unit owners, which must be maintained for 1 year from the date of the election, vote, or meeting to which the document relates, notwithstanding paragraph (b).

13. All rental records if the association is acting as agent for the rental of condominium units.

14. A copy of the current question and answer sheet as described in s. 718.504.

15. A copy of the inspection reports described in ss. 553.899 and 718.301(4)(p) and any other inspection report

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relating to a structural or life safety inspection of condominium property. Such record must be maintained by the association for 15 years after receipt of the report.

16. Bids for materials, equipment, or services.

17. All affirmative acknowledgments made pursuant to s. 718.121(4)(c).

18. A copy of the investment policy statement adopted pursuant to paragraph (16)(c).

19. A copy of all building permits.

20. All other written records of the association not specifically included in the foregoing which are related to the operation of the association.

(b) The official records specified in subparagraphs (a)1.-6. must be permanently maintained from the inception of the association. Bids for work to be performed or for materials, equipment, or services must be maintained for at least 1 year after receipt of the bid. All other official records must be maintained within the state for at least 7 years, unless otherwise provided by general law. The official records must be maintained in a manner that facilitates inspection of the records by a unit owner. In the event that the records are lost, destroyed, or otherwise unavailable, the obligation to maintain official records includes a good faith obligation to recover those records as may be reasonably possible. The records of the association shall be made available to a unit owner within 45 miles of the condominium property or within the county in which the condominium property is located within 10 working days after receipt of a written request by the board or its designee. However, such distance requirement does not apply to an

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association governing a timeshare condominium. This paragraph and paragraph (c) may be complied with by having a copy of the official records of the association available for inspection or copying on the condominium property or association property, or the association may offer the option of making the records available to a unit owner electronically via the Internet as provided under paragraph (g) or by allowing the records to be viewed in electronic format on a computer screen and printed upon request. The association is not responsible for the use or misuse of the information provided to an association member or his or her authorized representative in compliance with this chapter unless the association has an affirmative duty not to disclose such information under this chapter.

(c)1.a. The official records of the association are open to inspection by any association member and any person authorized by an association member as a representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the member and of the person authorized by the association member as a representative of such member. A renter of a unit has a right to inspect and copy only the declaration of condominium, the association's bylaws and rules, and the inspection reports described in ss. 553.899 and 718.301(4)(p). The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying but may not require a member to demonstrate any purpose or state any reason for the inspection. The failure of an association to provide the records within 10 working days after receipt of a written request creates a

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rebuttable presumption that the association willfully failed to comply with this paragraph. A unit owner who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. Minimum damages are \$50 per calendar day for up to 10 days, beginning on the 11th working day after receipt of the written request. The failure to permit inspection entitles any person prevailing in an enforcement action to recover reasonable attorney fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records. If the requested records are posted on an association's website, or are available for download through an application on a mobile device, the association may fulfill its obligations as provided under this paragraph by directing all persons authorized to request access to official records pursuant to this paragraph to the website or mobile device application.

b. In response to a written request to inspect records, the association must simultaneously provide a checklist to the requestor of all records made available for inspection and copying. The checklist must also identify any of the association's official records that were not made available to the requestor. An association must maintain a checklist provided under this sub-subparagraph for 7 years. An association delivering a checklist pursuant to this sub-subparagraph creates a rebuttable presumption that the association has complied with this paragraph.

2. Any director or member of the board or association or a community association manager who knowingly, willfully, and repeatedly violates subparagraph 1. commits a misdemeanor of the

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second degree, punishable as provided in s. 775.082 or s. 775.083, and shall be deemed removed from office and a vacancy declared. For purposes of this subparagraph, the term "repeatedly" means two or more violations within a 12-month period.

~~3.2-~~ Any person who knowingly or intentionally defaces or destroys accounting records that are required by this chapter to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or 775.083, is personally subject to a civil penalty pursuant to s. 718.501(1)(d), and shall be deemed removed from office and a vacancy declared.

4. Any person who willfully and knowingly refuses to release or otherwise produce association records with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and shall be deemed removed from office and a vacancy declared.

~~5.3-~~ The association shall maintain an adequate number of copies of the declaration, articles of incorporation, bylaws, and rules, and all amendments to each of the foregoing, as well as the question and answer sheet as described in s. 718.504 and year-end financial information required under this section, on the condominium property to ensure their availability to unit

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owners and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the documents. An association shall allow a member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association's providing the member or his or her authorized representative with a copy of such records. The association may not charge a member or his or her authorized representative for the use of a portable device. Notwithstanding this paragraph, the following records are not accessible to unit owners:

a. Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including a record prepared by an association attorney or prepared at the attorney's express direction, which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.

b. Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a unit.

c. Personnel records of association or management company employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this subparagraph, the term "personnel records" does not include

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written employment agreements with an association employee or management company, or budgetary or financial records that indicate the compensation paid to an association employee.

d. Medical records of unit owners.

e. Social security numbers, driver license numbers, credit card numbers, e-mail addresses, telephone numbers, facsimile numbers, emergency contact information, addresses of a unit owner other than as provided to fulfill the association's notice requirements, and other personal identifying information of any person, excluding the person's name, unit designation, mailing address, property address, and any address, e-mail address, or facsimile number provided to the association to fulfill the association's notice requirements. Notwithstanding the restrictions in this sub-subparagraph, an association may print and distribute to unit owners a directory containing the name, unit address, and all telephone numbers of each unit owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this sub-subparagraph. The association is not liable for the inadvertent disclosure of information that is protected under this sub-subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

f. Electronic security measures that are used by the association to safeguard data, including passwords.

g. The software and operating system used by the association which allow the manipulation of data, even if the

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owner owns a copy of the same software used by the association.
The data is part of the official records of the association.

h. All affirmative acknowledgments made pursuant to s.
718.121(4)(c).

(d) The association shall prepare a question and answer
sheet as described in s. 718.504, and shall update it annually.

(e)1. The association or its authorized agent is not
required to provide a prospective purchaser or lienholder with
information about the condominium or the association other than
information or documents required by this chapter to be made
available or disclosed. The association or its authorized agent
may charge a reasonable fee to the prospective purchaser,
lienholder, or the current unit owner for providing good faith
responses to requests for information by or on behalf of a
prospective purchaser or lienholder, other than that required by
law, if the fee does not exceed \$150 plus the reasonable cost of
photocopying and any attorney's fees incurred by the association
in connection with the response.

2. An association and its authorized agent are not liable
for providing such information in good faith pursuant to a
written request if the person providing the information includes
a written statement in substantially the following form: "The
responses herein are made in good faith and to the best of my
ability as to their accuracy."

(f) An outgoing board or committee member must relinquish
all official records and property of the association in his or
her possession or under his or her control to the incoming board
within 5 days after the election. The division shall impose a
civil penalty as set forth in s. 718.501(1)(d)6. against an

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outgoing board or committee member who willfully and knowingly
fails to relinquish such records and property.

(g)1. By January 1, 2019, an association managing a
condominium with 150 or more units which does not contain
timeshare units shall post digital copies of the documents
specified in subparagraph 2. on its website or make such
documents available through an application that can be
downloaded on a mobile device.

a. The association's website or application must be:

(I) An independent website, application, or web portal
wholly owned and operated by the association; or

(II) A website, application, or web portal operated by a
third-party provider with whom the association owns, leases,
rents, or otherwise obtains the right to operate a web page,
subpage, web portal, collection of subpages or web portals, or
an application which is dedicated to the association's
activities and on which required notices, records, and documents
may be posted or made available by the association.

b. The association's website or application must be
accessible through the Internet and must contain a subpage, web
portal, or other protected electronic location that is
inaccessible to the general public and accessible only to unit
owners and employees of the association.

c. Upon a unit owner's written request, the association
must provide the unit owner with a username and password and
access to the protected sections of the association's website or
application which contain any notices, records, or documents
that must be electronically provided.

2. A current copy of the following documents must be posted

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in digital format on the association's website or application:

a. The recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.

b. The recorded bylaws of the association and each amendment to the bylaws.

c. The articles of incorporation of the association, or other documents creating the association, and each amendment to the articles of incorporation or other documents. The copy posted pursuant to this sub-subparagraph must be a copy of the articles of incorporation filed with the Department of State.

d. The rules of the association.

e. A list of all executory contracts or documents to which the association is a party or under which the association or the unit owners have an obligation or responsibility and, after bidding for the related materials, equipment, or services has closed, a list of bids received by the association within the past year. Summaries of bids for materials, equipment, or services which exceed \$500 must be maintained on the website or application for 1 year. In lieu of summaries, complete copies of the bids may be posted.

f. The annual budget required by s. 718.112(2)(f) and any proposed budget to be considered at the annual meeting.

g. The financial report required by subsection (13) and any monthly income or expense statement to be considered at a meeting.

h. The certification of each director required by s. 718.112(2)(d)4.b.

i. All contracts or transactions between the association

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and any director, officer, corporation, firm, or association that is not an affiliated condominium association or any other entity in which an association director is also a director or officer and financially interested.

j. Any contract or document regarding a conflict of interest or possible conflict of interest as provided in ss. 468.4335, 468.436(2)(b)6., and 718.3027(3).

k. The notice of any unit owner meeting and the agenda for the meeting, as required by s. 718.112(2)(d)3., no later than 14 days before the meeting. The notice must be posted in plain view on the front page of the website or application, or on a separate subpage of the website or application labeled "Notices" which is conspicuously visible and linked from the front page. The association must also post on its website or application any document to be considered and voted on by the owners during the meeting or any document listed on the agenda at least 7 days before the meeting at which the document or the information within the document will be considered.

l. Notice of any board meeting, the agenda, and any other document required for the meeting as required by s. 718.112(2)(c), which must be posted no later than the date required for notice under s. 718.112(2)(c).

m. The inspection reports described in ss. 553.899 and 718.301(4)(p) and any other inspection report relating to a structural or life safety inspection of condominium property.

n. The association's most recent structural integrity reserve study, if applicable.

o. Copies of all building permits issued for ongoing or planned construction.

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813 3. The association shall ensure that the information and
 814 records described in paragraph (c), which are not allowed to be
 815 accessible to unit owners, are not posted on the association's
 816 website or application. If protected information or information
 817 restricted from being accessible to unit owners is included in
 818 documents that are required to be posted on the association's
 819 website or application, the association shall ensure the
 820 information is redacted before posting the documents.
 821 Notwithstanding the foregoing, the association or its agent is
 822 not liable for disclosing information that is protected or
 823 restricted under this paragraph unless such disclosure was made
 824 with a knowing or intentional disregard of the protected or
 825 restricted nature of such information.

826 4. The failure of the association to post information
 827 required under subparagraph 2. is not in and of itself
 828 sufficient to invalidate any action or decision of the
 829 association's board or its committees.

830 (13) FINANCIAL REPORTING.—Within 90 days after the end of
 831 the fiscal year, or annually on a date provided in the bylaws,
 832 the association shall prepare and complete, or contract for the
 833 preparation and completion of, a financial report for the
 834 preceding fiscal year. Within 21 days after the final financial
 835 report is completed by the association or received from the
 836 third party, but not later than 120 days after the end of the
 837 fiscal year or other date as provided in the bylaws, the
 838 association shall deliver mail to each unit owner, by United
 839 States mail or personal delivery at the mailing address,
 840 property address, e-mail address, or facsimile number provided
 841 to fulfill the association's notice requirements at the address

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842 ~~last furnished to the association by the unit owner, or hand~~
 843 ~~deliver to each unit owner,~~ a copy of the management letter or
 844 opinion letter, as applicable, for the most recent financial
 845 report, and ~~or~~ a notice that a copy of the most recent financial
 846 report will be mailed or hand delivered to the unit owner,
 847 without charge, within 5 business days after receipt of a
 848 written request from the unit owner. The division shall adopt
 849 rules setting forth uniform accounting principles and standards
 850 to be used by all associations and addressing the financial
 851 reporting requirements for multicondominium associations. The
 852 rules must include, but not be limited to, standards for
 853 presenting a summary of association reserves, including a good
 854 faith estimate disclosing the annual amount of reserve funds
 855 that would be necessary for the association to fully fund
 856 reserves for each reserve item based on the straight-line
 857 accounting method. This disclosure is not applicable to reserves
 858 funded via the pooling method. In adopting such rules, the
 859 division shall consider the number of members and annual
 860 revenues of an association. Financial reports shall be prepared
 861 as follows:

862 (a) An association that meets the criteria of this
 863 paragraph shall prepare a complete set of financial statements
 864 in accordance with generally accepted accounting principles. The
 865 financial statements must be based upon the association's total
 866 annual revenues, as follows:

867 1. An association with total annual revenues of \$150,000 or
 868 more, but less than \$300,000, shall prepare compiled financial
 869 statements.

870 2. An association with total annual revenues of at least

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871 \$300,000, but less than \$500,000, shall prepare reviewed
 872 financial statements.
 873 3. An association with total annual revenues of \$500,000 or
 874 more shall prepare audited financial statements.
 875 (b)1. An association with total annual revenues of less
 876 than \$150,000 shall prepare a report of cash receipts and
 877 expenditures.
 878 2. A report of cash receipts and disbursements must
 879 disclose the amount of receipts by accounts and receipt
 880 classifications and the amount of expenses by accounts and
 881 expense classifications, including, but not limited to, the
 882 following, as applicable: costs for security, professional and
 883 management fees and expenses, taxes, costs for recreation
 884 facilities, expenses for refuse collection and utility services,
 885 expenses for lawn care, costs for building maintenance and
 886 repair, insurance costs, administration and salary expenses, and
 887 reserves accumulated and expended for capital expenditures,
 888 planned deferred maintenance, and any other category for which
 889 the association maintains reserves.
 890 (c) An association may prepare, without a meeting of or
 891 approval by the unit owners:
 892 1. Compiled, reviewed, or audited financial statements, if
 893 the association is required to prepare a report of cash receipts
 894 and expenditures;
 895 2. Reviewed or audited financial statements, if the
 896 association is required to prepare compiled financial
 897 statements; or
 898 3. Audited financial statements if the association is
 899 required to prepare reviewed financial statements.

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900 (d) Unless an association invests funds pursuant to
 901 paragraph (16)(b), and only if approved by a majority of the
 902 voting interests present at a properly called meeting of the
 903 association, an association may prepare:
 904 1. A report of cash receipts and expenditures in lieu of a
 905 compiled, reviewed, or audited financial statement;
 906 2. A report of cash receipts and expenditures or a compiled
 907 financial statement in lieu of a reviewed or audited financial
 908 statement; or
 909 3. A report of cash receipts and expenditures, a compiled
 910 financial statement, or a reviewed financial statement in lieu
 911 of an audited financial statement.
 912
 913 Such meeting and approval must occur before the end of the
 914 fiscal year and is effective only for the fiscal year in which
 915 the vote is taken. An association may not prepare a financial
 916 report pursuant to this paragraph for consecutive fiscal years,
 917 except that the approval may also be effective for the following
 918 fiscal year. If the developer has not turned over control of the
 919 association, all unit owners, including the developer, may vote
 920 on issues related to the preparation of the association's
 921 financial reports, from the date of incorporation of the
 922 association through the end of the second fiscal year after the
 923 fiscal year in which the certificate of a surveyor and mapper is
 924 recorded pursuant to s. 718.104(4)(e) or an instrument that
 925 transfers title to a unit in the condominium which is not
 926 accompanied by a recorded assignment of developer rights in
 927 favor of the grantee of such unit is recorded, whichever occurs
 928 first. Thereafter, all unit owners except the developer may vote

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on such issues until control is turned over to the association by the developer. Any audit or review prepared under this section shall be paid for by the developer if done before turnover of control of the association.

(e) A unit owner may provide written notice to the division of the association's failure to mail or hand deliver him or her a copy of the most recent financial report within 5 business days after he or she submitted a written request to the association for a copy of such report. If the division determines that the association failed to mail or hand deliver a copy of the most recent financial report to the unit owner, the division shall provide written notice to the association that the association must mail or hand deliver a copy of the most recent financial report to the unit owner and the division within 5 business days after it receives such notice from the division. An association that fails to comply with the division's request may not waive the financial reporting requirement provided in paragraph (d) for the fiscal year in which the unit owner's request was made and the following fiscal year. A financial report received by the division pursuant to this paragraph shall be maintained, and the division shall provide a copy of such report to an association member upon his or her request.

(f) If an association invests funds pursuant to paragraph (16)(b), the association must prepare financial statements pursuant to paragraphs (a) and (b).

(15) DEBIT CARDS.—

(a) An association and its officers, directors, employees, and agents may not use a debit card issued in the name of the

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association, or billed directly to the association, for the payment of any association expense.

(b) A person who uses ~~Use of~~ a debit card issued in the name of the association, or billed directly to the association, for any expense that is not a lawful obligation of the association commits theft under s. 812.014, and shall be deemed removed from office and a vacancy declared. For the purposes of this paragraph, the term "lawful obligation of the association" means an obligation that has been properly preapproved by the board and is reflected in the meeting minutes or the written budget may be prosecuted as credit card fraud pursuant to s. ~~817.61.~~

(16) INVESTMENT OF ASSOCIATION FUNDS.—

(a) A board, in fulfilling its duty to manage operating and reserve funds of an association, must use best efforts to make prudent investment decisions that carefully consider risk and return in an effort to maximize returns on invested funds.

(b) An association, including a multicondominium association, may invest reserve funds in one or any combination of depository accounts at a community bank, savings bank, commercial bank, savings and loan association, or credit union if the respective account balance at any institution does not exceed the amount of deposit insurance per account provided by any agency of the Federal Government or as otherwise available. Notwithstanding any declaration, only funds identified as reserve funds may be invested pursuant to this subsection.

(c) The board shall create an investment committee composed of at least two board members and two-unit non-board member unit owners. The board shall also adopt rules for invested funds,

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including, but not limited to, rules requiring periodic reviews of any investment manager's performance, the development of an investment policy statement, and that all meetings of the investment committee be recorded and made part of the official records of the association. The investment policy statement developed pursuant to this paragraph must, at a minimum, address risk, liquidity, and benchmark measurements; authorized classes of investments; authorized investment mixes; limitations on authority relating to investment transactions; requirements for projected reserve expenditures within, at minimum, the next 24 months to be held in cash or cash equivalents; projected expenditures relating to an inspection performed pursuant to s. 553.899; and protocols for proxy response.

(d) The investment committee shall recommend investment advisers to the board, and the board shall select one of the recommended investment advisers to provide services to the association. Such investment advisers must be registered or have notice filed under s. 517.12. The investment adviser and any representative or association of the investment adviser may not be related by affinity or consanguinity to, or under common ownership with, any board member, community management company, reserve study provider, or unit owner. The investment adviser shall comply with the prudent investor rule in s. 518.11. The investment adviser shall act as a fiduciary to the association in compliance with the standards set forth in the Employee Retirement Income Security Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C). In case of conflict with other provisions of law authorizing investments, the investment and fiduciary standards set forth in this paragraph must prevail. If at any

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time the investment committee determines that an investment adviser does not meet the requirements of this section, the investment committee must recommend a replacement investment adviser to the board.

(e) At least once each calendar year, or sooner if a substantial financial obligation of the association becomes known to the board, the association must provide the investment adviser with the association's investment policy statement, the most recent reserve study report, the association's structural integrity report, and the financial reports prepared pursuant to subsection (13). If there is no recent reserve study report, the association must provide the investment adviser with a good faith estimate disclosing the annual amount of reserve funds necessary for the association to fully fund reserves for the life of each reserve component and each component's redundancies. The investment adviser shall annually review these documents and provide the association with a portfolio allocation model that is suitably structured and prudently designed to match projected annual reserve fund requirements and liability, assets, and liquidity requirements. The investment adviser shall prepare a funding projection for each reserve component, including any of the component's redundancies. There must be a minimum of 24 months of projected reserves in cash or cash equivalents available to the association at all times.

(f) Portfolios managed by the investment adviser may contain any type of investment necessary to meet the objectives in the investment policy statement; however, portfolios may not contain stocks, securities, or other obligations that the State Board of Administration is prohibited from investing in under s.

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215.471, s. 215.4725, or s. 215.473 or that state agencies are prohibited from investing in under s. 215.472, as determined by the investment adviser. Any funds invested by the investment adviser must be held in third party custodial accounts that are subject to insurance coverage by the Securities Investor Protection Corporation in an amount equal to or greater than the invested amount. The investment adviser may withdraw investment fees, expenses, and commissions from invested funds.

(g) The investment adviser shall:

1. Annually provide the association with a written certification of compliance with this section and a list of stocks, securities, and other obligations that are prohibited from being in association portfolios under paragraph (f); and

2. Submit monthly, quarterly, and annual reports to the association which are prepared in accordance with established financial industry standards and in accordance with chapter 517.

(h) Any principal, earnings, or interest managed under this subsection must be available at no cost or charge to the association within 15 business days after delivery of the association's written or electronic request.

(i) Unallocated income earned on reserve fund investments may be spent only on capital expenditures, planned maintenance, structural repairs, or other items for which the reserve accounts have been established. Any surplus of funds which exceeds the amount required to maintain reasonably funded reserves must be managed pursuant to s. 718.115.

Section 7. Effective January 1, 2026, paragraph (g) of subsection (12) of section 718.111, Florida Statutes, as amended by this act, is amended to read:

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718.111 The association.—

(12) OFFICIAL RECORDS.—

(g)1. ~~By January 1, 2019,~~ An association managing a condominium with ~~25~~ 150 or more units which does not contain timeshare units shall post digital copies of the documents specified in subparagraph 2. on its website or make such documents available through an application that can be downloaded on a mobile device.

a. The association's website or application must be:

(I) An independent website, application, or web portal wholly owned and operated by the association; or

(II) A website, application, or web portal operated by a third-party provider with whom the association owns, leases, rents, or otherwise obtains the right to operate a web page, subpage, web portal, collection of subpages or web portals, or an application which is dedicated to the association's activities and on which required notices, records, and documents may be posted or made available by the association.

b. The association's website or application must be accessible through the Internet and must contain a subpage, web portal, or other protected electronic location that is inaccessible to the general public and accessible only to unit owners and employees of the association.

c. Upon a unit owner's written request, the association must provide the unit owner with a username and password and access to the protected sections of the association's website or application which contain any notices, records, or documents that must be electronically provided.

2. A current copy of the following documents must be posted

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in digital format on the association's website or application:

a. The recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.

b. The recorded bylaws of the association and each amendment to the bylaws.

c. The articles of incorporation of the association, or other documents creating the association, and each amendment to the articles of incorporation or other documents. The copy posted pursuant to this sub-subparagraph must be a copy of the articles of incorporation filed with the Department of State.

d. The rules of the association.

e. A list of all executory contracts or documents to which the association is a party or under which the association or the unit owners have an obligation or responsibility and, after bidding for the related materials, equipment, or services has closed, a list of bids received by the association within the past year. Summaries of bids for materials, equipment, or services which exceed \$500 must be maintained on the website or application for 1 year. In lieu of summaries, complete copies of the bids may be posted.

f. The annual budget required by s. 718.112(2)(f) and any proposed budget to be considered at the annual meeting.

g. The financial report required by subsection (13) and any monthly income or expense statement to be considered at a meeting.

h. The certification of each director required by s. 718.112(2)(d)4.b.

i. All contracts or transactions between the association

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and any director, officer, corporation, firm, or association that is not an affiliated condominium association or any other entity in which an association director is also a director or officer and financially interested.

j. Any contract or document regarding a conflict of interest or possible conflict of interest as provided in ss. 468.4335, 468.436(2)(b)6., and 718.3027(3).

k. The notice of any unit owner meeting and the agenda for the meeting, as required by s. 718.112(2)(d)3., no later than 14 days before the meeting. The notice must be posted in plain view on the front page of the website or application, or on a separate subpage of the website or application labeled "Notices" which is conspicuously visible and linked from the front page. The association must also post on its website or application any document to be considered and voted on by the owners during the meeting or any document listed on the agenda at least 7 days before the meeting at which the document or the information within the document will be considered.

l. Notice of any board meeting, the agenda, and any other document required for the meeting as required by s. 718.112(2)(c), which must be posted no later than the date required for notice under s. 718.112(2)(c).

m. The inspection reports described in ss. 553.899 and 718.301(4)(p) and any other inspection report relating to a structural or life safety inspection of condominium property.

n. The association's most recent structural integrity reserve study, if applicable.

o. Copies of all building permits issued for ongoing or planned construction.

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3. The association shall ensure that the information and records described in paragraph (c), which are not allowed to be accessible to unit owners, are not posted on the association's website or application. If protected information or information restricted from being accessible to unit owners is included in documents that are required to be posted on the association's website or application, the association shall ensure the information is redacted before posting the documents. Notwithstanding the foregoing, the association or its agent is not liable for disclosing information that is protected or restricted under this paragraph unless such disclosure was made with a knowing or intentional disregard of the protected or restricted nature of such information.

4. The failure of the association to post information required under subparagraph 2. is not in and of itself sufficient to invalidate any action or decision of the association's board or its committees.

Section 8. Paragraphs (c), (d), (f), (g), (i), and (q) of subsection (2) of section 718.112, Florida Statutes, are amended, and paragraph (r) is added to that section, to read:

718.112 Bylaws.—

(2) REQUIRED PROVISIONS.—The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(c) Board of administration meetings.—In a residential condominium association of more than 10 units, the board of administration shall meet at least once each quarter for the purpose of responding to inquiries from members and informing members on the state of the condominium, including the status of

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any construction or repair projects, the status of the association's revenue and expenditures during the fiscal year, or other issues affecting the association. Meetings of the board of administration at which a quorum of the members is present are open to all unit owners. Members of the board of administration may use e-mail as a means of communication but may not cast a vote on an association matter via e-mail. A unit owner may tape record or videotape the meetings. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. The division shall adopt reasonable rules governing the tape recording and videotaping of the meeting. The association may adopt written reasonable rules governing the frequency, duration, and manner of unit owner statements.

1. Adequate notice of all board meetings, which must specifically identify all agenda items, must be posted conspicuously on the condominium property at least 48 continuous hours before the meeting except in an emergency. If 20 percent of the voting interests petition the board to address an item of business, the board, within 60 days after receipt of the petition, shall place the item on the agenda at its next regular board meeting or at a special meeting called for that purpose. An item not included on the notice may be taken up on an emergency basis by a vote of at least a majority plus one of the board members. Such emergency action must be noticed and ratified at the next regular board meeting. Written notice of a meeting at which a nonemergency special assessment or an amendment to rules regarding unit use will be considered must be mailed, delivered, or electronically transmitted to the unit

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1219 owners and posted conspicuously on the condominium property at
 1220 least 14 days before the meeting. Evidence of compliance with
 1221 this 14-day notice requirement must be made by an affidavit
 1222 executed by the person providing the notice and filed with the
 1223 official records of the association. ~~Notice of any meeting in~~
 1224 ~~which regular or special assessments against unit owners are to~~
 1225 ~~be considered must specifically state that assessments will be~~
 1226 ~~considered and provide the estimated cost and description of the~~
 1227 ~~purposes for such assessments.~~

1228 2. Upon notice to the unit owners, the board shall, by duly
 1229 adopted rule, designate a specific location on the condominium
 1230 property where all notices of board meetings must be posted. If
 1231 there is no condominium property where notices can be posted,
 1232 notices shall be mailed, delivered, or electronically
 1233 transmitted to each unit owner at least 14 days before the
 1234 meeting. In lieu of or in addition to the physical posting of
 1235 the notice on the condominium property, the association may, by
 1236 reasonable rule, adopt a procedure for conspicuously posting and
 1237 repeatedly broadcasting the notice and the agenda on a closed-
 1238 circuit cable television system serving the condominium
 1239 association. However, if broadcast notice is used in lieu of a
 1240 notice physically posted on condominium property, the notice and
 1241 agenda must be broadcast at least four times every broadcast
 1242 hour of each day that a posted notice is otherwise required
 1243 under this section. If broadcast notice is provided, the notice
 1244 and agenda must be broadcast in a manner and for a sufficient
 1245 continuous length of time so as to allow an average reader to
 1246 observe the notice and read and comprehend the entire content of
 1247 the notice and the agenda. In addition to any of the authorized

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1248 means of providing notice of a meeting of the board, the
 1249 association may, by rule, adopt a procedure for conspicuously
 1250 posting the meeting notice and the agenda on a website serving
 1251 the condominium association for at least the minimum period of
 1252 time for which a notice of a meeting is also required to be
 1253 physically posted on the condominium property. Any rule adopted
 1254 shall, in addition to other matters, include a requirement that
 1255 the association send an electronic notice in the same manner as
 1256 a notice for a meeting of the members, which must include a
 1257 hyperlink to the website where the notice is posted, to unit
 1258 owners whose e-mail addresses are included in the association's
 1259 official records.

1260 3. Notice of any meeting in which regular or special
 1261 assessments against unit owners are to be considered must
 1262 specifically state that assessments will be considered and
 1263 provide the estimated cost and description of the purposes for
 1264 such assessments. If an agenda item relates to the approval of a
 1265 contract for goods or services, a copy of the contract must be
 1266 provided with the notice, made available for inspection and
 1267 copying upon a written request from a unit owner, or made
 1268 available on the association's website or through an application
 1269 that can be downloaded on a mobile device.

1270 4.2. Meetings of a committee to take final action on behalf
 1271 of the board or make recommendations to the board regarding the
 1272 association budget are subject to this paragraph. Meetings of a
 1273 committee that does not take final action on behalf of the board
 1274 or make recommendations to the board regarding the association
 1275 budget are subject to this section, unless those meetings are
 1276 exempted from this section by the bylaws of the association.

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1277 5.3 Notwithstanding any other law, the requirement that
 1278 board meetings and committee meetings be open to the unit owners
 1279 does not apply to:

1280 a. Meetings between the board or a committee and the
 1281 association's attorney, with respect to proposed or pending
 1282 litigation, if the meeting is held for the purpose of seeking or
 1283 rendering legal advice; or

1284 b. Board meetings held for the purpose of discussing
 1285 personnel matters.

1286 (d) *Unit owner meetings.*—

1287 1. An annual meeting of the unit owners must be held at the
 1288 location provided in the association bylaws and, if the bylaws
 1289 are silent as to the location, the meeting must be held within
 1290 45 miles of the condominium property. However, such distance
 1291 requirement does not apply to an association governing a
 1292 timeshare condominium.

1293 2. Unless the bylaws provide otherwise, a vacancy on the
 1294 board caused by the expiration of a director's term must be
 1295 filled by electing a new board member, and the election must be
 1296 by secret ballot. An election is not required if the number of
 1297 vacancies equals or exceeds the number of candidates. For
 1298 purposes of this paragraph, the term "candidate" means an
 1299 eligible person who has timely submitted the written notice, as
 1300 described in sub-subparagraph 4.a., of his or her intention to
 1301 become a candidate. Except in a timeshare or nonresidential
 1302 condominium, or if the staggered term of a board member does not
 1303 expire until a later annual meeting, or if all members' terms
 1304 would otherwise expire but there are no candidates, the terms of
 1305 all board members expire at the annual meeting, and such members

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1306 may stand for reelection unless prohibited by the bylaws. Board
 1307 members may serve terms longer than 1 year if permitted by the
 1308 bylaws or articles of incorporation. A board member may not
 1309 serve more than 8 consecutive years unless approved by an
 1310 affirmative vote of unit owners representing two-thirds of all
 1311 votes cast in the election or unless there are not enough
 1312 eligible candidates to fill the vacancies on the board at the
 1313 time of the vacancy. Only board service that occurs on or after
 1314 July 1, 2018, may be used when calculating a board member's term
 1315 limit. If the number of board members whose terms expire at the
 1316 annual meeting equals or exceeds the number of candidates, the
 1317 candidates become members of the board effective upon the
 1318 adjournment of the annual meeting. Unless the bylaws provide
 1319 otherwise, any remaining vacancies shall be filled by the
 1320 affirmative vote of the majority of the directors making up the
 1321 newly constituted board even if the directors constitute less
 1322 than a quorum or there is only one director. In a residential
 1323 condominium association of more than 10 units or in a
 1324 residential condominium association that does not include
 1325 timeshare units or timeshare interests, co-owners of a unit may
 1326 not serve as members of the board of directors at the same time
 1327 unless they own more than one unit or unless there are not
 1328 enough eligible candidates to fill the vacancies on the board at
 1329 the time of the vacancy. A unit owner in a residential
 1330 condominium desiring to be a candidate for board membership must
 1331 comply with sub-subparagraph 4.a. and must be eligible to be a
 1332 candidate to serve on the board of directors at the time of the
 1333 deadline for submitting a notice of intent to run in order to
 1334 have his or her name listed as a proper candidate on the ballot

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or to serve on the board. A person who has been suspended or removed by the division under this chapter, or who is delinquent in the payment of any assessment due to the association, is not eligible to be a candidate for board membership and may not be listed on the ballot. For purposes of this paragraph, a person is delinquent if a payment is not made by the due date as specifically identified in the declaration of condominium, bylaws, or articles of incorporation. If a due date is not specifically identified in the declaration of condominium, bylaws, or articles of incorporation, the due date is the first day of the assessment period. A person who has been convicted of any felony in this state or in a United States District or Territorial Court, or who has been convicted of any offense in another jurisdiction which would be considered a felony if committed in this state, is not eligible for board membership unless such felon's civil rights have been restored for at least 5 years as of the date such person seeks election to the board. The validity of an action by the board is not affected if it is later determined that a board member is ineligible for board membership due to having been convicted of a felony. This subparagraph does not limit the term of a member of the board of a nonresidential or timeshare condominium.

3. The bylaws must provide the method of calling meetings of unit owners, including annual meetings. Written notice of an annual meeting must include an agenda; be mailed, hand delivered, or electronically transmitted to each unit owner at least 14 days before the annual meeting; and be posted in a conspicuous place on the condominium property or association property at least 14 continuous days before the annual meeting.

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Written notice of a meeting other than an annual meeting must include an agenda; be mailed, hand delivered, or electronically transmitted to each unit owner; and be posted in a conspicuous place on the condominium property or association property within the timeframe specified in the bylaws. If the bylaws do not specify a timeframe for written notice of a meeting other than an annual meeting, notice must be provided at least 14 continuous days before the meeting. Upon notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium property or association property where all notices of unit owner meetings must be posted. This requirement does not apply if there is no condominium property for posting notices. In lieu of, or in addition to, the physical posting of meeting notices, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the condominium association. However, if broadcast notice is used in lieu of a notice posted physically on the condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. If broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any of the authorized means of providing notice of a meeting of the board, the association may, by rule, adopt a procedure for conspicuously posting the meeting notice and the agenda on a

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website serving the condominium association for at least the minimum period of time for which a notice of a meeting is also required to be physically posted on the condominium property. Any rule adopted shall, in addition to other matters, include a requirement that the association send an electronic notice in the same manner as a notice for a meeting of the members, which must include a hyperlink to the website where the notice is posted, to unit owners whose e-mail addresses are included in the association's official records. Unless a unit owner waives in writing the right to receive notice of the annual meeting, such notice must be hand delivered, mailed, or electronically transmitted to each unit owner. Notice for meetings and notice for all other purposes must be mailed to each unit owner at the address last furnished to the association by the unit owner, or hand delivered to each unit owner. However, if a unit is owned by more than one person, the association must provide notice to the address that the developer identifies for that purpose and thereafter as one or more of the owners of the unit advise the association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the association, or the manager or other person providing notice of the association meeting, must provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association affirming that the notice was mailed or hand delivered in accordance with this provision.

4. The members of the board of a residential condominium shall be elected by written ballot or voting machine. Proxies may not be used in electing the board in general elections or

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elections to fill vacancies caused by recall, resignation, or otherwise, unless otherwise provided in this chapter. This subparagraph does not apply to an association governing a timeshare condominium.

a. At least 60 days before a scheduled election, the association shall mail, deliver, or electronically transmit, by separate association mailing or included in another association mailing, delivery, or transmission, including regularly published newsletters, to each unit owner entitled to a vote, a first notice of the date of the election. A unit owner or other eligible person desiring to be a candidate for the board must give written notice of his or her intent to be a candidate to the association at least 40 days before a scheduled election. Together with the written notice and agenda as set forth in subparagraph 3., the association shall mail, deliver, or electronically transmit a second notice of the election to all unit owners entitled to vote, together with a ballot that lists all candidates not less than 14 days or more than 34 days before the date of the election. Upon request of a candidate, an information sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished by the candidate at least 35 days before the election, must be included with the mailing, delivery, or transmission of the ballot, with the costs of mailing, delivery, or electronic transmission and copying to be borne by the association. The association is not liable for the contents of the information sheets prepared by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. The division shall by rule establish voting procedures consistent with this

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sub-subparagraph, including rules establishing procedures for giving notice by electronic transmission and rules providing for the secrecy of ballots. Elections shall be decided by a plurality of ballots cast. There is no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election. A unit owner may not authorize any other person to vote his or her ballot, and any ballots improperly cast are invalid. A unit owner who violates this provision may be fined by the association in accordance with s. 718.303. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain such assistance. The regular election must occur on the date of the annual meeting. Notwithstanding this sub-subparagraph, an election is not required unless more candidates file notices of intent to run or are nominated than board vacancies exist.

b. A director of a ~~Within 90 days after being elected or appointed to the board of an association of a residential condominium, each newly elected or appointed director~~ shall:

(I) Certify in writing to the secretary of the association that he or she has read the association's declaration of condominium, articles of incorporation, bylaws, and current written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the association's members. ~~In lieu of this written certification, within 90 days after being elected or appointed to the board, the newly elected or appointed director~~ may

(II) Submit to the secretary of the association a

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certificate of having satisfactorily completed the educational curriculum administered by ~~the division or a division-approved condominium education provider within 1 year before or 90 days after the date of election or appointment.~~

Each newly elected or appointed director must submit the written certification and educational certificate to the secretary of the association within 1 year before being elected or appointed or within 90 days after the date of election or appointment. A director of an association of a residential condominium who was elected or appointed before July 1, 2024, must comply with the written certification and educational certificate requirements in this sub-subparagraph by June 30, 2025. The written certification and ~~or~~ educational certificate is valid for 7 years from the date of issuance and does not have to be resubmitted as long as the director serves on the board without interruption during the 7-year period. A director who is appointed by the developer may satisfy the educational certificate requirement in sub-sub-subparagraph (II) for any subsequent appointment to a board by a developer within 7 years after the date of issuance of the most recent educational certificate, including any interruption of service on a board or an appointment to a board in another association within that 7-year period. Additionally, one year after submission of the most recent written certification and educational certificate, and annually thereafter, a director of an association of a residential condominium must submit to the secretary of the association a certificate of having satisfactorily completed an educational curriculum administered by the division, or a

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1509 division-approved condominium education provider, relating to
 1510 any recent changes to this chapter and the related
 1511 administrative rules during the past year. A director of an
 1512 association of a residential condominium who fails to timely
 1513 file the written certification and ~~or~~ educational certificate is
 1514 suspended from service on the board until he or she complies
 1515 with this sub-subparagraph. The board may temporarily fill the
 1516 vacancy during the period of suspension. The secretary shall
 1517 cause the association to retain a director's written
 1518 certification and ~~or~~ educational certificate for inspection by
 1519 the members for 7 ~~5~~ years after a director's election or the
 1520 duration of the director's uninterrupted tenure, whichever is
 1521 longer. Failure to have such written certification and ~~or~~
 1522 educational certificate on file does not affect the validity of
 1523 any board action.

1524 c. Any challenge to the election process must be commenced
 1525 within 60 days after the election results are announced.

1526 5. Any approval by unit owners called for by this chapter
 1527 or the applicable declaration or bylaws, including, but not
 1528 limited to, the approval requirement in s. 718.111(8), must be
 1529 made at a duly noticed meeting of unit owners and is subject to
 1530 all requirements of this chapter or the applicable condominium
 1531 documents relating to unit owner decisionmaking, except that
 1532 unit owners may take action by written agreement, without
 1533 meetings, on matters for which action by written agreement
 1534 without meetings is expressly allowed by the applicable bylaws
 1535 or declaration or any law that provides for such action.

1536 6. Unit owners may waive notice of specific meetings if
 1537 allowed by the applicable bylaws or declaration or any law.

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1538 Notice of meetings of the board of administration; unit owner
 1539 meetings, except unit owner meetings called to recall board
 1540 members under paragraph (1); and committee meetings may be given
 1541 by electronic transmission to unit owners who consent to receive
 1542 notice by electronic transmission. A unit owner who consents to
 1543 receiving notices by electronic transmission is solely
 1544 responsible for removing or bypassing filters that block receipt
 1545 of mass e-mails sent to members on behalf of the association in
 1546 the course of giving electronic notices.

1547 7. Unit owners have the right to participate in meetings of
 1548 unit owners with reference to all designated agenda items.
 1549 However, the association may adopt reasonable rules governing
 1550 the frequency, duration, and manner of unit owner participation.

1551 8. A unit owner may tape record or videotape a meeting of
 1552 the unit owners subject to reasonable rules adopted by the
 1553 division.

1554 9. Unless otherwise provided in the bylaws, any vacancy
 1555 occurring on the board before the expiration of a term may be
 1556 filled by the affirmative vote of the majority of the remaining
 1557 directors, even if the remaining directors constitute less than
 1558 a quorum, or by the sole remaining director. In the alternative,
 1559 a board may hold an election to fill the vacancy, in which case
 1560 the election procedures must conform to sub-subparagraph 4.a.
 1561 unless the association governs 10 units or fewer and has opted
 1562 out of the statutory election process, in which case the bylaws
 1563 of the association control. Unless otherwise provided in the
 1564 bylaws, a board member appointed or elected under this section
 1565 shall fill the vacancy for the unexpired term of the seat being
 1566 filled. Filling vacancies created by recall is governed by

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paragraph (1) and rules adopted by the division.

10. This chapter does not limit the use of general or limited proxies, require the use of general or limited proxies, or require the use of a written ballot or voting machine for any agenda item or election at any meeting of a timeshare condominium association or nonresidential condominium association.

Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an association of 10 or fewer units may, by affirmative vote of a majority of the total voting interests, provide for different voting and election procedures in its bylaws, which may be by a proxy specifically delineating the different voting and election procedures. The different voting and election procedures may provide for elections to be conducted by limited or general proxy.

(f) *Annual budget.*—

1. The proposed annual budget of estimated revenues and expenses must be detailed and must show the amounts budgeted by accounts and expense classifications, including, at a minimum, any applicable expenses listed in s. 718.504(21). The board shall adopt the annual budget at least 14 days before the start of the association's fiscal year. In the event that the board fails to timely adopt the annual budget a second time, it is deemed a minor violation and the prior year's budget shall continue in effect until a new budget is adopted. A multicondominium association must adopt a separate budget of common expenses for each condominium the association operates and must adopt a separate budget of common expenses for the

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association. In addition, if the association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements as provided for in s. 718.113(1), the budget or a schedule attached to it must show the amount budgeted for this maintenance. If, after turnover of control of the association to the unit owners, any of the expenses listed in s. 718.504(21) are not applicable, they do not need to be listed.

2.a. In addition to annual operating expenses, the budget must include reserve accounts for capital expenditures and planned ~~deferred~~ maintenance. These accounts must include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of planned ~~deferred~~ maintenance expense or replacement cost, and any other item that has a planned ~~deferred~~ maintenance expense or replacement cost that exceeds \$10,000. The amount to be reserved must be computed using a formula based upon estimated remaining useful life and estimated replacement cost or planned ~~deferred~~ maintenance expense of the reserve item. In a budget adopted by an association that is required to obtain a structural integrity reserve study, reserves must be maintained for the items identified in paragraph (g) for which the association is responsible pursuant to the declaration of condominium, and the reserve amount for such items must be based on the findings and recommendations of the association's most recent structural integrity reserve study. With respect to items for which an estimate of useful life is not readily ascertainable or with an estimated remaining useful life of greater than 25 years, an association is not required to reserve replacement costs for

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1625 such items, but an association must reserve the amount of
 1626 ~~planned deferred~~ maintenance expense, if any, which is
 1627 recommended by the structural integrity reserve study for such
 1628 items. The association may adjust replacement reserve
 1629 assessments annually to take into account an inflation
 1630 adjustment and any changes in estimates or extension of the
 1631 useful life of a reserve item caused by ~~planned deferred~~
 1632 maintenance. The members of a unit-owner-controlled association
 1633 may determine, by a majority vote of the total voting interests
 1634 of the association, to provide no reserves or less reserves than
 1635 required by this subsection. For a budget adopted on or after
 1636 December 31, 2024, the members of a unit-owner-controlled
 1637 association that must obtain a structural integrity reserve
 1638 study may not determine to provide no reserves or less reserves
 1639 than required by this subsection for items listed in paragraph
 1640 (g), except that members of an association operating a
 1641 multicondominium may determine to provide no reserves or less
 1642 reserves than required by this subsection if an alternative
 1643 funding method has been approved by the division. Additionally,
 1644 members of an association may determine to provide no reserves
 1645 or less reserves than required by this subsection if the
 1646 condominium building or units are unsafe and uninhabitable due
 1647 to substantial damage or loss as determined by the local
 1648 enforcement agency, as defined in s. 553.71(5), and it is in the
 1649 best interests of the association to use revenues and existing
 1650 reserve funds to perform necessary repairs to make the building
 1651 or units safe and habitable, but an association may not opt for
 1652 such a waiver of reserve requirements after the building or
 1653 units have been declared safe for occupancy by the local

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1654 enforcement agency.
 1655 b. Before turnover of control of an association by a
 1656 developer to unit owners other than a developer under s.
 1657 718.301, the developer-controlled association may not vote to
 1658 waive the reserves or reduce funding of the reserves. If a
 1659 meeting of the unit owners has been called to determine whether
 1660 to waive or reduce the funding of reserves and no such result is
 1661 achieved or a quorum is not attained, the reserves included in
 1662 the budget shall go into effect. After the turnover, the
 1663 developer may vote its voting interest to waive or reduce the
 1664 funding of reserves.
 1665 3. Reserve funds and any interest or earnings accruing
 1666 thereon shall remain in the reserve account or accounts, and may
 1667 be used only for authorized reserve expenditures unless their
 1668 use for other purposes is approved in advance by a majority vote
 1669 of all the total voting interests of the association. Before
 1670 turnover of control of an association by a developer to unit
 1671 owners other than the developer pursuant to s. 718.301, the
 1672 developer-controlled association may not vote to use reserves
 1673 for purposes other than those for which they were intended. For
 1674 a budget adopted on or after December 31, 2024, members of a
 1675 unit-owner-controlled association that must obtain a structural
 1676 integrity reserve study may not vote to use reserve funds, or
 1677 any interest accruing thereon, for any other purpose other than
 1678 the replacement or ~~planned deferred~~ maintenance costs of the
 1679 components listed in paragraph (g).
 1680 4. The only voting interests that are eligible to vote on
 1681 questions that involve waiving or reducing the funding of
 1682 reserves, or using existing reserve funds for purposes other

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than purposes for which the reserves were intended, are the voting interests of the units subject to assessment to fund the reserves in question. Proxy questions relating to waiving or reducing the funding of reserves or using existing reserve funds for purposes other than purposes for which the reserves were intended must contain the following statement in capitalized, bold letters in a font size larger than any other used on the face of the proxy ballot: WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

(g) *Structural integrity reserve study.*—

1. A residential condominium association must have a structural integrity reserve study completed at least every 10 years after the condominium's creation for each building on the condominium property that is three stories or higher in height, as determined by the Florida Building Code, which includes, at a minimum, a study of the following items as related to the structural integrity and safety of the building:

a. Roof.

b. Structure, including load-bearing walls and other primary structural members and primary structural systems as those terms are defined in s. 627.706.

c. Fireproofing and fire protection systems.

d. Plumbing.

e. Electrical systems.

f. Waterproofing and exterior painting.

g. Windows and exterior doors.

h. Any other item that has a planned ~~deferred~~ maintenance

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expense or replacement cost that exceeds \$10,000 and the failure to replace or maintain such item negatively affects the items listed in sub-subparagraphs a.-g., as determined by the visual inspection portion of the structural integrity reserve study.

2. A structural integrity reserve study is based on a visual inspection of the condominium property. A structural integrity reserve study may be performed by any person qualified to perform such study. However, the visual inspection portion of the structural integrity reserve study must be performed or verified by an engineer licensed under chapter 471, an architect licensed under chapter 481, or a person certified as a reserve specialist or professional reserve analyst by the Community Associations Institute or the Association of Professional Reserve Analysts.

3. At a minimum, a structural integrity reserve study must identify each item of the condominium property being visually inspected, state the estimated remaining useful life and the estimated replacement cost or planned ~~deferred~~ maintenance expense of each item of the condominium property being visually inspected, and provide a reserve funding schedule with a recommended annual reserve amount that achieves the estimated replacement cost or planned ~~deferred~~ maintenance expense of each item of condominium property being visually inspected by the end of the estimated remaining useful life of the item. The structural integrity reserve study may recommend that reserves do not need to be maintained for any item for which an estimate of useful life and an estimate of replacement cost cannot be determined, or the study may recommend a planned ~~deferred~~ maintenance expense amount for such item. The structural

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integrity reserve study may recommend that reserves for replacement costs do not need to be maintained for any item with an estimated remaining useful life of greater than 25 years, but the study may recommend a ~~planned deferred~~ maintenance expense amount for such item. If the condominium building or units are unsafe and uninhabitable due to substantial damage or loss as determined by the local enforcement agency, as defined in s. 533.71(5), and it is in the best interests of the association to use revenues and existing reserve funds to perform necessary repairs to make the building safe and habitable, the structural integrity reserve study may recommend a temporary pause in reserve funding or reduced reserve funding, but the association may not pause reserve funding after the building has been declared safe for occupancy by the local enforcement agency.

4. This paragraph does not apply to buildings less than three stories in height; single-family, two-family, or three-family dwellings with three or fewer habitable stories above ground; any portion or component of a building that has not been submitted to the condominium form of ownership; or any portion or component of a building that is maintained by a party other than the association.

5. Before a developer turns over control of an association to unit owners other than the developer, the developer must have a turnover inspection report in compliance with s. 718.301(4)(p) and (q) for each building on the condominium property that is three stories or higher in height.

6. Associations existing on or before July 1, 2022, which are controlled by unit owners other than the developer, must have a structural integrity reserve study completed by December

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31, 2024, for each building on the condominium property that is three stories or higher in height, except that the structural integrity reserve study may be completed after December 31, 2024, if the association has entered into a contract for the performance of a structural integrity reserve study and the study cannot reasonably be performed or completed by December 31, 2024. An association that is required to complete a milestone inspection in accordance with s. 553.899 on or before December 31, 2026, may complete the structural integrity reserve study simultaneously with the milestone inspection. In no event may the structural integrity reserve study be completed after December 31, 2026.

7. If the milestone inspection required by s. 553.899, or an inspection completed for a similar local requirement, was performed within the past 5 years and meets the requirements of this paragraph, such inspection may be used in place of the visual inspection portion of the structural integrity reserve study.

8. If the officers or directors of an association willfully and knowingly fail to complete a structural integrity reserve study pursuant to this paragraph, such failure is a breach of an officer's and director's fiduciary relationship to the unit owners under s. 718.111(1).

9. Within 45 days after receiving the structural integrity reserve study, the association must distribute a copy of the study to each unit owner or deliver to each unit owner a notice that the completed study is available for inspection and copying upon a written request. Distribution of a copy of the study or notice must be made by United States mail or personal delivery

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1799 at the mailing address, property address, or any other address
 1800 of the owner provided to fulfill the association's notice
 1801 requirements under this chapter, or by electronic transmission
 1802 to the e-mail address or facsimile number provided to fulfill
 1803 the association's notice requirements to unit owners who
 1804 previously consented to receive notice by electronic
 1805 transmission.

1806 (i) *Assessments.*—

1807 1. The manner of collecting from the unit owners their
 1808 shares of the common expenses shall be stated in the bylaws.
 1809 Assessments shall be made against units not less frequently than
 1810 quarterly in an amount which is not less than that required to
 1811 provide funds in advance for payment of all of the anticipated
 1812 current operating expenses and for all of the unpaid operating
 1813 expenses previously incurred. Nothing in this paragraph shall
 1814 preclude the right of an association to accelerate assessments
 1815 of an owner delinquent in payment of common expenses.
 1816 Accelerated assessments shall be due and payable on the date the
 1817 claim of lien is filed. Such accelerated assessments shall
 1818 include the amounts due for the remainder of the budget year in
 1819 which the claim of lien was filed.

1820 2.a. In lieu of a special assessment to fund needed repair,
 1821 maintenance, or replacement of a building component recommended
 1822 by a milestone inspection required under s. 553.899 or a similar
 1823 local inspection requirement or a structural integrity reserve
 1824 study, or unanticipated repairs, the board of a unit-owner-
 1825 controlled association may approve contingent special
 1826 assessments against each unit to secure a line of credit for the
 1827 association to provide available funding to pay for such repair,

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1828 maintenance, or replacement. The approved line of credit must be
 1829 made available to the board for the funding of the needed
 1830 repair, maintenance, or replacement. The association must record
 1831 a declaration of special assessments evidencing the levy of such
 1832 special assessments in the public records.

1833 b. Funding from the line of credit must be immediately
 1834 available for access by the board to fund required repair,
 1835 maintenance, or replacement expenses without further approval by
 1836 the members of the association. At the option of a unit owner,
 1837 the special assessment may be paid in full at the time it
 1838 becomes due or the payment may be amortized over a term of years
 1839 as provided for by the line of credit. However, a unit owner may
 1840 pay the remaining balance of the special assessment at any time
 1841 during the amortization period.

1842 c. For a budget adopted on or before December 31, 2029, an
 1843 association may secure a line of credit and assess a contingent
 1844 special assessment as provided in this subparagraph to meet the
 1845 reserve funding schedule recommended by the structural integrity
 1846 reserve study.

1847 d. Except as authorized by sub-subparagraph c., a line of
 1848 credit and contingent special assessment in this paragraph may
 1849 not be used as an alternative to the association's reserve
 1850 funding requirements in paragraph (f).

1851 (q) *Director or officer offenses.*—

1852 1. A director or an officer charged by information or
 1853 indictment with any of the following crimes is deemed removed
 1854 from office and a vacancy declared:

1855 a. Forgery of a ballot envelope or voting certificate used
 1856 in a condominium association election as provided in s. 831.01.

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1857 b. Theft or embezzlement involving the association's funds
 1858 or property as provided in s. 812.014.
 1859 c. Destruction of, or the refusal to allow inspection or
 1860 copying of, an official record of a condominium association
 1861 which is accessible to unit owners within the time periods
 1862 required by general law, in furtherance of any crime. Such act
 1863 constitutes tampering with physical evidence as provided in s.
 1864 918.13.
 1865 d. Obstruction of justice under chapter 843.
 1866 e. Any criminal violation under this chapter.
 1867 2. The board shall fill the vacancy in accordance with
 1868 paragraph (2) (d) a felony theft or embezzlement offense
 1869 involving the association's funds or property must be removed
 1870 from office, creating a vacancy in the office to be filled
 1871 according to law until the end of the period of the suspension
 1872 or the end of the director's term of office, whichever occurs
 1873 first. While such director or officer has such criminal charge
 1874 pending, he or she may not be appointed or elected to a position
 1875 as a director or an officer of any association and may not have
 1876 access to the official records of any association, except
 1877 pursuant to a court order. However, if the charges are resolved
 1878 without a finding of guilt, the director or officer shall be
 1879 reinstated for the remainder of his or her term of office, if
 1880 any.
 1881 (r) Fraudulent voting activities relating to association
 1882 elections; penalties.-
 1883 1. A person who engages in the following acts of fraudulent
 1884 voting activity relating to association elections commits a
 1885 misdemeanor of the first degree, punishable as provided in s.

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1886 775.082 or s. 775.083:
 1887 a. Willfully and falsely swearing to or affirming an oath
 1888 or affirmation, or willfully procuring another person to falsely
 1889 swear to or affirm an oath or affirmation, in connection with or
 1890 arising out of voting activities.
 1891 b. Perpetrating or attempting to perpetrate, or aiding in
 1892 the perpetration of, fraud in connection with a vote cast, to be
 1893 cast, or attempted to be cast.
 1894 c. Preventing a member from voting or preventing a member
 1895 from voting as he or she intended by fraudulently changing or
 1896 attempting to change a ballot, ballot envelope, vote, or voting
 1897 certificate of the member.
 1898 d. Menacing, threatening, or using bribery or any other
 1899 corruption to attempt, directly or indirectly, to influence,
 1900 deceive, or deter a member when the member is voting.
 1901 e. Giving or promising, directly or indirectly, anything of
 1902 value to another member with the intent to buy the vote of that
 1903 member or another member or to corruptly influence that member
 1904 or another member in casting his or her vote. This subsection
 1905 does not apply to any food served which is to be consumed at an
 1906 election rally or a meeting or to any item of nominal value
 1907 which is used as an election advertisement, including a campaign
 1908 message designed to be worn by a member.
 1909 f. Using or threatening to use, directly or indirectly,
 1910 force, violence, or intimidation or any tactic of coercion or
 1911 intimidation to induce or compel a member to vote or refrain
 1912 from voting in an election or on a particular ballot measure.
 1913 2. Each of the following acts constitutes a misdemeanor of
 1914 the first degree, punishable as provided in s. 775.082 or s.

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775.083:

a. Knowingly aiding, abetting, or advising a person in the commission of a fraudulent voting activity related to association elections.

b. Agreeing, conspiring, combining, or confederating with at least one other person to commit a fraudulent voting activity related to association elections.

c. Having knowledge of a fraudulent voting activity related to association elections and giving any aid to the offender with intent that the offender avoid or escape detection, arrest, trial, or punishment.

This subparagraph does not apply to a licensed attorney giving legal advice to a client.

3. Any person charged by information or indictment for any of the crimes in this paragraph shall be deemed removed from office and a vacancy declared.

Section 9. Subsection (5) of section 718.113, Florida Statutes, is amended to read:

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

(5) To protect the health, safety, and welfare of the people of this state and to ensure uniformity and consistency in the hurricane protections installed by condominium associations and unit owners, this subsection applies to all residential and mixed-use condominiums in this state, regardless of when the condominium is created pursuant to the declaration of condominium. Each board of administration of a residential

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condominium or mixed-use condominium shall adopt hurricane protection ~~shutter~~ specifications for each building within each condominium operated by the association which may ~~shall~~ include color, style, and other factors deemed relevant by the board. All specifications adopted by the board must comply with the applicable building code. The installation, maintenance, repair, replacement, and operation of hurricane protection in accordance with this subsection is not considered a material alteration or substantial addition to the common elements or association property within the meaning of this section.

(a) The board may, subject to s. 718.3026 and the approval of a majority of voting interests of the residential condominium or mixed-use condominium, install or require that unit owners install hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection that complies ~~comply~~ with or exceeds ~~exceed~~ the applicable building code. A vote of the unit owners to require the installation of hurricane protection must be set forth in a certificate attesting to such vote and include the date that the hurricane protection must be installed. The board must record the certificate in the public records of the county where the condominium is located. The certificate must include the recording data identifying the declaration of condominium and must be executed in the form required for the execution of a deed. Once the certificate is recorded, the board must mail or hand deliver a copy of the recorded certificate to the unit owners at the owners' addresses, as reflected in the records of the association. The board may provide a copy of the recorded certificate by electronic transmission to unit owners who

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1973 previously consented to receive notice by electronic
 1974 transmission. The failure to record the certificate or send a
 1975 copy of the recorded certificate to the unit owners does not
 1976 affect the validity or enforceability of the vote of the unit
 1977 owners. However, A vote of the unit owners under this paragraph
 1978 is not required if the installation, maintenance, repair, and
 1979 replacement of the hurricane shutters, impact glass, code-
 1980 compliant windows or doors, or other types of code-compliant
 1981 hurricane protection, or any exterior windows, doors, or other
 1982 apertures protected by the hurricane protection, is are the
 1983 responsibility of the association pursuant to the declaration of
 1984 condominium as originally recorded or as amended, or if the unit
 1985 owners are required to install hurricane protection pursuant to
 1986 the declaration of condominium as originally recorded or as
 1987 amended. If hurricane protection or laminated glass or window
 1988 film architecturally designed to function as hurricane
 1989 protection that complies with or exceeds the current applicable
 1990 building code has been previously installed, the board may not
 1991 install the same type of hurricane shutters, impact glass, code-
 1992 compliant windows or doors, or other types of code-compliant
 1993 hurricane protection or require that unit owners install the
 1994 same type of hurricane protection unless the installed hurricane
 1995 protection has reached the end of its useful life or unless it
 1996 is necessary to prevent damage to the common elements or to a
 1997 unit except upon approval by a majority vote of the voting
 1998 interests.

1999 ~~(b) The association is responsible for the maintenance,~~
 2000 ~~repair, and replacement of the hurricane shutters, impact glass,~~
 2001 ~~code-compliant windows or doors, or other types of code-~~

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2002 ~~compliant hurricane protection authorized by this subsection if~~
 2003 ~~such property is the responsibility of the association pursuant~~
 2004 ~~to the declaration of condominium. If the hurricane shutters,~~
 2005 ~~impact glass, code-compliant windows or doors, or other types of~~
 2006 ~~code-compliant hurricane protection are the responsibility of~~
 2007 ~~the unit owners pursuant to the declaration of condominium, the~~
 2008 ~~maintenance, repair, and replacement of such items are the~~
 2009 ~~responsibility of the unit owner.~~

2010 ~~(b)(c)~~ The board may operate shutters, ~~impact glass, code-~~
 2011 ~~compliant windows or doors, or other types of code-compliant~~
 2012 ~~hurricane protection installed pursuant to this subsection~~
 2013 without permission of the unit owners only if such operation is
 2014 necessary to preserve and protect the condominium property or
 2015 and association property. ~~The installation, replacement,~~
 2016 ~~operation, repair, and maintenance of such shutters, impact~~
 2017 ~~glass, code-compliant windows or doors, or other types of code-~~
 2018 ~~compliant hurricane protection in accordance with the procedures~~
 2019 ~~set forth in this paragraph are not a material alteration to the~~
 2020 ~~common elements or association property within the meaning of~~
 2021 ~~this section.~~

2022 ~~(c)(d)~~ Notwithstanding any other provision in the
 2023 residential condominium or mixed-use condominium documents, if
 2024 approval is required by the documents, a board may not refuse to
 2025 approve the installation or replacement of ~~hurricane shutters,~~
 2026 ~~impact glass, code-compliant windows or doors, or other types of~~
 2027 ~~code-compliant hurricane protection by a unit owner which~~
 2028 conforms ~~conforming~~ to the specifications adopted by the board.
 2029 However, a board may require the unit owner to adhere to an
 2030 existing unified building scheme regarding the external

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2031 appearance of the condominium.

2032 (d) A unit owner is not responsible for the cost of any
 2033 removal or reinstallation of hurricane protection, and any
 2034 exterior window, door, or other aperture protected by the
 2035 hurricane protection, if its removal is necessary for the
 2036 maintenance, repair, or replacement of other condominium
 2037 property or association property for which the association is
 2038 responsible. The board shall determine if the removal or
 2039 reinstallation of hurricane protection must be completed by the
 2040 unit owner or the association. If such removal or reinstallation
 2041 is completed by the association, the costs incurred by the
 2042 association may not be charged to the unit owner. If such
 2043 removal or installation is completed by the unit owner, the
 2044 association must reimburse the unit owner for the cost of the
 2045 removal or installation or the association must apply the unit
 2046 owner's cost of removal or installation as a credit toward
 2047 future assessments.

2048 (e) If the removal or installation of hurricane protection
 2049 or of any exterior windows, doors, or other apertures protected
 2050 by the hurricane protection are the responsibility of the unit
 2051 owner, such removal or installation is completed by the
 2052 association, and the association then charges the unit owner for
 2053 such removal or installation, such charges are enforceable as an
 2054 assessment and may be collected in the manner provided under s.
 2055 718.116.

2056 Section 10. Paragraph (e) of subsection (1) of section
 2057 718.115, Florida Statutes, is amended to read:
 2058 718.115 Common expenses and common surplus.-
 2059 (1)

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2060 (e)1. Except as provided in s. 718.113(5)(d) The expense of
 2061 installation, replacement, operation, repair, and maintenance of
 2062 hurricane shutters, impact glass, code-compliant windows or
 2063 doors, or other types of code-compliant hurricane protection by
 2064 the board pursuant to s. 718.113(5) constitutes a common expense
 2065 and shall be collected as provided in this section if the
 2066 association is responsible for the maintenance, repair, and
 2067 replacement of the hurricane shutters, impact glass, code-
 2068 compliant windows or doors, or other types of code-compliant
 2069 hurricane protection pursuant to the declaration of condominium.
 2070 However, if the installation of maintenance, repair, and
 2071 replacement of the hurricane shutters, impact glass, code-
 2072 compliant windows or doors, or other types of code-compliant
 2073 hurricane protection is are the responsibility of the unit
 2074 owners pursuant to the declaration of condominium or a vote of
 2075 the unit owners under s. 718.113(5), the cost of the
 2076 installation of the hurricane shutters, impact glass, code-
 2077 compliant windows or doors, or other types of code-compliant
 2078 hurricane protection by the association is not a common expense
 2079 and must shall be charged individually to the unit owners based
 2080 on the cost of installation of the hurricane shutters, impact
 2081 glass, code-compliant windows or doors, or other types of code-
 2082 compliant hurricane protection appurtenant to the unit. The
 2083 costs of installation of hurricane protection are enforceable as
 2084 an assessment and may be collected in the manner provided under
 2085 s. 718.116.

2086 2. Notwithstanding s. 718.116(9), and regardless of whether
 2087 or not the declaration requires the association or unit owners
 2088 to install, maintain, repair, or replace hurricane shutters,

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2089 ~~impact glass, code-compliant windows or doors, or other types of~~
 2090 ~~code-compliant hurricane protection, the a unit owner of a unit~~
 2091 ~~where who has previously installed hurricane shutters in~~
 2092 ~~accordance with s. 718.113(5) that comply with the current~~
 2093 ~~applicable building code shall receive a credit when the~~
 2094 ~~shutters are installed; a unit owner who has previously~~
 2095 ~~installed impact glass or code-compliant windows or doors that~~
 2096 ~~comply with the current applicable building code shall receive a~~
 2097 ~~credit when the impact glass or code-compliant windows or doors~~
 2098 ~~are installed; and a unit owner who has installed other types of~~
 2099 ~~code-compliant hurricane protection that complies ~~comply~~ with~~
 2100 ~~the current applicable building code has been installed is~~
 2101 ~~excused from any assessment levied by the association or shall~~
 2102 ~~receive a credit if when the same type of ~~other code-compliant~~~~
 2103 ~~hurricane protection is installed by the association, and the~~
 2104 ~~credit shall be equal to the pro rata portion of the assessed~~
 2105 ~~installation cost assigned to each unit. A credit is applicable~~
 2106 ~~if the installation of hurricane protection is for all other~~
 2107 ~~units that do not have hurricane protection and the cost of such~~
 2108 ~~installation is funded by the association's budget, including~~
 2109 ~~the use of reserve funds. The credit must be equal to the amount~~
 2110 ~~that the unit owner would have been assessed to install the~~
 2111 ~~hurricane protection. However, such unit owner remains~~
 2112 ~~responsible for the pro rata share of expenses for hurricane~~
 2113 ~~shutters, impact glass, code-compliant windows or doors, or~~
 2114 ~~other types of code-compliant hurricane protection installed on~~
 2115 ~~common elements and association property by the board pursuant~~
 2116 ~~to s. 718.113(5) and remains responsible for a pro rata share of~~
 2117 ~~the expense of the replacement, operation, repair, and~~

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2118 maintenance of such ~~shutters, impact glass, code-compliant~~
 2119 ~~windows or doors, or other types of code-compliant hurricane~~
 2120 ~~protection. Expenses for the installation, replacement,~~
 2121 ~~operation, repair, or maintenance of hurricane protection on~~
 2122 ~~common elements and association property are common expenses.~~
 2123 Section 11. Paragraph (a) of subsection (8) of section
 2124 718.116, Florida Statutes, is amended to read
 2125 718.116 Assessments; liability; lien and priority;
 2126 interest; collection.—
 2127 (8) Within 10 business days after receiving a written or
 2128 electronic request therefor from a unit owner or the unit
 2129 owner's designee, or a unit mortgagee or the unit mortgagee's
 2130 designee, the association shall issue the estoppel certificate.
 2131 Each association shall designate on its website a person or
 2132 entity with a street or e-mail address for receipt of a request
 2133 for an estoppel certificate issued pursuant to this section. The
 2134 estoppel certificate must be provided by hand delivery, regular
 2135 mail, or e-mail to the requestor on the date of issuance of the
 2136 estoppel certificate.
 2137 (a) An estoppel certificate may be completed by any board
 2138 member, authorized agent, or authorized representative of the
 2139 association, including any authorized agent, authorized
 2140 representative, or employee of a management company authorized
 2141 to complete this form on behalf of the board or association. The
 2142 estoppel certificate must contain all of the following
 2143 information and must be substantially in the following form:
 2144 1. Date of issuance:....
 2145 2. Name(s) of the unit owner(s) as reflected in the books
 2146 and records of the association:....

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2147 3. Unit designation and address:....

2148 4. Parking or garage space number, as reflected in the

2149 books and records of the association:....

2150 5. Attorney's name and contact information if the account

2151 is delinquent and has been turned over to an attorney for

2152 collection. No fee may be charged for this information.

2153 6. Fee for the preparation and delivery of the estoppel

2154 certificate:....

2155 7. Name of the requestor:....

2156 8. Assessment information and other information:

2157

2158 ASSESSMENT INFORMATION:

2159

2160 a. The regular periodic assessment levied against the unit

2161 is \$.... per ...(insert frequency of payment)....

2162 b. The regular periodic assessment is paid through

2163 ...(insert date paid through)....

2164 c. The next installment of the regular periodic assessment

2165 is due ...(insert due date)... in the amount of \$....

2166 d. An itemized list of all assessments, special

2167 assessments, and other moneys owed on the date of issuance to

2168 the association by the unit owner for a specific unit is

2169 provided.

2170 e. An itemized list of any additional assessments, special

2171 assessments, contingent special assessments, and other moneys

2172 that are scheduled to become due for each day after the date of

2173 issuance for the effective period of the estoppel certificate is

2174 provided. In calculating the amounts that are scheduled to

2175 become due, the association may assume that any delinquent

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2176 amounts will remain delinquent during the effective period of

2177 the estoppel certificate.

2178 f. Any line of credit for which a contingent special

2179 assessment may be imposed.

2180

2181 OTHER INFORMATION:

2182

2183 g.f. Is there a capital contribution fee, resale fee,

2184 transfer fee, or other fee due?(Yes)(No). If yes,

2185 specify the type and the amount of the fee.

2186 h.g. Is there any open violation of rule or regulation

2187 noticed to the unit owner in the association official records?

2188(Yes)(No).

2189 i.h. Do the rules and regulations of the association

2190 applicable to the unit require approval by the board of

2191 directors of the association for the transfer of the unit?

2192(Yes)(No). If yes, has the board approved the transfer

2193 of the unit?(Yes)(No).

2194 j.i. Is there a right of first refusal provided to the

2195 members or the association?(Yes)(No). If yes, have the

2196 members or the association exercised that right of first

2197 refusal?(Yes)(No).

2198 k.j. Provide a list of, and contact information for, all

2199 other associations of which the unit is a member.

2200 l.k. Provide contact information for all insurance

2201 maintained by the association.

2202 m.l. Provide the signature of an officer or authorized

2203 agent of the association.

2204

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The association, at its option, may include additional information in the estoppel certificate.

Section 12. Paragraph (a) of subsection (4) of section 718.121, Florida Statutes, is amended to read:

718.121 Liens.—

(4) (a) If an association sends out an invoice for assessments or a unit's statement of the account described in s. 718.111(12)(a)11.c. ~~s. 718.111(12)(a)11.b.~~, the invoice for assessments or the unit's statement of account must be delivered to the unit owner by first-class United States mail or by electronic transmission to the unit owner's e-mail address maintained in the association's official records.

Section 13. Section 718.1224, Florida Statutes, is amended to read:

718.1224 Prohibition against SLAPP suits; other prohibited actions.—

(1) It is the intent of the Legislature to protect the right of condominium unit owners to exercise their rights to instruct their representatives and petition for redress of grievances before their condominium association and the various governmental entities of this state as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution. The Legislature recognizes that strategic lawsuits against public participation, or "SLAPP suits," as they are typically referred to, have occurred when association members are sued by condominium associations, individuals, business entities, or governmental entities arising out of a condominium unit owner's appearance and presentation before the board of the condominium association or a

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governmental entity on matters related to the condominium association. However, it is the public policy of this state that condominium associations, governmental entities, business organizations, and individuals not engage in SLAPP suits, because such actions are inconsistent with the right of condominium unit owners to participate in their condominium association and in the state's institutions of government. Therefore, the Legislature finds and declares that prohibiting such lawsuits by condominium associations, governmental entities, business entities, and individuals against condominium unit owners who address matters concerning their condominium association will preserve this fundamental state policy, preserve the constitutional rights of condominium unit owners, ~~and~~ ensure the continuation of representative government in this state, and ensure unit owner participation in condominium associations. It is the intent of the Legislature that such lawsuits be expeditiously disposed of by the courts. As used in this subsection, the term "governmental entity" means the state, including the executive, legislative, and judicial branches of government; law enforcement agencies; the independent establishments of the state, counties, municipalities, districts, authorities, boards, or commissions; or any agencies of these branches that are subject to chapter 286.

(2) A condominium association, governmental entity, business organization, or individual in this state may not file or cause to be filed through its employees or agents any lawsuit, cause of action, claim, cross-claim, or counterclaim against a condominium unit owner without merit and solely because such condominium unit owner has exercised the right to

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instruct his or her representatives or the right to petition for redress of grievances before the condominium association or the various governmental entities of this state, as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution.

(3) A condominium association may not fine, discriminatorily increase a unit owner's assessments or discriminatorily decrease services to a unit owner, or bring or threaten to bring an action for possession or other civil action, including a defamation, libel, slander, or tortious interference action, based on conduct described in paragraphs (a) through (f). In order for the unit owner to raise the defense of retaliatory conduct, the unit owner must have acted in good faith and not for any improper purposes, such as to harass or to cause unnecessary delay or for frivolous purpose or needless increase in the cost of litigation. Examples of conduct for which a condominium association, officer, director, or agent of an association may not retaliate include, but are not limited to, situations where:

(a) The unit owner has in good faith complained to a governmental agency charged with responsibility for enforcement of a building, housing, or health code of a suspected violation applicable to the condominium;

(b) The unit owner has organized, encouraged, or participated in a unit owners' organization;

(c) The unit owner submitted information or filed a complaint alleging criminal violations or violations of this chapter or the rules of the division with the division, the Office of the Condominium Ombudsman, a law enforcement agency, a

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state attorney, the Attorney General, or any other governmental agency;

(d) The unit owner has exercised his or her rights under this chapter;

(e) The unit owner has complained to the association or any of its representatives for their failure to comply with this chapter or chapter 617; or

(f) The unit owner has made public statements critical of the operation or management of the association.

(4) Evidence of retaliatory conduct may be raised by the unit owner as a defense in any action brought against him or her for possession.

(5) A condominium unit owner sued by a condominium association, governmental entity, business organization, or individual in violation of this section has a right to an expeditious resolution of a claim that the suit is in violation of this section. A condominium unit owner may petition the court for an order dismissing the action or granting final judgment in favor of that condominium unit owner. The petitioner may file a motion for summary judgment, together with supplemental affidavits, seeking a determination that the condominium association's, governmental entity's, business organization's, or individual's lawsuit has been brought in violation of this section. The condominium association, governmental entity, business organization, or individual shall thereafter file its response and any supplemental affidavits. As soon as practicable, the court shall set a hearing on the petitioner's motion, which shall be held at the earliest possible time after the filing of the condominium association's, governmental

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entity's, business organization's, or individual's response. The court may award the condominium unit owner sued by the condominium association, governmental entity, business organization, or individual actual damages arising from the condominium association's, governmental entity's, individual's, or business organization's violation of this section. A court may treble the damages awarded to a prevailing condominium unit owner and shall state the basis for the treble damages award in its judgment. The court shall award the prevailing party reasonable attorney's fees and costs incurred in connection with a claim that an action was filed in violation of this section.

(6)~~(4)~~ Condominium associations may not expend association funds in prosecuting a SLAPP suit against a condominium unit owner.

(7) Condominium associations may not expend association funds in support of a defamation, libel, slander, or tortious interference action against a unit owner or any other claim against a unit owner based on conduct described in paragraphs (3) (a) - (f).

Section 14. Section 718.128, Florida Statutes, is amended to read:

718.128 Electronic voting.—The association may conduct elections and other unit owner votes through an Internet-based online voting system if a unit owner consents, electronically or in writing, to online voting and if the following requirements are met:

(1) The association provides each unit owner with:

(a) A method to authenticate the unit owner's identity to the online voting system.

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(b) For elections of the board, a method to transmit an electronic ballot to the online voting system that ensures the secrecy and integrity of each ballot.

(c) A method to confirm, at least 14 days before the voting deadline, that the unit owner's electronic device can successfully communicate with the online voting system.

(2) The association uses an online voting system that is:

(a) Able to authenticate the unit owner's identity.

(b) Able to authenticate the validity of each electronic vote to ensure that the vote is not altered in transit.

(c) Able to transmit a receipt from the online voting system to each unit owner who casts an electronic vote.

(d) For elections of the board of administration, able to permanently separate any authentication or identifying information from the electronic election ballot, rendering it impossible to tie an election ballot to a specific unit owner.

(e) Able to store and keep electronic votes accessible to election officials for recount, inspection, and review purposes.

(3) A unit owner voting electronically pursuant to this section shall be counted as being in attendance at the meeting for purposes of determining a quorum. A substantive vote of the unit owners may not be taken on any issue other than the issues specifically identified in the electronic vote, when a quorum is established based on unit owners voting electronically pursuant to this section.

(4) This section applies to an association that provides for and authorizes an online voting system pursuant to this section by a board resolution. The board resolution must provide that unit owners receive notice of the opportunity to vote

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2379 through an online voting system, must establish reasonable
 2380 procedures and deadlines for unit owners to consent,
 2381 electronically or in writing, to online voting, and must
 2382 establish reasonable procedures and deadlines for unit owners to
 2383 opt out of online voting after giving consent. Written notice of
 2384 a meeting at which the resolution will be considered must be
 2385 mailed, delivered, or electronically transmitted to the unit
 2386 owners and posted conspicuously on the condominium property or
 2387 association property at least 14 days before the meeting.
 2388 Evidence of compliance with the 14-day notice requirement must
 2389 be made by an affidavit executed by the person providing the
 2390 notice and filed with the official records of the association.

2391 (5) A unit owner's consent to online voting is valid until
 2392 the unit owner opts out of online voting according to the
 2393 procedures established by the board of administration pursuant
 2394 to subsection (4).

2395 (6) This section may apply to any matter that requires a
 2396 vote of the unit owners who are not members of a timeshare
 2397 condominium association.

2398 Section 15. Paragraph (p) of subsection (4) of section
 2399 718.301, Florida Statutes, is amended to read:

2400 718.301 Transfer of association control; claims of defect
 2401 by association.—

2402 (4) At the time that unit owners other than the developer
 2403 elect a majority of the members of the board of administration
 2404 of an association, the developer shall relinquish control of the
 2405 association, and the unit owners shall accept control.
 2406 Simultaneously, or for the purposes of paragraph (c) not more
 2407 than 90 days thereafter, the developer shall deliver to the

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2408 association, at the developer's expense, all property of the
 2409 unit owners and of the association which is held or controlled
 2410 by the developer, including, but not limited to, the following
 2411 items, if applicable, as to each condominium operated by the
 2412 association:

2413 (p) Notwithstanding when the certificate of occupancy was
 2414 issued or the height of the building, a turnover inspection
 2415 report included in the official records, under seal of an
 2416 architect or engineer authorized to practice in this state or a
 2417 person certified as a reserve specialist or professional reserve
 2418 analyst by the Community Associations Institute or the
 2419 Association of Professional Reserve Analysts, and consisting of
 2420 a structural integrity reserve study attesting to required
 2421 maintenance, condition, useful life, and replacement costs of
 2422 the following applicable condominium property:

2423 1. Roof.

2424 2. Structure, including load-bearing walls and primary
 2425 structural members and primary structural systems as those terms
 2426 are defined in s. 627.706.

2427 3. Fireproofing and fire protection systems.

2428 4. Plumbing.

2429 5. Electrical systems.

2430 6. Waterproofing and exterior painting.

2431 7. Windows and exterior doors.

2432 Section 16. Paragraph (a) of subsection (2) of section
 2433 718.3026, Florida Statutes, is amended to read:

2434 718.3026 Contracts for products and services; in writing;
 2435 bids; exceptions.—Associations with 10 or fewer units may opt
 2436 out of the provisions of this section if two-thirds of the unit

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owners vote to do so, which opt-out may be accomplished by a proxy specifically setting forth the exception from this section.

(2) (a) Notwithstanding the foregoing, contracts with employees of the association, and contracts for attorney, accountant, architect, community association manager, timeshare management firm, engineering, registered investment adviser, and landscape architect services are not subject to the provisions of this section.

Section 17. Subsections (4) and (5) of section 718.3027, Florida Statutes, are amended to read:

718.3027 Conflicts of interest.—

(4) A director or an officer, or a relative of a director or an officer, who is a party to, or has an interest in, an activity that is a possible conflict of interest, as described in subsection (1), may attend the meeting at which the activity is considered by the board and is authorized to make a presentation to the board regarding the activity. After the presentation, the director or officer, and any ~~or~~ the relative of the director or officer, must leave the meeting during the discussion of, and the vote on, the activity. A director or an officer who is a party to, or has an interest in, the activity must recuse himself or herself from the vote. The attendance of a director with a possible conflict of interest at the meeting of the board is sufficient to constitute a quorum for the meeting and the vote in his or her absence on the proposed activity.

(5) A contract entered into between a director or an officer, or a relative of a director or an officer, and the

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association, which is not a timeshare condominium association, that has not been properly disclosed as a conflict of interest or potential conflict of interest as required by this section or s. 617.0832 ~~s. 718.111(12)(g)~~ is voidable and terminates upon the filing of a written notice terminating the contract with the board of directors which contains the consent of at least 20 percent of the voting interests of the association.

Section 18. Subsection (5) of section 718.303, Florida Statutes, is amended to read:

718.303 Obligations of owners and occupants; remedies.—

(5) An association may suspend the voting rights of a unit owner or member due to nonpayment of any fee, fine, or other monetary obligation due to the association which is more than \$1,000 and more than 90 days delinquent. Proof of such obligation must be provided to the unit owner or member 30 days before such suspension takes effect. Notice of such obligation must also be provided to the unit owner at least 90 days before an election. A voting interest or consent right allocated to a unit owner or member which has been suspended by the association shall be subtracted from the total number of voting interests in the association, which shall be reduced by the number of suspended voting interests when calculating the total percentage or number of all voting interests available to take or approve any action, and the suspended voting interests shall not be considered for any purpose, including, but not limited to, the percentage or number of voting interests necessary to constitute a quorum, the percentage or number of voting interests required to conduct an election, or the percentage or number of voting interests required to approve an action under this chapter or

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pursuant to the declaration, articles of incorporation, or bylaws. The suspension ends upon full payment of all obligations currently due or overdue the association. The notice and hearing requirements under subsection (3) do not apply to a suspension imposed under this subsection.

Section 19. Subsections (1) and (2) of section 718.501, Florida Statutes, are amended to read:

718.501 Authority, responsibility, and duties of Division of Florida Condominiums, Timeshares, and Mobile Homes.—

(1) The division may enforce and ensure compliance with this chapter and rules relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units and complaints related to the procedural completion of milestone inspections under s. 553.899. In performing its duties, the division has complete jurisdiction to investigate complaints and enforce compliance with respect to associations that are still under developer control or the control of a bulk assignee or bulk buyer pursuant to part VII of this chapter and complaints against developers, bulk assignees, or bulk buyers involving improper turnover or failure to turnover, pursuant to s. 718.301. ~~However, after turnover has occurred, the division has jurisdiction to investigate complaints related only to financial issues, elections, and the maintenance of and unit owner access to association records under s. 718.111(12), and the procedural completion of structural integrity reserve studies under s. 718.112(2)(g).~~

(a)1. The division may make necessary public or private investigations within or outside this state to determine whether any person has violated this chapter or any rule or order

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hereunder, to aid in the enforcement of this chapter, or to aid in the adoption of rules or forms.

2. The division may submit any official written report, worksheet, or other related paper, or a duly certified copy thereof, compiled, prepared, drafted, or otherwise made by and duly authenticated by a financial examiner or analyst to be admitted as competent evidence in any hearing in which the financial examiner or analyst is available for cross-examination and attests under oath that such documents were prepared as a result of an examination or inspection conducted pursuant to this chapter.

(b) The division may require or permit any person to file a statement in writing, under oath or otherwise, as the division determines, as to the facts and circumstances concerning a matter to be investigated.

(c) For the purpose of any investigation under this chapter, the division director or any officer or employee designated by the division director may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon the failure by a person to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all affected persons, the division may apply to the circuit court for an order compelling

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compliance.

(d) Notwithstanding any remedies available to unit owners and associations, if the division has reasonable cause to believe that a violation of any provision of this chapter or related rule has occurred, the division may institute enforcement proceedings in its own name against any developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents, as follows:

1. The division may permit a person whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against the person.

2. The division may issue an order requiring the developer, bulk assignee, bulk buyer, association, developer-designated officer, or developer-designated member of the board of administration, developer-designated assignees or agents, bulk assignee-designated assignees or agents, bulk buyer-designated assignees or agents, community association manager, or community association management firm to cease and desist from the unlawful practice and take such affirmative action as in the judgment of the division carry out the purposes of this chapter. If the division finds that a developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents, is violating or is about to violate any provision of this chapter, any rule adopted or order issued by the division, or any written agreement entered into with the division, and presents an immediate danger

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to the public requiring an immediate final order, it may issue an emergency cease and desist order reciting with particularity the facts underlying such findings. The emergency cease and desist order is effective for 90 days. If the division begins nonemergency cease and desist proceedings, the emergency cease and desist order remains effective until the conclusion of the proceedings under ss. 120.569 and 120.57.

3. If a developer, bulk assignee, or bulk buyer fails to pay any restitution determined by the division to be owed, plus any accrued interest at the highest rate permitted by law, within 30 days after expiration of any appellate time period of a final order requiring payment of restitution or the conclusion of any appeal thereof, whichever is later, the division must bring an action in circuit or county court on behalf of any association, class of unit owners, lessees, or purchasers for restitution, declaratory relief, injunctive relief, or any other available remedy. The division may also temporarily revoke its acceptance of the filing for the developer to which the restitution relates until payment of restitution is made.

4. The division may petition the court for appointment of a receiver or conservator. If appointed, the receiver or conservator may take action to implement the court order to ensure the performance of the order and to remedy any breach thereof. In addition to all other means provided by law for the enforcement of an injunction or temporary restraining order, the circuit court may impound or sequester the property of a party defendant, including books, papers, documents, and related records, and allow the examination and use of the property by the division and a court-appointed receiver or conservator.

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2611 5. The division may apply to the circuit court for an order
 2612 of restitution whereby the defendant in an action brought under
 2613 subparagraph 4. is ordered to make restitution of those sums
 2614 shown by the division to have been obtained by the defendant in
 2615 violation of this chapter. At the option of the court, such
 2616 restitution is payable to the conservator or receiver appointed
 2617 under subparagraph 4. or directly to the persons whose funds or
 2618 assets were obtained in violation of this chapter.

2619 6. The division may impose a civil penalty against a
 2620 developer, bulk assignee, or bulk buyer, or association, or its
 2621 assignee or agent, for any violation of this chapter, or related
 2622 rule, or chapter 617. The division may impose a civil penalty
 2623 individually against an officer or board member who willfully
 2624 and knowingly violates this chapter, an adopted rule, or a final
 2625 order of the division; may order the removal of such individual
 2626 as an officer or from the board of administration or as an
 2627 officer of the association; and may prohibit such individual
 2628 from serving as an officer or on the board of a community
 2629 association for a period of time. The term "willfully and
 2630 knowingly" means that the division informed the officer or board
 2631 member that his or her action or intended action violates this
 2632 chapter, a rule adopted under this chapter, or a final order of
 2633 the division and that the officer or board member refused to
 2634 comply with the requirements of this chapter, a rule adopted
 2635 under this chapter, or a final order of the division. The
 2636 division, before initiating formal agency action under chapter
 2637 120, must afford the officer or board member an opportunity to
 2638 voluntarily comply, and an officer or board member who complies
 2639 within 10 days is not subject to a civil penalty. A penalty may

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2640 be imposed on the basis of each day of continuing violation, but
 2641 the penalty for any offense may not exceed \$5,000. The division
 2642 shall adopt, by rule, penalty guidelines applicable to possible
 2643 violations or to categories of violations of this chapter or
 2644 rules adopted by the division. The guidelines must specify a
 2645 meaningful range of civil penalties for each such violation of
 2646 the statute and rules and must be based upon the harm caused by
 2647 the violation, upon the repetition of the violation, and upon
 2648 such other factors deemed relevant by the division. For example,
 2649 the division may consider whether the violations were committed
 2650 by a developer, bulk assignee, or bulk buyer, or owner-
 2651 controlled association, the size of the association, and other
 2652 factors. The guidelines must designate the possible mitigating
 2653 or aggravating circumstances that justify a departure from the
 2654 range of penalties provided by the rules. It is the legislative
 2655 intent that minor violations be distinguished from those which
 2656 endanger the health, safety, or welfare of the condominium
 2657 residents or other persons and that such guidelines provide
 2658 reasonable and meaningful notice to the public of likely
 2659 penalties that may be imposed for proscribed conduct. This
 2660 subsection does not limit the ability of the division to
 2661 informally dispose of administrative actions or complaints by
 2662 stipulation, agreed settlement, or consent order. All amounts
 2663 collected shall be deposited with the Chief Financial Officer to
 2664 the credit of the Division of Florida Condominiums, Timeshares,
 2665 and Mobile Homes Trust Fund. If a developer, bulk assignee, or
 2666 bulk buyer fails to pay the civil penalty and the amount deemed
 2667 to be owed to the association, the division shall issue an order
 2668 directing that such developer, bulk assignee, or bulk buyer

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cease and desist from further operation until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If an association fails to pay the civil penalty, the division shall pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order is not effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in the county where the violation occurred.

7. If a unit owner presents the division with proof that the unit owner has requested access to official records in writing by certified mail, and that after 10 days the unit owner again made the same request for access to official records in writing by certified mail, and that more than 10 days has elapsed since the second request and the association has still failed or refused to provide access to official records as required by this chapter, the division shall issue a subpoena requiring production of the requested records where the records are kept pursuant to s. 718.112. Upon receipt of the records, the division must provide without charge the produced official records to the unit owner who was denied access to such records.

8. In addition to subparagraph 6., the division may seek the imposition of a civil penalty through the circuit court for any violation for which the division may issue a notice to show cause under paragraph (s) ~~(#)~~. The civil penalty shall be at least \$500 but no more than \$5,000 for each violation. The court may also award to the prevailing party court costs and reasonable attorney fees and, if the division prevails, may also

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award reasonable costs of investigation.

(e) The division may prepare and disseminate a prospectus and other information to assist prospective owners, purchasers, lessees, and developers of residential condominiums in assessing the rights, privileges, and duties pertaining thereto.

(f) The division may adopt rules to administer and enforce this chapter.

(g) The division shall establish procedures for providing notice to an association and the developer, bulk assignee, or bulk buyer during the period in which the developer, bulk assignee, or bulk buyer controls the association if the division is considering the issuance of a declaratory statement with respect to the declaration of condominium or any related document governing such condominium community.

(h) The division shall furnish each association that pays the fees required by paragraph (2)(a) a copy of this chapter, as amended, and the rules adopted thereto on an annual basis.

(i) The division shall annually provide each association with a summary of declaratory statements and formal legal opinions relating to the operations of condominiums which were rendered by the division during the previous year.

(j) The division shall provide training and educational programs for condominium association board members and unit owners. The training may, in the division's discretion, include web-based electronic media and live training and seminars in various locations throughout the state. The division may review and approve education and training programs for board members and unit owners offered by providers and shall maintain a current list of approved programs and providers and make such

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list available to board members and unit owners in a reasonable and cost-effective manner. The division shall provide the educational curriculum required under s. 718.112(2)(d) and issue a certificate of satisfactory completion to directors of the board of administration at no charge, including when the required educational curriculum is provided by a division-approved condominium education provider.

(k) The division shall maintain a toll-free telephone number accessible to condominium unit owners.

(l) The division shall develop a program to certify both volunteer and paid mediators to provide mediation of condominium disputes. The division shall provide, upon request, a list of such mediators to any association, unit owner, or other participant in alternative dispute resolution proceedings under s. 718.1255 requesting a copy of the list. The division shall include on the list of volunteer mediators only the names of persons who have received at least 20 hours of training in mediation techniques or who have mediated at least 20 disputes. In order to become initially certified by the division, paid mediators must be certified by the Supreme Court to mediate court cases in county or circuit courts. However, the division may adopt, by rule, additional factors for the certification of paid mediators, which must be related to experience, education, or background. Any person initially certified as a paid mediator by the division must, in order to continue to be certified, comply with the factors or requirements adopted by rule.

(m) If a complaint is made, the division must conduct its inquiry with due regard for the interests of the affected parties. Within 30 days after receipt of a complaint, the

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division shall acknowledge the complaint in writing and notify the complainant whether the complaint is within the jurisdiction of the division and whether additional information is needed by the division from the complainant. The division shall conduct its investigation and, within 90 days after receipt of the original complaint or of timely requested additional information, take action upon the complaint. However, the failure to complete the investigation within 90 days does not prevent the division from continuing the investigation, accepting or considering evidence obtained or received after 90 days, or taking administrative action if reasonable cause exists to believe that a violation of this chapter or a rule has occurred. If an investigation is not completed within the time limits established in this paragraph, the division shall, on a monthly basis, notify the complainant in writing of the status of the investigation. When reporting its action to the complainant, the division shall inform the complainant of any right to a hearing under ss. 120.569 and 120.57. The division may adopt rules regarding the submission of a complaint against an association.

(n) Condominium association directors, officers, and employees; condominium developers; bulk assignees, bulk buyers, and community association managers; and community association management firms have an ongoing duty to reasonably cooperate with the division in any investigation under this section. The division shall refer to local law enforcement authorities any person whom the division believes has altered, destroyed, concealed, or removed any record, document, or thing required to be kept or maintained by this chapter with the purpose to impair

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its verity or availability in the department's investigation.
The division shall refer to local law enforcement authorities
any person whom the division believes has engaged in fraud,
theft, embezzlement, or other criminal activity or when the
division has cause to believe that fraud, theft, embezzlement,
or other criminal activity has occurred.

(o) The division director or any officer or employee of the
division, and the condominium ombudsman or employee of the
Office of the Condominium Ombudsman may attend and observe any
meeting of the board of administration or unit owner meeting,
including any meeting of a subcommittee or special committee,
that is open to members of the association for the purpose of
performing the duties of the division or the Office of the
Condominium Ombudsman under this chapter.

(p) The division may:

1. Contract with agencies in this state or other jurisdictions to perform investigative functions; or
2. Accept grants-in-aid from any source.

(q) ~~(p)~~ The division shall cooperate with similar agencies in other jurisdictions to establish uniform filing procedures and forms, public offering statements, advertising standards, and rules and common administrative practices.

(r) ~~(q)~~ The division shall consider notice to a developer, bulk assignee, or bulk buyer to be complete when it is delivered to the address of the developer, bulk assignee, or bulk buyer currently on file with the division.

(s) ~~(r)~~ In addition to its enforcement authority, the division may issue a notice to show cause, which must provide for a hearing, upon written request, in accordance with chapter

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(t) The division shall routinely conduct random audits of
condominium associations to determine compliance with the
website or application requirements for official records under
s. 718.111(12)(g).

(u) ~~(s)~~ The division shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees an annual report that includes, but need not be limited to, the number of training programs provided for condominium association board members and unit owners, the number of complaints received by type, the number and percent of complaints acknowledged in writing within 30 days and the number and percent of investigations acted upon within 90 days in accordance with paragraph (m), and the number of investigations exceeding the 90-day requirement. The annual report must also include an evaluation of the division's core business processes and make recommendations for improvements, including statutory changes. The report shall be submitted by September 30 following the end of the fiscal year.

(2) (a) Each condominium association which operates more than two units shall pay to the division an annual fee in the amount of \$4 for each residential unit in condominiums operated by the association. The annual fee shall be filed together with the annual certification described in paragraph (c). If the fee is not paid by March 1, the association shall be assessed a penalty of 10 percent of the amount due, and the association will not have standing to maintain or defend any action in the courts of this state until the amount due, plus any penalty, is

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2843 paid.

2844 (b) All fees shall be deposited in the Division of Florida
2845 Condominiums, Timeshares, and Mobile Homes Trust Fund as
2846 provided by law.

2847 (c) On the certification form provided by the division, the
2848 directors of the association shall certify that all directors of
2849 the association have completed the written certification and
2850 educational certificate requirements in s. 718.112(2)(d)4.b.

2851 Section 20. Subsection (1) of section 718.618, Florida
2852 Statutes, is amended to read:

2853 718.618 Converter reserve accounts; warranties.—

2854 (1) When existing improvements are converted to ownership
2855 as a residential condominium, the developer shall establish
2856 converter reserve accounts for capital expenditures and planned
2857 ~~deferred~~ maintenance, or give warranties as provided by
2858 subsection (6), or post a surety bond as provided by subsection
2859 (7). The developer shall fund the converter reserve accounts in
2860 amounts calculated as follows:

2861 (a)1. When the existing improvements include an air-
2862 conditioning system serving more than one unit or property which
2863 the association is responsible to repair, maintain, or replace,
2864 the developer shall fund an air-conditioning reserve account.
2865 The amount of the reserve account shall be the product of the
2866 estimated current replacement cost of the system, as disclosed
2867 and substantiated pursuant to s. 718.616(3)(b), multiplied by a
2868 fraction, the numerator of which shall be the lesser of the age
2869 of the system in years or 9, and the denominator of which shall
2870 be 10. When such air-conditioning system is within 1,000 yards
2871 of the seacoast, the numerator shall be the lesser of the age of

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2872 the system in years or 3, and the denominator shall be 4.

2873 2. The developer shall fund a plumbing reserve account. The
2874 amount of the funding shall be the product of the estimated
2875 current replacement cost of the plumbing component, as disclosed
2876 and substantiated pursuant to s. 718.616(3)(b), multiplied by a
2877 fraction, the numerator of which shall be the lesser of the age
2878 of the plumbing in years or 36, and the denominator of which
2879 shall be 40.

2880 3. The developer shall fund a roof reserve account. The
2881 amount of the funding shall be the product of the estimated
2882 current replacement cost of the roofing component, as disclosed
2883 and substantiated pursuant to s. 718.616(3)(b), multiplied by a
2884 fraction, the numerator of which shall be the lesser of the age
2885 of the roof in years or the numerator listed in the following
2886 table. The denominator of the fraction shall be determined based
2887 on the roof type, as follows:

	Roof Type	Numerator	Denominator
2889	a. Built-up roof	4	5
	without insulation		
2890	b. Built-up roof with	4	5
	insulation		
2891	c. Cement tile roof	45	50
2892	d. Asphalt shingle	14	15
	roof		

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e. Copper roof

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f. Wood shingle roof 9 10

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g. All other types 18 20

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(b) The age of any component or structure for which the developer is required to fund a reserve account shall be measured in years, rounded to the nearest whole year. The amount of converter reserves to be funded by the developer for each structure or component shall be based on the age of the structure or component as disclosed in the inspection report. The architect or engineer shall determine the age of the component from the later of:

1. The date when the component or structure was replaced or substantially renewed, if the replacement or renewal of the component at least met the requirements of the then-applicable building code; or

2. The date when the installation or construction of the existing component or structure was completed.

(c) When the age of a component or structure is to be measured from the date of replacement or renewal, the developer shall provide the division with a certificate, under the seal of an architect or engineer authorized to practice in this state, verifying:

1. The date of the replacement or renewal; and

2. That the replacement or renewal at least met the

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requirements of the then-applicable building code.

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Section 21. Paragraphs (j) and (k) of subsection (1) of section 719.106, Florida Statutes, are amended to read:

719.106 Bylaws; cooperative ownership.—

(1) MANDATORY PROVISIONS.—The bylaws or other cooperative documents shall provide for the following, and if they do not, they shall be deemed to include the following:

(j) *Annual budget*.—

1. The proposed annual budget of common expenses must be detailed and must show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in s. 719.504(20). The board of administration shall adopt the annual budget at least 14 days before the start of the association's fiscal year. In the event that the board fails to timely adopt the annual budget a second time, it is deemed a minor violation and the prior year's budget shall continue in effect until a new budget is adopted.

2. In addition to annual operating expenses, the budget must include reserve accounts for capital expenditures and planned ~~deferred~~ maintenance. These accounts must include, but not be limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of planned

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2948 ~~deferred~~ maintenance expense or replacement cost, and for any
 2949 other items for which the planned ~~deferred~~ maintenance expense
 2950 or replacement cost exceeds \$10,000. The amount to be reserved
 2951 must be computed by means of a formula which is based upon
 2952 estimated remaining useful life and estimated replacement cost
 2953 or planned ~~deferred~~ maintenance expense of the reserve item. In
 2954 a budget adopted by an association that is required to obtain a
 2955 structural integrity reserve study, reserves must be maintained
 2956 for the items identified in paragraph (k) for which the
 2957 association is responsible pursuant to the declaration, and the
 2958 reserve amount for such items must be based on the findings and
 2959 recommendations of the association's most recent structural
 2960 integrity reserve study. With respect to items for which an
 2961 estimate of useful life is not readily ascertainable or with an
 2962 estimated remaining useful life of greater than 25 years, an
 2963 association is not required to reserve replacement costs for
 2964 such items, but an association must reserve the amount of
 2965 planned ~~deferred~~ maintenance expense, if any, which is
 2966 recommended by the structural integrity reserve study for such
 2967 items. The association may adjust replacement reserve
 2968 assessments annually to take into account an inflation
 2969 adjustment and any changes in estimates or extension of the
 2970 useful life of a reserve item caused by planned ~~deferred~~
 2971 maintenance. The members of a unit-owner-controlled association
 2972 may determine, by a majority vote of the total voting interests
 2973 of the association, for a fiscal year to provide no reserves or
 2974 reserves less adequate than required by this subsection. Before
 2975 turnover of control of an association by a developer to unit
 2976 owners other than a developer under s. 719.301, the developer-

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2977 controlled association may not vote to waive the reserves or
 2978 reduce funding of the reserves. For a budget adopted on or after
 2979 December 31, 2024, a unit-owner-controlled association that must
 2980 obtain a structural integrity reserve study may not determine to
 2981 provide no reserves or reserves less adequate than required by
 2982 this paragraph for items listed in paragraph (k). If a meeting
 2983 of the unit owners has been called to determine to provide no
 2984 reserves, or reserves less adequate than required, and such
 2985 result is not attained or a quorum is not attained, the reserves
 2986 as included in the budget shall go into effect.

2987 3. Reserve funds and any interest accruing thereon shall
 2988 remain in the reserve account or accounts, and shall be used
 2989 only for authorized reserve expenditures unless their use for
 2990 other purposes is approved in advance by a vote of the majority
 2991 of the total voting interests of the association. Before
 2992 turnover of control of an association by a developer to unit
 2993 owners other than the developer under s. 719.301, the developer
 2994 may not vote to use reserves for purposes other than that for
 2995 which they were intended. For a budget adopted on or after
 2996 December 31, 2024, members of a unit-owner-controlled
 2997 association that must obtain a structural integrity reserve
 2998 study may not vote to use reserve funds, or any interest
 2999 accruing thereon, for purposes other than the replacement or
 3000 planned ~~deferred~~ maintenance costs of the components listed in
 3001 paragraph (k).

3002 (k) *Structural integrity reserve study.*-
 3003 1. A residential cooperative association must have a
 3004 structural integrity reserve study completed at least every 10
 3005 years for each building on the cooperative property that is

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three stories or higher in height, as determined by the Florida Building Code, that includes, at a minimum, a study of the following items as related to the structural integrity and safety of the building:

- a. Roof.
- b. Structure, including load-bearing walls and other primary structural members and primary structural systems as those terms are defined in s. 627.706.
- c. Fireproofing and fire protection systems.
- d. Plumbing.
- e. Electrical systems.
- f. Waterproofing and exterior painting.
- g. Windows and exterior doors.
- h. Any other item that has a planned ~~deferred~~ maintenance expense or replacement cost that exceeds \$10,000 and the failure to replace or maintain such item negatively affects the items listed in sub-subparagraphs a.-g., as determined by the visual inspection portion of the structural integrity reserve study.

2. A structural integrity reserve study is based on a visual inspection of the cooperative property. A structural integrity reserve study may be performed by any person qualified to perform such study. However, the visual inspection portion of the structural integrity reserve study must be performed or verified by an engineer licensed under chapter 471, an architect licensed under chapter 481, or a person certified as a reserve specialist or professional reserve analyst by the Community Associations Institute or the Association of Professional Reserve Analysts.

3. At a minimum, a structural integrity reserve study must

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identify each item of the cooperative property being visually inspected, state the estimated remaining useful life and the estimated replacement cost or planned ~~deferred~~ maintenance expense of each item of the cooperative property being visually inspected, and provide a reserve funding schedule with a recommended annual reserve amount that achieves the estimated replacement cost or planned ~~deferred~~ maintenance expense of each item of cooperative property being visually inspected by the end of the estimated remaining useful life of the item. The structural integrity reserve study may recommend that reserves do not need to be maintained for any item for which an estimate of useful life and an estimate of replacement cost cannot be determined, or the study may recommend a planned ~~deferred~~ maintenance expense amount for such item. The structural integrity reserve study may recommend that reserves for replacement costs do not need to be maintained for any item with an estimated remaining useful life of greater than 25 years, but the study may recommend a planned ~~deferred~~ maintenance expense amount for such item.

4. This paragraph does not apply to buildings less than three stories in height; single-family, two-family, or three-family dwellings with three or fewer habitable stories above ground; any portion or component of a building that has not been submitted to the cooperative form of ownership; or any portion or component of a building that is maintained by a party other than the association.

5. Before a developer turns over control of an association to unit owners other than the developer, the developer must have a turnover inspection report in compliance with s. 719.301(4)(p)

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and (q) for each building on the cooperative property that is three stories or higher in height.

6. Associations existing on or before July 1, 2022, which are controlled by unit owners other than the developer, must have a structural integrity reserve study completed by December 31, 2024, for each building on the cooperative property that is three stories or higher in height, except that the structural integrity reserve study may be completed after December 31, 2024, if the association has entered into a contract for the performance of a structural integrity reserve study and the study cannot reasonably be performed or completed by December 31, 2024. An association that is required to complete a milestone inspection on or before December 31, 2026, in accordance with s. 553.899 may complete the structural integrity reserve study simultaneously with the milestone inspection. In no event may the structural integrity reserve study be completed after December 31, 2026.

7. If the milestone inspection required by s. 553.899, or an inspection completed for a similar local requirement, was performed within the past 5 years and meets the requirements of this paragraph, such inspection may be used in place of the visual inspection portion of the structural integrity reserve study.

8. If the officers or directors of an association willfully and knowingly fail to complete a structural integrity reserve study pursuant to this paragraph, such failure is a breach of an officer's and director's fiduciary relationship to the unit owners under s. 719.104(9).

9. Within 45 days after receiving the structural integrity

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reserve study, the association must distribute a copy of the study to each unit owner or deliver to each unit owner a notice that the completed study is available for inspection and copying upon a written request. Distribution of a copy of the study or notice must be made by United States mail or personal delivery at the mailing address, property address, or any other address of the owner provided to fulfill the association's notice requirements under this chapter, or by electronic transmission to the e-mail address or facsimile number provided to fulfill the association's notice requirements to unit owners who previously consented to receive notice by electronic transmission.

Section 22. Section 719.129, Florida Statutes, is amended to read:

719.129 Electronic voting.—The association may conduct elections and other unit owner votes through an Internet-based online voting system if a unit owner consents, electronically or in writing, to online voting and if the following requirements are met:

(1) The association provides each unit owner with:

(a) A method to authenticate the unit owner's identity to the online voting system.

(b) For elections of the board, a method to transmit an electronic ballot to the online voting system that ensures the secrecy and integrity of each ballot.

(c) A method to confirm, at least 14 days before the voting deadline, that the unit owner's electronic device can successfully communicate with the online voting system.

(2) The association uses an online voting system that is:

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3122 (a) Able to authenticate the unit owner's identity.
 3123 (b) Able to authenticate the validity of each electronic
 3124 vote to ensure that the vote is not altered in transit.
 3125 (c) Able to transmit a receipt from the online voting
 3126 system to each unit owner who casts an electronic vote.
 3127 (d) For elections of the board of administration, able to
 3128 permanently separate any authentication or identifying
 3129 information from the electronic election ballot, rendering it
 3130 impossible to tie an election ballot to a specific unit owner.
 3131 (e) Able to store and keep electronic votes accessible to
 3132 election officials for recount, inspection, and review purposes.
 3133 (3) A unit owner voting electronically pursuant to this
 3134 section shall be counted as being in attendance at the meeting
 3135 for purposes of determining a quorum. A substantive vote of the
 3136 unit owners may not be taken on any issue other than the issues
 3137 specifically identified in the electronic vote, when a quorum is
 3138 established based on unit owners voting electronically pursuant
 3139 to this section.
 3140 (4) This section applies to an association that provides
 3141 for and authorizes an online voting system pursuant to this
 3142 section by a board resolution. The board resolution must provide
 3143 that unit owners receive notice of the opportunity to vote
 3144 through an online voting system, must establish reasonable
 3145 procedures and deadlines for unit owners to consent,
 3146 electronically or in writing, to online voting, and must
 3147 establish reasonable procedures and deadlines for unit owners to
 3148 opt out of online voting after giving consent. Written notice of
 3149 a meeting at which the resolution will be considered must be
 3150 mailed, delivered, or electronically transmitted to the unit

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3151 owners and posted conspicuously on the condominium property or
 3152 association property at least 14 days before the meeting.
 3153 Evidence of compliance with the 14-day notice requirement must
 3154 be made by an affidavit executed by the person providing the
 3155 notice and filed with the official records of the association.
 3156 (5) A unit owner's consent to online voting is valid until
 3157 the unit owner opts out of online voting pursuant to the
 3158 procedures established by the board of administration pursuant
 3159 to subsection (4).
 3160 (6) This section may apply to any matter that requires a
 3161 vote of the unit owners who are not members of a timeshare
 3162 cooperative association.
 3163 Section 23. Paragraph (p) of subsection (4) of section
 3164 719.301, Florida Statutes, is amended to read:
 3165 719.301 Transfer of association control.—
 3166 (4) When unit owners other than the developer elect a
 3167 majority of the members of the board of administration of an
 3168 association, the developer shall relinquish control of the
 3169 association, and the unit owners shall accept control.
 3170 Simultaneously, or for the purpose of paragraph (c) not more
 3171 than 90 days thereafter, the developer shall deliver to the
 3172 association, at the developer's expense, all property of the
 3173 unit owners and of the association held or controlled by the
 3174 developer, including, but not limited to, the following items,
 3175 if applicable, as to each cooperative operated by the
 3176 association:
 3177 (p) Notwithstanding when the certificate of occupancy was
 3178 issued or the height of the building, a turnover inspection
 3179 report included in the official records, under seal of an

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architect or engineer authorized to practice in this state or a person certified as a reserve specialist or professional reserve analyst by the Community Associations Institute or the Association of Professional Reserve Analysts, consisting of a structural integrity reserve study attesting to required maintenance, condition, useful life, and replacement costs of the following applicable cooperative property:

1. Roof.
2. Structure, including load-bearing walls and primary structural members and primary structural systems as those terms are defined in s. 627.706.
3. Fireproofing and fire protection systems.
4. Plumbing.
5. Electrical systems.
6. Waterproofing and exterior painting.
7. Windows and exterior doors.

Section 24. Subsection (1) of section 719.618, Florida Statutes, is amended to read:

719.618 Converter reserve accounts; warranties.—

(1) When existing improvements are converted to ownership as a residential cooperative, the developer shall establish reserve accounts for capital expenditures and planned ~~deferred~~ maintenance, or give warranties as provided by subsection (6), or post a surety bond as provided by subsection (7). The developer shall fund the reserve accounts in amounts calculated as follows:

(a)1. When the existing improvements include an air-conditioning system serving more than one unit or property which the association is responsible to repair, maintain, or replace,

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the developer shall fund an air-conditioning reserve account.

The amount of the reserve account shall be the product of the estimated current replacement cost of the system, as disclosed and substantiated pursuant to s. 719.616(3)(b), multiplied by a fraction, the numerator of which shall be the lesser of the age of the system in years or 9, and the denominator of which shall be 10. When such air-conditioning system is within 1,000 yards of the seacoast, the numerator shall be the lesser of the age of the system in years or 3, and the denominator shall be 4.

2. The developer shall fund a plumbing reserve account. The amount of the funding shall be the product of the estimated current replacement cost of the plumbing component, as disclosed and substantiated pursuant to s. 719.616(3)(b), multiplied by a fraction, the numerator of which shall be the lesser of the age of the plumbing in years or 36, and the denominator of which shall be 40.

3. The developer shall fund a roof reserve account. The amount of the funding shall be the product of the estimated current replacement cost of the roofing component, as disclosed and substantiated pursuant to s. 719.616(3)(b), multiplied by a fraction, the numerator of which shall be the lesser of the age of the roof in years or the numerator listed in the following table. The denominator of the fraction shall be determined based on the roof type, as follows:

	Roof Type	Numerator	Denominator
a.	Built-up roof without insulation	4	5

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3235

b. Built-up roof with 4 5
insulation

3236

c. Cement tile roof 45 50

3237

d. Asphalt shingle 14 15
roof

3238

e. Copper roof

3239

f. Wood shingle roof 9 10

3240

g. All other types 18 20

3241

3242

3243 (b) The age of any component or structure for which the
3244 developer is required to fund a reserve account shall be
3245 measured in years from the later of:

3246 1. The date when the component or structure was replaced or
3247 substantially renewed, if the replacement or renewal of the
3248 component at least met the requirements of the then-applicable
3249 building code; or

3250 2. The date when the installation or construction of the
3251 existing component or structure was completed.

3252 (c) When the age of a component or structure is to be
3253 measured from the date of replacement or renewal, the developer
3254 shall provide the division with a certificate, under the seal of
3255 an architect or engineer authorized to practice in this state,

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3256

verifying:

3257

1. The date of the replacement or renewal; and

3258

2. That the replacement or renewal at least met the

3259

requirements of the then-applicable building code.

3260

Section 25. The Division of Florida Condominiums,

3261

Timeshares, and Mobile Homes of the Department of Business and

3262

Professional Regulation shall complete a review of the website

3263

or application requirements for official records under s.

3264

718.111(12)(g), Florida Statutes, and make recommendations

3265

regarding any additional official records of a condominium

3266

association that should be included in the record maintenance

3267

requirement in the statute. The division shall submit the

3268

findings of its review to the Governor, the President of the

3269

Senate, the Speaker of the House of Representatives, and the

3270

chairs of the legislative appropriations committees and

3271

appropriate substantive committees with jurisdiction over

3272

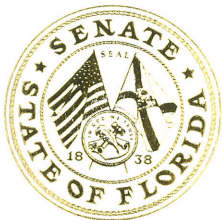
chapter 718, Florida Statutes, by February 1, 2025.

3273

Section 26. Except as otherwise expressly provided in this

3274

act, this act shall take effect July 1, 2024.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

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

SELECT COMMITTEE:

Select Committee on Resiliency

SENATOR JENNIFER BRADLEY

6th District

January 24, 2024

Senator Jason Brodeur, Chairman
Senate Appropriations Committee on Agriculture, Environment, and General Government
414 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Brodeur:

I respectfully request that CS/SB 1178 be placed on the committee's agenda at your earliest convenience. This bill relates to community associations.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Jennifer Bradley". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Jennifer Bradley

cc: Giovanni Betta, Staff Director
Julie Brass, Administrative Assistant

REPLY TO:

- ☐ 1845 East West Parkway, Suite 5, Fleming Island, Florida 32003 (904) 278-2085
- ☐ 124 Northwest Madison Street, Lake City, Florida 32055 (386) 719-2708
- ☐ 408 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate
APPEARANCE RECORD

3.13.24

Meeting Date

1178

Bill Number or Topic

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

Committee

Trey Goldman

Name

850-224-1400

Phone

Address

200 S Monroe St.

treyg@floridarealtors.org

Email

Street

Tallahassee

FL

32301

City

State

Zip

Reset Form

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Florida Realtors

☐

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

2/13/24

Meeting Date

AEG Appropriations

Committee

1176

Bill Number or Topic

Amendment Barcode (if applicable)

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

Name Mark Anderson

Phone 813-205-0654

Address 110 S. Monex St
Street

Email mark@consultanderson.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:

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

Community Association Managers

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)

02/13/2024

Meeting Date

Appr. Agricultura, Envirom & GG

Committee

The Florida Senate

APPEARANCE RECORD

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

SB 1178

Bill Number or Topic

Amendment Barcode (if applicable)

954-850-7262

Name

Edda " Ivonne" Fernandez

Phone

Address

215 S. Monroe Street- Suite 603

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](#) ([flisenate.gov](#))

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2-13-24

Meeting Date

1178

Bill Number or Topic

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

As. Enviro, & Gen Gov't Affs

Committee

Amendment Barcode (if applicable)

Name Travis Moore

Phone 727.421.6902

Address P.O. Box 2020

Email travis@moore-relations.com

Street

St. Petersburg FL

33731

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

Community Associations Institute
& FirstService Residential

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2-13-24

Meeting Date

1178

Bill Number or Topic

As, Enviro + Gen Gov't Appops

Committee

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

633220

Amendment Barcode (if applicable)

Name TRAVIS MOORE

Phone 727.421.6902

Address P.O. Box 2020

Street

Email travis@moore-relations.com

St. Petersburg

City

FL

State

33731

Zip

Speaking: ☒ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Community Associations Institute
+ FirstService Residential

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/SB 1262

INTRODUCER: Military and Veterans Affairs, Space, and Domestic Security Committee and Senator Collins

SUBJECT: Qualifications for County Emergency Management Directors

DATE: February 12, 2024 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ingram	Proctor	MS	Fav/CS
2.	Nortelus	Betta	AEG	Favorable
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1262 creates minimum education, experience, and training standards for all county emergency management directors (directors).

The bill requires directors to have at least a bachelor's degree and six years of verifiable experience in emergency services, emergency management, emergency planning, law enforcement, or firefighting services. At least three of those years must be supervisory experience in emergency management, response, or operations for a county, a municipality, the state, or the Federal Government. A master's degree in certain fields may be substituted for two years of the required experience but not for the required supervisory experience.

The bill also requires that the directors complete specific National Incident Management System (NIMS) courses, or equivalent courses established by the Federal Emergency Management Agency (FEMA). Alternatively, accreditation as a Certified Master Exercise Practitioner, a Certified Emergency Manager, or a Florida Professional Emergency Manager may be a substitute for the course requirements. A director must also have a valid driver license, and if the license is not a Florida driver license, he or she must obtain a Florida driver license within 30 days after being appointed. Current directors will have until June 30, 2026, to meet the new criteria.

The bill has no fiscal impact.

The bill takes effect July 1, 2024.

II. Present Situation:

State Emergency Management Act

Florida is vulnerable to a wide variety of emergencies, including natural, technological, and manufactured disasters threatening the health and safety of people, damaging and destroying property, disrupting services, and impeding economic growth and development.¹ To reduce these vulnerabilities, promote emergency² preparedness, response, mitigation, recovery, and coordinate all emergency management functions of the state with the political subdivisions of the state, other states, and the Federal Government,³ the Legislature adopted the State Emergency Management Act (Act).⁴

Under the Act, emergency management⁵ responsibilities include:

- Reducing vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural, technological, or manmade emergencies⁶ or hostile military or paramilitary action.
- Preparing for prompt and efficient response and recovery to protect lives and property affected by emergencies.
- Responding to emergencies using all systems, plans, and resources necessary to preserve adequately the health, safety, and welfare of persons or property affected by the emergency.
- Recovery from emergencies by providing for the rapid and orderly start of restoration and rehabilitation of persons and property affected by emergencies.
- Providing of emergency management system embodying all aspects of pre-emergency preparedness and post-emergency response, recovery, and mitigation.
- Assisting with the anticipation, recognition, appraisal, prevention, and mitigation of emergencies which may be caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.⁷

¹ Section 252.311(1), F.S.

² Section 252.34(4), F.S., defines emergency as any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

³ Sections 252.311 and 252.32, F.S.

⁴ Sections 252.31-252.60, F.S. See s. 252.31, F.S.

⁵ Section 252.34(5), F.S., defines emergency management as preparation for, the mitigation of, the response to, and the recovery from emergencies and disasters.

⁶ Section 252.34(7), F.S., defines manmade emergency as an emergency caused by an action against persons or society, including, but not limited to, enemy attack, sabotage, terrorism, civil unrest, or other action impairing the orderly administration of government.

⁷ Section 252.34(5)(a)-(f), F.S.

Florida Division of Emergency Management

Overview

The Florida Division of Emergency Management (FDEM) is created within the Executive Office of the Governor in accordance with s. 14.2016, F.S.,⁸ to implement the purposes of the Act. The FDEM is the state's liaison with federal agencies and other public and private agencies, and it administers programs to assist communities impacted by an emergency.⁹ With a mission to coordinate, collaborate, and communicate with community stakeholders, the FDEM plans for and responds to both natural and manmade disasters,¹⁰ including, but not limited to, floods, hurricanes, and incidents involving hazardous materials or nuclear power.¹¹ The duties of the FDEM include preparing and updating the state comprehensive emergency management plan (CEMP);¹² adopting standards and requirements for county emergency plans;¹³ assisting political subdivisions with preparing and maintaining their emergency management plans;¹⁴ and reviewing the political subdivision plans, ensuring consistency with the CEMP and the adopted standards and requirements.¹⁵ Additional duties include, coordinating federal, state, and local emergency management actions in advance of an actual emergency to ensure availability of adequately trained and equipped personnel before, during, and after an emergency or disaster.¹⁶

The FDEM also conducts extensive exercises to test state and county emergency capabilities and provides emergency operations training for state and local governmental entities.¹⁷ Additionally, after a disaster, the FDEM advises the Governor on whether to declare an emergency and seek federal relief funds.¹⁸ The State Emergency Operations Center, maintained by the FDEM in Tallahassee, serves as the communications and command center for reporting emergencies and coordinating the state response activities. The State Warning Point, a state emergency communications center operated by the FDEM and staffed around the clock, maintains statewide communications with county emergency officials.¹⁹

⁸ Ch. 2011-142, s. 7, Laws of Fla.

⁹ Section 14.2016(1), F.S.

¹⁰ Section 252.34(2), F.S., defines disaster as any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States. The statute further delineates disasters by the severity of resulting damage as catastrophic, major, or minor.

¹¹ Fla. Division of Emergency Management, About the Division, available at <https://www.floridadisaster.org/dem/about-the-division/> (last visited February 8, 2024).

¹² See section 252.35(2)(a), F.S. The state comprehensive emergency plan must be integrated into and coordinate with federal emergency management plans and programs.

¹³ Section 252.35(2)(b), F.S.

¹⁴ Section 252.35(2)(c), F.S.

¹⁵ Section 252.35(2)(d), F.S.

¹⁶ Section 252.35(2)(l), F.S.

¹⁷ Fla. Division of Emergency Management, *supra* note 11.

¹⁸ Pinellas Park Fire Department, Florida Division of Emergency Management, available at <https://www.pinellas-park.com/236/Florida-Division-of-Emergency-Management> (last visited February 8, 2024).

¹⁹ Fla. Division of Emergency Management, *supra* note 11.

FDEM Core Programs²⁰

- Preparedness Bureau administers a statewide emergency management all-hazards preparedness program to ensure the State Emergency Response Team²¹ is prepared.
 - Facilitates prompt and efficient response and recovery.
 - Protects lives and property impacted by disasters.
 - Coordinates training courses for counties and first responders.
- Response Bureau coordinates state operational response activities among partner organizations that are active during emergencies and disasters affecting the state.
 - Monitors incidents that may require state response.
 - Manages 24/7 State Watch Office.²²
 - Oversees logistics vendor management and resource deployment.
 - Supports the State Emergency Response Commission through the Technological Hazards Unit.²³
- Recovery Bureau works to maximize and accelerate federal disaster assistance to eligible public-sector partners and residents through various state and federal disaster assistance programs and administers recovery funding, such as public assistance.
- Mitigation Bureau assists communities in reducing the impacts of certain disasters and provides technical assistance to counties developing and implementing local mitigation strategies.
 - Administers federal mitigation grant programs, including the Hazard Mitigation Grant Program, Pre-Disaster Mitigation Program, and Flood Mitigation Assistance Program and the Building Resilient Infrastructure and Communities Program.
 - Administers the Hurricane Loss Mitigation Program, a state-funded mitigation program. Routinely updates the State Enhanced Hazard Mitigation Plan.²⁴

Division Director

The FDEM director's office provides management and oversight to the FDEM's overall functions.²⁵ In accordance with section 14.2016(1), F.S., the FDEM director is appointed by and serves at the pleasure of the Governor and is the head of the FDEM for all purposes.²⁶ Background or credential requirements of the FDEM director are not prescribed in the statute nor under the Act. The current FDEM Executive Director has a master's degree and is accredited as

²⁰ Fla. Division of Emergency Management, Presentation, *Overview of FDEM*, p. 2 (Nov. 14, 2023) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

²¹ The FDEM website provides that the State Emergency Response Team is an inter-agency organization authorized by law for the purpose of responding to, recovering from, mitigating against, and preparing for disasters, *available at*, <https://www.floridadisaster.org/sert/> (last visited on February 8, 2024).

²² Section 14.2016(2), F.S., provides that the State Watch Office is established within the FDEM and is a clearinghouse of information with a primary purpose to record, analyze, and share information with federal, state, and county entities for appropriate response to emergencies.

²³ Fla. Division of Emergency Management, About the Division, Response, *Technological Hazards*, *available at* <https://www.floridadisaster.org/dem/response/technological-hazards/> (last visited February 8, 2024).

²⁴ Fla. Division of Emergency Management, About the Division, Mitigation, *available at* <https://www.floridadisaster.org/dem/mitigation/> (last visited February 8, 2024).

²⁵ Fla. Division of Emergency Management, Office of the Director, *available at* <https://www.floridadisaster.org/dem/directors-office/> (last visited February 8, 2024).

²⁶ Section 14.2016(1), F.S.

a certified Master Exercise Practitioner²⁷ by the FEMA. He also has over 30 years of experience in Public Safety and Emergency Management within the state, including supervisory experience in the same field.²⁸

Within the office of the director, the media office handles internal and external affairs; the Florida National Guard Liaison²⁹ is the primary point of contact for inquiries and coordination between the military and the FDEM; and regional coordinators³⁰ live and work across the state and are first in line to support to their respective area regions on all emergency management matters including local plan development, preparedness, training and exercise, recovery, and mitigation information.³¹

Emergency Management-Counties and Municipalities

State policy for responding to disasters is to support local emergency response efforts while also recognizing the need for state assistance when the scope of a disaster is greater than can be met by local resources.³² The Act provides specific authorization and emergency powers to counties, requiring each county to establish and maintain an emergency management agency and develop a county emergency management plan and program consistent with the CEMP and program.³³ Municipalities are encouraged to create their own emergency management plans but must coordinate with the county emergency management agency.³⁴

County emergency management agencies must each have a director appointed by either their respective board of county commissioners or county chief administrative officer and serving at the pleasure of the appointing authority. The county emergency management director may be a county constitutional officer³⁵ or an employee of such an officer. Responsible for the organization, administration, and operation of the county emergency management agency, the director must coordinate the emergency activities, services, and programs of the agency throughout the county and serve as the county liaison to FDEM and other local emergency management entities.³⁶

²⁷ The Master Exercise Practitioner Program is a professional level program designed for advanced exercise practitioners in emergency management exercise design, conduct, and evaluation and is the most advanced program offered through the FEMA Emergency Management Institute. See U.S. Dep't of Homeland Security, FEMA-EMI, *Master Exercise Practitioner Program*, available at <https://training.fema.gov/programs/nsec/mepp/> (last visited February 8, 2024).

²⁸ Fla. Division of Emergency Management, Director's Office-Meet the Director, Kevin Guthrie, available at <https://www.floridadisaster.org/dem/directors-office/FDEMDirector/> (last visited February 8, 2024).

²⁹ Fla. Division of Emergency Management, Director's Office, *Military Liaison*, available at <https://www.floridadisaster.org/dem/directors-office/military-liaison/> (last visited February 8, 2024).

³⁰ Fla. Division of Emergency Management, Director's Office, *Regional Preparedness and Response Coordinators-Regional Emergency Management Coordination Team*, available at <https://www.floridadisaster.org/dem/directors-office/regions/> (last visited February 8, 2024).

³¹ Fla. Division of Emergency Management, *supra* note 25.

³² Section 252.311(3), F.S.

³³ Section 252.38(1)(a), F.S.

³⁴ Section 252.38(2), F.S.

³⁵ FLA. CONST. art. VIII, s. 1(d) requires the election of the following county officers: sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit courts.

³⁶ Section 252.38(1)(b), F.S.

In accordance with s. 252.38(1), F.S., the only qualifications a county director must meet are the minimum training and education standards in the job description approved by the county. Since there are no uniform minimum requirements for county directors, counties vary in the qualifications required for the position as shown by the following table:

County	Minimum Required Education	Required Experience	Required Licenses/Certifications
Broward ³⁷	Bachelor's degree in required subject ³⁸	6 years in emergency planning and management, including 4 years of high level supervisory and administrative experience or closely related experience	Valid Florida Class E Driver License; Florida Professional Manager (FPFM) or Certified Emergency Manager (CEM)
Escambia ³⁹	Graduation from 2-year college or university Bachelor's degree may be substituted for 2 years of professional experience	5 years professional experience in emergency management, emergency incident command & control, and familiarity with disaster relief	Valid driver license from state of residence; NIMS certifications IS700, IS800, IS100, IS200, ICS300, and ICS400
Leon County ⁴⁰	Bachelor's degree in required subject ⁴¹	5 years related work experience; 2 years of which must have been in a supervisory capacity; or equivalent combination of training and experience	Valid Florida Driver license.
Sarasota ⁴²	Bachelor's degree in required subject ⁴³ Master's degree ⁴⁴ may be substituted for 2 years of required experience	6 years related experience At least 4 years supervisory experience in emergency management or operations of a city or county *progressively responsible professional experience may be substituted on a year for year basis for the college degree	Valid Florida driver license Certified Emergency Manager (CEM) or Florida Professional Emergency Manager (FPFM) or ability to obtain within one-year

³⁷ Broward County, Human Resources Division, Classification Pay Grades, EA044 Director of Emergency Management, available at <https://www.broward.org/HumanResources/Pages/CombinedPayPlan.aspx> (last visited February 8, 2024).

³⁸ Public safety, emergency management, public or business administration or closely related field. *Id.*

³⁹ Escambia County, BCC Job Descriptions, *Emergency Management Division Director*, available at <https://myescambia.com/our-services/human-resources/employment/job-descriptions> (last visited February 8, 2024).

⁴⁰ Leon County, Class Specifications, *Director-Emergency Management*, available at <https://www.governmentjobs.com/careers/leoncountyfl/classspecs?keywords=Emergency%20management> (last visited February 8, 2024).

⁴¹ Emergency Management, Business or Public Administration, or a related field. *Id.*

⁴² Sarasota County Gov't, Job Posting August 10, 2023, *Emergency Management Chief (Manager III) – R16608*, available at <https://sgrjobs.com/SGR/position.php?JobID=453641> (last visited February 8, 2024).

⁴³ Public administration, management, business science, or technical field. *Id.*

⁴⁴ Sarasota County Gov't, *supra* note 39. See also, Sarasota County Gov't Classification provides that a master's degree may be substituted for 1 year of required experience for an Emergency Management Chief - Manager IV Classification. (Dec. 4, 2023) available at <https://www.scgov.net/home/showpublisheddocument/62861/638374535070700000> (last visited February 8, 2024).

County	Minimum Required Education	Required Experience	Required Licenses/Certifications
Volusia ⁴⁵	Bachelor's degree in required subject ⁴⁶	5 years progressively responsible work in emergency management	Valid driver license; must obtain a valid Florida driver license within 30 days of appointment and maintain thereafter

Emergency Manager Qualifications

The Emergency Management Institute (EMI) run by the FEMA is the primary center for the development and delivery of emergency management training nationally, emphasizing programs such as the NIMS.⁴⁷ A comprehensive approach to managing emergency and disaster incidents, NIMS is intended to apply across all jurisdictional levels and functional disciplines for the management of all potential incidents, hazards, and impacts regardless of size, location, or complexity.⁴⁸ The National Qualification System (NQS) within NIMS establishes guidance and tools to assist participants in developing processes for qualifying, certifying, and credentialing deployable emergency personnel.⁴⁹ The pinnacle program offered by the FEMA's EMI is the Master Exercise Practitioner Program.⁵⁰ In addition to the NIMS program, national certification is available through the International Association of Emergency Managers (IAEM). IAEM has two levels of individual certification, the Certified Emergency Manager (CEM) and the Associate Emergency Manager (AEM).⁵¹

NIMS maintains a core training curriculum including the following courses, all of which are available online as interactive web-based instruction:⁵²

- IS-100.C: Introduction to the Incident Command System, ICS 100. The course introduces the Incident Command System (ICS); provides the foundation for higher level ICS training; describes the history, features and principles, and organizational structure of the ICS; and explains the relationship between ICS and NIMS. Course objectives include all of the following:
 - Explaining the principles and basic structure of the ICS.
 - Describing the NIMS management characteristics that are the foundation of the ICS.
 - Describing the ICS functional areas and the roles of the Incident Commander and Command Staff.

⁴⁵ Volusia County, Current Job Openings, Class Specifications, *Emergency Management Director-3166*, available at <https://www.governmentjobs.com/careers/volusiaco/classspecs?page=13> (last visited February 8, 2024).

⁴⁶ Business, public administration, emergency management, homeland security, or related field. *Id.*

⁴⁷ Nat'l Association of Counties, *Managing Disasters at the County Level, A National Survey* (March 2019) p. 4, available at https://www.naco.org/sites/default/files/documents/Emergency%20Management%20in%20County%20Government_03.25.19.pdf (last visited February 8, 2024).

⁴⁸ *Id.* See also, U.S. Dep't of Homeland Security, FEMA, National Incident Management System, available at <https://www.fema.gov/emergency-managers/nims> (last visited February 8, 2024).

⁴⁹ U.S. Dep't of Homeland Security, FEMA, *National Incident Management System Guideline for the National Qualification System* (Nov. 2017), p. 1, available at https://www.fema.gov/sites/default/files/2020-05/fema_nims_nqs_guideline_0.pdf (last visited February 8, 2024).

⁵⁰ U.S. Dep't of Homeland Security, *supra* note 27.

⁵¹ International Association of Emergency Managers, Certification Intro, available at <https://www.iaem.org/certification/intro> (last visited February 8, 2024).

⁵² U.S. Dep't of Homeland Security, FEMA-Emergency Management Institute, ICS and NIMS Courses, available at <https://training.fema.gov/nims/> (last visited February 8, 2024).

- Describing the General Staff roles within ICS.
- Identifying how NIMS management characteristics apply to ICS for a variety of roles and discipline areas.
- IS-200.C: ICS for Single Resources and Initial Action Incidents/Basic Incident Command System for Initial Response, ICS-200. The course reviews the ICS, provides the context for ICS within initial response, supports higher level ICS training, and provides training on, and resources for, personnel who are likely to assume a supervisory position within ICS. Course objectives include all of the following:
 - Describing how the NIMS Management Characteristics relate to Incident Command and Unified Command.
 - Describing the delegation of authority process, implementing authorities, management by objectives, and preparedness plans and objectives.
 - Identifying ICS organizational components, the Command Staff, the General Staff, and ICS tools.
 - Describing different types of briefings and meetings.
 - Explaining flexibility within the standard ICS organizational structure.
 - Explaining the transfer of command briefings and procedures.
 - Using ICS to manage an incident or event.
- IS-700.B: An Introduction to the National Incident Management System, IS-700. The course provides an overview of the concepts, principles and components which make the NIMS the comprehensive approach guiding the whole community - all levels of government, nongovernmental organizations, and the private sector - to work together seamlessly to prevent, protect against, mitigate, respond to, and recover from the effects of incidents. Course objectives include all of the following:
 - Describing and identifying the key concepts, principles, scope, and applicability underlying NIMS.
 - Describing activities and methods for managing resources.
 - Describing the NIMS Management Characteristics.
 - Identifying and describe ICS organizational structures.
 - Explaining Emergency Operations Center (EOC) functions, common models for staff organization, and activation levels.
 - Explaining the interconnectivity within the NIMS Management and Coordination structures: ICS, EOC, Joint Information System, and Multiagency Coordination Groups.
 - Identifying and describing the characteristics of communications and information systems, effective communication, incident information, and communication standards and formats.
- IS-703.B: National Incident Management System Resource Management, IS-703. The course introduces federal, state, local, tribal, and territorial emergency managers, first responders, and incident commanders from all emergency management disciplines to NIMS Resource Management, including private industry and volunteer agency personnel responsible for coordination activities during a disaster. Course objectives include all of the following:
 - Defining the four resource management tasks in preparation for incident response.
 - Identify the six primary tasks of resource management during an incident.
 - Describing the use of mutual aid in incidents.
- IS-800.D: National Response Framework, An Introduction, IS-800. The course provides guidance for the whole community, focusing particularly on those who are involved in

delivering and applying the response core capabilities. Course objectives include all of the following:

- Describing the purpose, scope, organization, and underlying doctrine of the National Response Framework.
- Describing the roles and responsibilities of response partners.
- Describing core capabilities for response and actions required to deliver those capabilities.
- Describing coordinating structures and operational planning used to support emergency response.
- Describing how the stabilization of the seven Community Lifelines reduces threats to public health and safety, or economic security.

The Florida Emergency Preparedness Association (FEPA) is a private non-profit corporation providing an educational network for emergency managers at all levels of government as well as the private sector.⁵³ FEPA certifies as Florida Professional Emergency Managers those experienced emergency managers who have advanced and diverse “knowledge, skills, and abilities to perform effectively” in a comprehensive emergency management program.⁵⁴

III. Effect of Proposed Changes:

CS/SB 1262 amends s. 252.38, F.S., to establish the following minimum qualifications for all county emergency management directors:

- A bachelor’s degree.
- Six years of verifiable experience in emergency services, emergency management, emergency planning, law enforcement, or firefighting services. Three years of which, must be supervisory experience in emergency management, response, or operations for a county, a municipality, the state, or the Federal Government.
- A master’s degree in one or more of the following fields may be substituted for two years of the required experience but not for the required supervisory experience: emergency preparedness or management, business or public administration, communications, finance, homeland security, public health, criminal justice, meteorology, or environmental science.
- Valid accreditation as a Certified Master Exercise Practitioner by the FEMA; Certified Emergency Manager; or Florida Professional Emergency Manager or completion of all of the following NIMS courses, or their equivalent courses established by the FEMA:
 - ICS-100: Introduction to the Incident Command System.
 - ICS-200: ICS for Single Resources and Initial Action Incidents.
 - IS-700.b: National Incident Management System, An Introduction.
 - IS-703.b: NIMS Resource Management.
 - IS-800.d: National Response Framework, An Introduction.
- A valid driver license. If the license is not Florida driver license, the director must obtain a Florida driver license within 30 days after being appointed.

⁵³ Florida Emergency Preparedness Association, About FEPA, available at <https://www.fepa.org/about-us> (last visited February 8, 2024).

⁵⁴ Florida Emergency Preparedness Association, FEPA Certification Program, available at <https://www.fepa.org/certification> (last visited February 8, 2024).

In an undesignated section of Florida law, the bill also authorizes a director who does not meet the newly established training or certification criteria on July 1, 2024, to have until June 30, 2026, to satisfy those requirements.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds or take action requiring the expenditures of funds; reduce the counties' or municipalities' ability to raise revenues; or reduce the percentage of state tax shared with counties or 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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an indeterminate negative economic impact on private individuals seeking appointment as county emergency management directors by requiring at least a bachelor's degree and completion of specific courses pertaining to the NIMS offered by the EMI.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 252.38 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 Military and Veterans Affairs, Space, and Domestic Security on January 29, 2024:

The committee substitute:

- Establishes minimum education, experience, and training standards for county emergency management directors and requires the directors to have a valid Florida driver license within 30 days after being appointed.
- Removes the requirement of the FDEM director to meet minimum training and education qualifications established by FDEM rule.

B. Amendments:

None.

By the Committee on Military and Veterans Affairs, Space, and Domestic Security; and Senator Collins

583-02613-24

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A bill to be entitled

An act relating to qualifications for county emergency management directors; amending s. 252.38, F.S.; requiring county emergency management directors to meet specified qualifications; requiring such directors to meet such qualifications by a specified date; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 252.38, Florida Statutes, is amended to read:

252.38 Emergency management powers of political subdivisions.—Safeguarding the life and property of its citizens is an innate responsibility of the governing body of each political subdivision of the state.

(1) COUNTIES.—

(b)1. Each county emergency management agency created and established pursuant to ss. 252.31-252.90 shall have a director. The director must meet the following minimum training and education qualifications:

a. A bachelor's degree.

b. Six years of verifiable experience in emergency services, emergency management, emergency planning, law enforcement, or firefighting services, of which at least 3 years must be supervisory experience in emergency management, response, or operations for a county, a municipality, the state, or the Federal Government.

c. A master's degree in emergency preparedness or

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management, business or public administration, communications, finance, homeland security, public health, criminal justice, meteorology, or environmental science may be substituted for 2 years of experience of those required in sub-subparagraph b. but not for the required years of supervisory experience.

d. Completion of the following National Incident Management System courses, or equivalent courses established by the Federal Emergency Management Agency through the Emergency Management Institute:

(I) ICS-100: Introduction to the Incident Command System;

(II) ICS-200: ICS for Single Resources and Initial Action Incidents;

(III) IS-700.b: National Incident Management System, An Introduction;

(IV) IS-703.b: NIMS Resource Management; and

(V) IS-800.d: National Response Framework, An Introduction.

A valid accreditation as a Certified Master Exercise Practitioner by the Federal Emergency Management Agency, Certified Emergency Manager, or Florida Professional Emergency Manager will satisfy the requirements of this sub-subparagraph.

e. A valid driver license. If the license is not a Florida driver license, the director must obtain a Florida driver license within 30 days after being appointed as director.

~~2. established in a job description approved by the county.~~
The director shall be appointed by the board of county commissioners or the chief administrative officer of the county, as described in chapter 125 or the county charter, if applicable, to serve at the pleasure of the appointing

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59 authority, in conformance with applicable resolutions,
60 ordinances, and laws.

61 3. A county constitutional officer, or an employee of a
62 county constitutional officer, may be appointed as director
63 following prior notification to the division.

64 4. Each board of county commissioners shall promptly inform
65 the division of the appointment of the director and other
66 personnel.

67 5. Each director has direct responsibility for the
68 organization, administration, and operation of the county
69 emergency management agency. The director shall coordinate
70 emergency management activities, services, and programs within
71 the county and shall serve as liaison to the division and other
72 local emergency management agencies and organizations.

73 Section 2. A county emergency management director who does
74 not satisfy the training or certification requirements of
75 section 1 of this act as of July 1, 2024, shall have until June
76 30, 2026, to complete such requirements.

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

Feb 13, 2024

Meeting Date

Appropriations Committee on Agriculture, Environment, and General Government

Committee

The Florida Senate

APPEARANCE RECORD

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

CS/SB 1262

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Jeff Goldberg**

Phone **850-307-4121**

Address **75 S Davis Lane**

Email **jeff@waltoncountym.org**

Street

Defuniak Springs

FL

32435

City

State

Zip

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

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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 Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/SB 1386

INTRODUCER: Appropriations Committee on Agriculture, Environment, and General Government and Senator Calatayud

SUBJECT: Department of Environmental Protection

DATE: February 15, 2024 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carroll	Rogers	EN	Favorable
2.	Reagan	Betta	AEG	Fav/CS
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1386 amends provisions relating to aquatic preserves, resilience, onsite sewage treatment and disposal systems (OSTDSs, otherwise known as septic systems), and wastewater treatment facilities.

The bill provides that a representative of the Department of Environmental Protection (DEP) may at any reasonable time enter and inspect any property, except a building which is used exclusively for a private residence, that has an OSTDS to ascertain compliance with applicable law, rules, and regulations. Under current law, DEP personnel must have reason to believe noncompliance exists and must first obtain permission from the owner or occupant of a residence of private building to secure an inspection warrant.

The bill requires all applicants for permits to construct and operate a domestic wastewater treatment facility to prepare a reuse feasibility study. Domestic treatment facilities that dispose of effluent by certain means must implement reuse to the extent feasible and consider the ecological or public water supply benefits afforded by any disposal.

The bill makes revisions to facilitate the transfer of the OSTDS program including:

- Creating new procedures for the DEP regarding the processing and enforcement of septic tank requirements.

- Directing the DEP to adopt rules for a general permit for projects which have, individually or cumulatively, a minimal adverse impact on public health or the environment.
- Directing the DEP to establish an enhanced nutrient-reducing OSTDS approval program.

Regarding domestic wastewater treatment facilities and wastewater treatment plans, the bill:

- Requires certain public and private facilities to participate in developing the domestic wastewater treatment plan including providing certain information to the applicable local government.
- Requires certain wastewater treatment facilities that provide reclaimed water within a basin management action plan or reasonable assurance plan area to meet advanced waste treatment standards.

Regarding reclaimed water, the bill:

- Directs the water management districts and the DEP to develop rules to promote reclaimed water and encourage potable water offsets that produce significant water savings.
- Authorizes extended permits for those applicants or permittees that propose a development or water resource development project using reclaimed water.

Regarding the Resilient Florida Grant Program, the bill:

- Authorizes the DEP to provide grants to counties or municipalities to fund:
 - An update of their inventory of critical assets, including those that are currently or reasonably expected to be impacted by flooding and sea level rise;
 - Development of strategies to enhance community preparations for threats from flooding and sea level rise, including adaptation plans; and
 - Permitting for projects designed to achieve reductions in the risks or impacts of flooding and sea level rise using nature-based solutions.
- Requires vulnerability assessments to use data from the Florida Flood Hub that is certified by the Chief Resilience Officer.
- Requires certain data and planning horizons to be used in the assessment.

The bill requires the Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment to include the 20- and 50-year projected sea level rise at each active National Oceanic and Atmospheric Administration tidal gauge off the Florida coast as derived from statewide sea level rise projections.

Regarding the Statewide Flooding and Sea Level Rise Resilience Plan, the bill:

- Authorizes the plan to include projects not yet identified in the comprehensive statewide flood vulnerability and sea level rise assessment at the DEP and the Chief Resilience Officer's discretion.
- Expands the types of projects that can be submitted by local or regional entities.

The bill requires the DEP to include the projects funded under the water quality grant program on a user-friendly website or dashboard.

The bill requires the Office of Economic and Demographic Research to provide a publicly-accessible data visualization tool on its website related to its statewide wastewater and stormwater needs analysis.

Regarding aquatic preserves, the bill:

- Provides that it is a noncriminal infraction to operate a vessel outside a lawfully marked channel in a careless manner that causes seagrass scarring within the Nature Coast Aquatic Preserve.

Declares the Kristin Jacobs Coral Reef Ecosystem Conservation Area to be an aquatic preserve.

The bill may have a positive, yet indeterminate, fiscal impact on state government, because the DEP is directed to deposit certain damages, costs, or penalties it collects relating to onsite sewage treatment and disposal systems regulations into the Water Quality Assurance Trust Fund.

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

II. Present Situation:

Water Quality and Nutrients

Nutrient pollution and the excessive accumulation of nitrogen and phosphorus in water is one of the most widespread, costly, and challenging environmental problems.¹ In Florida, 35 percent of waterbodies are impaired for nutrients and 87 percent of counties have nutrient impaired waters within their boundaries.²

Phosphorus and nitrogen are derived from natural and human-made sources.³ Human-made sources include sewage disposal systems (wastewater treatment facilities and septic systems), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and stormwater runoff.⁴

¹ U.S. Environmental Protection Agency (EPA), *Nutrient Pollution: The Problem*, <https://www.epa.gov/nutrientpollution/problem> (last visited Jan. 18, 2024).

² DEP, *Rulemaking Update: Stormwater | Chapter 62-330, F.A.C., Environmental Resource Permitting*, 2 (2023), (on file with the Senate Committee on Environment and Natural Resources).

³ *Id.*

⁴ U.S. Environmental Protection Agency (EPA), *Sources and Solutions*, <https://www.epa.gov/nutrientpollution/sources-and-solutions> (last visited Jan. 18, 2024).

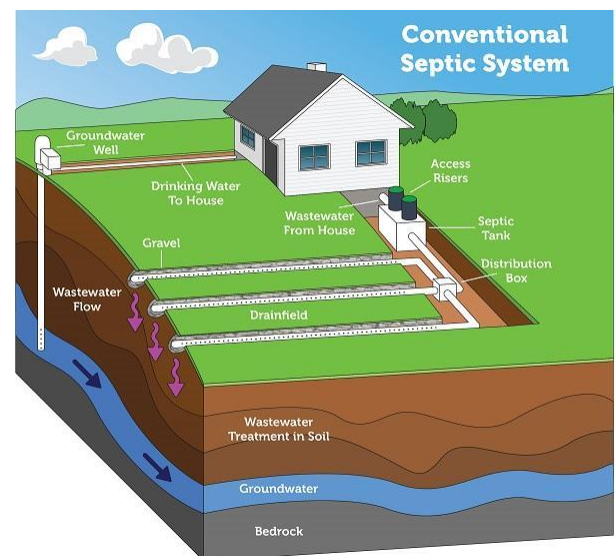
Onsite Sewage Treatment and Disposal Systems

Onsite Sewage Treatment and Disposal Systems (OSTDSs), commonly referred to as “septic systems,” generally consist of two basic parts: the septic tank and the drainfield.⁵ Waste from toilets, sinks, washing machines, and showers flows through a pipe into the septic tank, where anaerobic bacteria break the solids into a liquid form. The liquid portion of the wastewater flows into the drainfield, which is generally a series of perforated pipes or panels surrounded by lightweight materials such as gravel or Styrofoam. The drainfield provides a secondary treatment where aerobic bacteria continue deactivating the germs. The drainfield also provides filtration of the wastewater, as gravity draws the water down through the soil layers.⁶

There are an estimated 2.6 million OSTDSs in Florida, providing wastewater disposal for 30 percent of the state’s population.⁷ In Florida, development in some areas is dependent on OSTDSs due to the cost and time it takes to install central sewer systems.⁸ For example, in rural areas and low-density developments, central sewer systems are not cost-effective.⁹

In a conventional OSTDS, a septic tank does not reduce nitrogen from the raw sewage. In Florida, approximately 30-40 percent of the nitrogen levels are reduced in the drainfield of a system that is installed 24 inches or more from groundwater.¹⁰ This still leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from OSTDSs a potential contaminant in groundwater.¹¹

Different types of advanced OSTDSs exist that can remove greater amounts of nitrogen than a typical septic system (often referred to as “advanced” or “nutrient-reducing” septic systems).¹² The



Please note: Septic systems vary. Diagram is not to scale.

⁵ DOH, *Septic System Information and Care*, <http://columbia.floridahealth.gov/onsite-sewage-disposal/septic-information-and-care.html> (last visited Jan. 9, 2024); EPA, *Types of Septic Systems*, <https://www.epa.gov/septic/types-septic-systems> (last visited Jan. 18, 2024) (showing the graphic provided in the analysis).

⁶ *Id.*

⁷ DEP, *Onsite Sewage Program*, <https://floridadep.gov/water/onsite-sewage#:~:text=Onsite%20sewage%20treatment%20and%20disposal%20systems%20%28OSTDS%29%2C%20commonly,represents%2012%25%20of%20the%20United%20States%E2%80%99%20septic%20systems> (last visited Jan. 18, 2024).

⁸ DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (Oct. 1, 2008), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/documents/costs-implement-mandatory-statewide-inspection.pdf>.

⁹ *Id.*

¹⁰ DOH, *Florida Onsite Sewage Nitrogen Reduction Strategies Study, Final Report 2008-2015*, 21 (Dec. 2015), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/draftlegreportsm.pdf>; See Fla. Admin. Code R. 64E-6.006(2).

¹¹ University of Florida Institute of Food and Agricultural Sciences (IFAS), *Onsite Sewage Treatment and Disposal Systems: Nitrogen*, 3 (Oct. 2020), available at <http://edis.ifas.ufl.edu/pdf/SS/SS55000.pdf>.

¹² DOH, *Nitrogen-Reducing Systems for Areas Affected by the Florida Springs and Aquifer Protection Act* (updated May 2021), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/products/documents/bmap-n-reducing-tech-18-10-29.pdf>.

Department of Environmental Protection (DEP) publishes on its website approved products and resources on advanced systems.¹³ Determining which advanced system is the best option can depend on site-specific conditions.

In 2023, the Florida Legislature passed a law requiring enhanced nutrient-reducing OSTDSs in places where waterbodies do not meet water quality standards and there is a plan in place, such as a basin management action plan (BMAP) or alternative restoration plan, to address water quality issues.¹⁴ Enhanced nutrient-reducing OSTDSs are required for new systems on lots of one acre or less within all BMAP areas, reasonable assurance plan areas, and pollution reduction plan areas when sewer is not available.¹⁵ Within the Banana River Lagoon BMAP, the Central Indian River Lagoon BMAP, the North Indian River Lagoon BMAP, and the Mosquito Lagoon reasonable assurance plan area, all new OSTDSs are prohibited unless central sewerage is not available, in which case only enhanced nutrient-reducing OSTDSs are authorized.¹⁶

The owner of a properly functioning OSTDS must connect to a sewer system within one year of receiving notification that a sewer system is available for connection.¹⁷ Owners of an OSTDS in need of repair or modification must connect within 90 days of notification from the DEP.¹⁸

In 2020, the Clean Waterways Act provided for the transfer of the Onsite Sewage Program from the Department of Health (DOH) to the DEP.¹⁹ The Onsite Sewage Program will be transferred over a period of five years, and guidelines for the transfer are provided by an interagency agreement.²⁰ Per the agreement, the DEP has the primary powers and duties of the Onsite Sewage Program, meaning that the county departments of health will implement the OSTDS program under the direction of the DEP instead of the DOH.²¹ The county departments of health still handle permitting and inspection of OSTDS.²² In the event of an alleged violation of OSTDS laws, county departments of health are responsible for conducting an inspection to gather information regarding the allegations.²³

¹³ DEP, *Onsite Sewage Program, Product Listings and Approval Requirements*, <https://floridadep.gov/water/onsite-sewage/content/product-listings-and-approval-requirements>.

¹⁴ DEP, *Permitting of Enhanced Nutrient Reducing Onsite Sewage Treatment and Disposal Systems*, <https://floridadep.gov/water/onsite-sewage/content/permitting-enhanced-nutrient-reducing-onsite-sewage-treatment-and> (last visited Jan. 18, 2024); No. 2023-169, Laws of Fla.; Sections 373.811 and 403.067(7)(a)10., F.S.

¹⁵ Section 403.067(7)(a)10., F.S.

¹⁶ Section 373.469, F.S.

¹⁷ Section 381.00655, F.S.

¹⁸ *Id.*

¹⁹ DEP, *Program Transfer*, <https://floridadep.gov/water/onsite-sewage/content/program-transfer> (last visited Jan. 18, 2024).

²⁰ DOH, DEP, *Interagency Agreement between DEP and DOH in Compliance with Florida's Clean Waterways Act for Transfer of the Onsite Sewage Program*, 5 (June 30, 2021), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/documents/interagency-agreement-between-fdoh-fdep-onsite-signed-06302021.pdf>.

²¹ *Id.* at 14.

²² *Id.* at 11; and DEP, *Onsite Sewage Program*, <https://floridadep.gov/water/onsite-sewage> (last visited Jan. 18, 2024).

²³ DOH, DEP, *Interagency Agreement between DEP and DOH in Compliance with Florida's Clean Waterways Act for Transfer of the Onsite Sewage Program* at 11.

In 2008, less than one percent of OSTDSs in Florida were actively managed under operating permits and maintenance agreements.²⁴ The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.²⁵ Current law directs the DEP to administer permits, site evaluations, and inspections associated with the construction, installation, maintenance, modification, abandonment, operation, use, or repair of an OSTDS.²⁶ Although this statutory authority is broad, inspections for traditional OSTDS generally occur during OSTDS construction, repair, or abandonment.²⁷ Buildings that use an aerobic treatment unit or generate commercial waste must be inspected by the DEP at least annually to assure compliance with the operating permit.²⁸

Under s. 381.0065(5), F.S., DEP personnel who have reason to believe noncompliance exists, may at any reasonable time, enter a premises with an OSTDS permit or the business premises of any septic tank contractor to ascertain compliance with applicable statutes and rule. The term “premises” does not include a residence or private building. To gain entry to a residence or private building, the DEP must obtain permission from the owner or occupant or secure an inspection warrant from a court of competent jurisdiction. The DEP may issue citations that may contain an order of correction or an order to pay a fine, or both when a violation of applicable laws or rules is enforceable by an administrative, civil remedy, or is a misdemeanor of the second degree.²⁹ The fines imposed by citation may not exceed \$500 per violation. Each day the violation exists constitutes a separate violation.³⁰ The department may reduce or waive the fine imposed by the citation. Fines are deposited into the county health department trust fund.³¹

The DEP is also required by law to make rules relating to the location of OSTDSs, including establishing setback distances, to prevent groundwater contamination and surface water contamination and to preserve the public health. The rules must consider:

- Conventional and enhanced nutrient-reducing onsite sewage treatment and disposal system designs,
- Impaired or degraded water bodies,
- Domestic wastewater and drinking water infrastructure,
- Potable water sources,
- Nonpotable wells,
- Stormwater infrastructure,
- The onsite sewage treatment and disposal system remediation plans developed for purposes of a BMAP,
- Nutrient pollution, and

²⁴ DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (Oct. 1, 2008), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/documents/costs-implement-mandatory-statewide-inspection.pdf>.

²⁵ *Id.*

²⁶ Section 381.0065(3)(b); Fla. Admin. Code 62-6.003.

²⁷ See Fla. Admin. Code 62-6.003, 62-6.011.

²⁸ Section 381.0065(4), F.S.

²⁹ Section 381.0065(5), F.S.

³⁰ *Id.*

³¹ *Id.*

- The recommendations of the onsite sewage treatment and disposal systems technical advisory committee established pursuant to former s. 381.00652, F.S.³²

The rules are required to allow a variance from a rule requirement upon demonstration that the requirement would cause an undue hardship and granting the variance would not cause or contribute to the exceedance of a total maximum daily load.³³ The DEP updated Chapter 62-6 of the Florida Administrative Code in 2022 to address these requirements.

A county or municipality that contains a first magnitude spring must, and any county or municipality that does not contain a first magnitude spring may, develop and adopt by local ordinance an OSTDS evaluation and assessment program meeting the requirements of state law.³⁴ If adopted, the OSTDS evaluation and assessment program requires that each OSTDS within all or part of the county's or municipality's jurisdiction be evaluated once every five years to assess the fundamental operational condition of the system and to identify system failures.

The following table includes administrative and judicial remedies available pursuant to part I of ch. 403 for violations of OSTDSs regulations, part I of ch. 386, relating to sanitary nuisances involving OSTDSs, or part III of ch. 489.

Statute	Administrative Remedies	Judicial Remedies
Part I, ch. 403, F.S.	• Institute an administrative proceeding to establish liability and recover damages for any injury to air, waters, or property of the state caused by any violation; the department may order the violator to pay damages to the state. • Institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. Except for violations involving hazardous wastes, asbestos, or underground injection, the	• Institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant and aquatic life, of the state caused by any violation. • Institute a civil action in a court of competent jurisdiction to impose and to recover a

³² Section 381.0065(4)(e), F.S.

³³ *Id.*

³⁴ Section 381.00651(2), F.S. There are exceptions. If a county or municipality that contains a first magnitude spring has already adopted an OSTDS evaluation and assessment program, and it meets the grandfathering provisions of the statute, it is exempt from the requirement. The governing body of a local government can also choose to opt out of the requirement by adopting a resolution by a 60 percent vote that indicates an intent to not adopt an OSTDS evaluation and assessment program.

	department shall proceed administratively when penalties sought do not exceed \$50,000 per assessment. • Institute an administrative proceeding by serving a written notice of violation upon the alleged violator by certified mail. • In any administrative proceeding brought by the department, the prevailing party shall recover all costs as provided by law. • For a drinking water contamination violation, a penalty of \$3,000 for a maximum containment level violation; plus \$1,500 if the violation is for a primary inorganic, organic, or radiological maximum contaminant level or it is a fecal coliform bacteria violation. • For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, a penalty of \$2,000. • For failure to install, maintain, or use a required pollution control system or device, \$6,000. • For failure to obtain a required permit before construction or modification, \$4,500. • For failure to conduct required monitoring or testing; failure to conduct required release detection; or failure to construct in compliance with a permit, \$3,000.³⁵	civil penalty for each violation in an amount of not more than \$15,000 per offense.³⁶ • Institute a civil action in a court of competent jurisdiction to seek injunctive relief.³⁷
Part I, ch. 386, F.S.	• Undertake required correctional procedures regarding sanitary nuisances, the cost or expense of which must be paid by the person(s) committing, creating, keeping, or maintaining such nuisance; institute a civil action if the cost and expense is not paid within 10 days of removal. • Institute administrative proceedings authorized pursuant to s. 381.0061, F.S., (DEP may impose a fine, which may not exceed \$500 for each violation of regulations relating to OSTDSs, septic tank contracting, and sanitary nuisances).³⁸	• Institute criminal proceedings in the county court in the jurisdiction of which the condition exists against all persons failing to comply with notices to correct sanitary nuisance conditions. • Institute legal proceedings authorized pursuant to s. 381.0012, F.S., (DEP may apply for an injunction in the proper circuit court; DEP may receive a warrant from a trial court judge to carry out the purpose and intent of ch. 381,

³⁵ Section 403.121, F.S.³⁶ *Id.*³⁷ Section 403.131, F.S.³⁸ Section 386.03, F.S.

		F.S., relating to public health). ³⁹
Part III, ch. 489, F.S.	• Revoke or suspend a certificate of registration for certain violations.⁴⁰ • Deny a registration if the department determines that an applicant does not meet all requirements of this part or has violated any provisions of this part.⁴¹	• None.

Impaired Waters

Under section 303(d) of the federal Clean Water Act, states must establish water quality standards for waters within their borders and develop a list of impaired waters that do not meet the established water quality standards.⁴² States must also develop a list of threatened waters that may not meet water quality standards in the following reporting cycle.⁴³

The DEP sorted those waters into 29 major watersheds, or basins, and further organized them into five basin groups for assessment purposes.⁴⁴ If the DEP determines that any waters are impaired, the waterbody must be placed on the verified list of impaired waters and a total maximum daily load (TMDL) must be calculated.⁴⁵ A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards.⁴⁶ A waterbody may be removed from the verified list at any time during the TMDL process if it attains water quality standards.⁴⁷

Basin Management Action Plans

BMAPs are one of the primary mechanisms the DEP uses to achieve TMDLs. BMAPs are plans that address the entire pollution load, including point and nonpoint discharges,⁴⁸ for a watershed.

³⁹ *Id.*

⁴⁰ Section 489.556, F.S.

⁴¹ Section 489.558, F.S.

⁴² EPA, *Overview of Identifying and Restoring Impaired Waters under Section 303(d) of the CWA*, <https://www.epa.gov/tmdl/overview-identifying-and-restoring-impaired-waters-under-section-303d-cwa> (last visited Jan. 18, 2024); 40 C.F.R. 130.7. Following the development of the list of impaired waters, states must develop a total maximum daily load for every pollutant/waterbody combination on the list. A total maximum daily load is a scientific determination of the maximum amount of a given pollutant that can be absorbed by a waterbody and still meet water quality standards. DEP, *Watershed Evaluation and Total Maximum Daily Loads (TMDL) Section*, <https://floridadep.gov/dear/water-quality-evaluation-tmdl/content/total-maximum-daily-loads-tmdl-program> (last visited Jan. 18, 2024).

⁴³ *Id.*

⁴⁴ DEP, *Assessment Lists*, <https://floridadep.gov/dear/watershed-assessment-section/content/assessment-lists> (last visited Jan. 18, 2024).

⁴⁵ *Id.*; DEP, *Verified List Waterbody Ids (WBIDs)*, <https://geodata.dep.state.fl.us/datasets/FDEP::verified-list-waterbody-ids-wbids/about> (last visited Jan. 18, 2024); section 403.067(4), F.S.

⁴⁶ Section 403.067(6)(a), F.S. See also 33 U.S.C. § 1251, s. 303(d) (the Clean Water Act).

⁴⁷ Section 403.067(5), F.S.

⁴⁸ “Point source” is defined as any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. Nonpoint sources of pollution are sources of pollution that are not point sources. Fla. Admin. Code R. 62-620.200(37).

Producers of nonpoint source pollution included in a BMAP must comply with the established pollutant reductions by implementing appropriate best management practices (BMPs) or conducting water quality monitoring.⁴⁹ A nonpoint source discharger may be subject to enforcement action by the DEP or a water management district for failure to implement these requirements.⁵⁰

The DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific waterbody. First, the BMAP equitably allocates pollutant reductions to individual basins, to all basins as a whole, or to each identified point source or category of nonpoint sources.⁵¹ Then, the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations.⁵²

BMAPs must include five-year milestones for implementation and water quality improvement and an associated water quality monitoring component to evaluate the progress of pollutant load reductions.⁵³ Every five years an assessment of progress toward these milestones must be conducted and revisions to the plan made as appropriate.⁵⁴

Each BMAP must also include:

- The management strategies available through existing water quality protection programs to achieve TMDLs;
- A description of BMPs adopted by rule;
- For the applicable five-year implementation milestones, a list of projects that will achieve the pollutant load reductions needed to meet a TMDL or other established load allocations, including a planning-level cost estimate and an estimated date of completion;
- A list of regional nutrient reduction projects submitted by the Department of Agriculture and Consumer Services which will achieve pollutant load reductions established for agricultural nonpoint sources;⁵⁵
- The source and amount of financial assistance to be made available; and
- A planning-level estimate of each project's expected load reduction, if applicable.⁵⁶

⁴⁹ Section 403.067(7)(b)2.g., F.S. For example, BMPs for agriculture include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.

⁵⁰ Section 403.067(7)(b)2.h., F.S.

⁵¹ *Id.*

⁵² *Id.*

⁵³ Section 403.067(7)(a)6., F.S.

⁵⁴ *Id.*

⁵⁵ This is required only where agricultural nonpoint sources contribute to at least 20 percent of nonpoint source nutrient discharges or DEP determines that additional measures are necessary to achieve a TMDL. Section 403.067(7)(e)1., F.S.

⁵⁶ Section 403.067(7)(a)4., F.S.

Flooding and Sea Level Rise

Given Florida's flat topography⁵⁷ and extreme rainfall events, flooding has been an issue throughout the state's history.⁵⁸ The effects of climate change—including sea level rise, increased storm intensity, and increased frequency and severity of extreme rainfall events—have increased flooding in inland and coastal areas.⁵⁹

Sea level rise is a direct effect of climate change, resulting from a combination of thermal expansion of warming ocean waters and the addition of water mass into the ocean, largely associated with the loss of ice from glaciers and ice sheets.⁶⁰ The global mean sea level has risen about 8–9 inches since 1880, and the rate of rise is accelerating: 0.06 inches per year throughout most of the twentieth century, 0.14 inches per year from 2006–2015, and 0.24 inches per year from 2018–2019.⁶¹ In 2021, global sea levels set a new record high—3.8 inches above 1993 levels.⁶²

The latest projections from the National Oceanic and Atmospheric Administration (NOAA) estimate that an average of two feet sea level rise can be expected over the next 50 years.⁶³ All coastal areas of Florida will be affected under this scenario.⁶⁴

⁵⁷ The Florida coastline has an average elevation of approximately 15 to 20 feet above mean sea level (MSL) with barrier islands typically at elevation zero to five feet above MSL. The southern portion of the state (south of Lake Okeechobee) is typically lower than 15 feet MSL. U.S. Army Corps of Engineers, *South Atlantic Coastal Study: Florida Appendix*, 3-26 (2022), available at

https://www.sad.usace.army.mil/Portals/60/siteimages/SACS/SACS_FL_Appendix_508_20220812.pdf?ver=XGRM8v-69_bdLAFPXEmlOg%3d%3d.

⁵⁸ Florida Office of Economic and Demographic Research (EDR), *Annual Assessment of Flooding and Sea Level Rise*, 2 (2023), available at http://edr.state.fl.us/Content/natural-resources/2023_AnnualAssessmentFloodingandSeaLevelRise_Chapter6.pdf.

⁵⁹ National Aeronautics and Space Administration (NASA), *The Effects of Climate Change*, <https://climate.nasa.gov/effects/> (last visited Jan. 18, 2024).

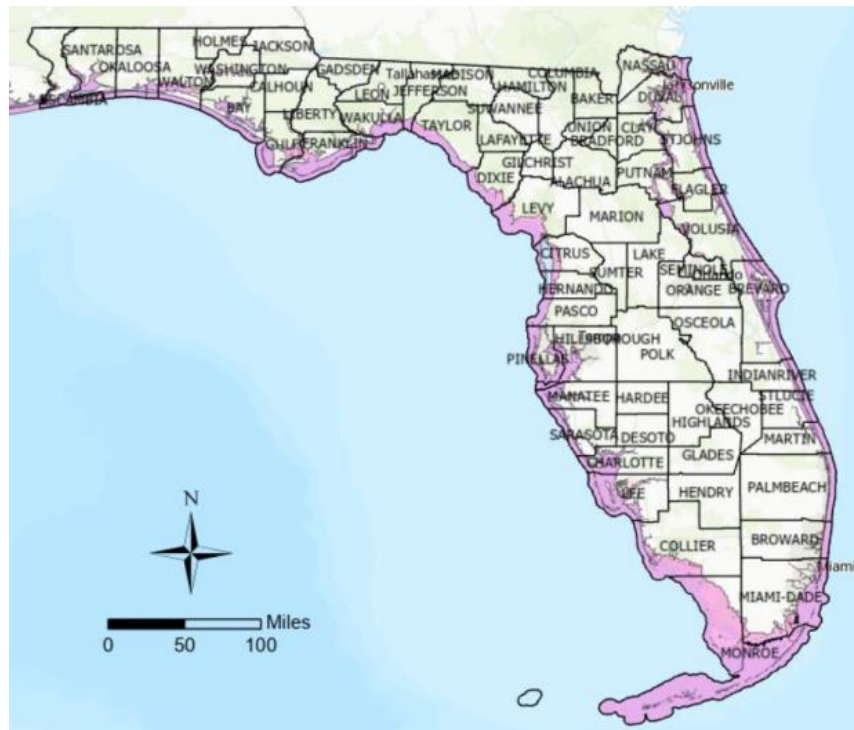
⁶⁰ National Oceanic and Atmospheric Administration (NOAA) et al., *Global and Regional Sea Level Rise Scenarios for the U.S.*, (2022) available at <https://oceanservice.noaa.gov/hazards/sealevelrise/sealevelrise-tech-report.html>.

⁶¹ NOAA, *Climate Change: Global Sea Level*, <https://www.climate.gov/news-features/understanding-climate/climate-change-global-sea-level> (last visited Jan. 18, 2024).

⁶² *Id.*

⁶³ EDR, *Annual Assessment of Flooding and Sea Level Rise* at 20; NOAA, *Global and Regional Sea Level Rise Scenarios for the U.S.*, (2022) available at <https://oceanservice.noaa.gov/hazards/sealevelrise/sealevelrise-tech-report.html>.

⁶⁴ EDR, *Annual Assessment of Flooding and Sea Level Rise* at 21.



Projection of 2 ft. Sea Level Rise⁶⁵

Over five million structures are estimated to be affected by flooding under a two-foot sea level rise scenario. The estimated value of these at-risk properties exceeds \$576 billion.⁶⁶

Due to its porous geology, economic and property value, and the potential impact of various flooding hazards, southeast Florida is the area most at risk from sea level rise.⁶⁷ The effects of sea level rise are already apparent in this region and pose a threat to lives, livelihoods, economies, and the environment.⁶⁸ Physical impacts of sea level rise include coastal inundation and erosion, increased frequency of flooding in vulnerable coastal and inland areas due to impairment of the region's largely gravity-driven stormwater infrastructure system, reduced soil infiltration capacity, and saltwater intrusion of drinking-water supply. Moreover, the impacts of surge from tropical storms or hurricanes are exacerbated by sea level rise. Increased pollution and contamination from flooding degrades natural resources critical to the region's economy. Sea level rise can also result in displacement, decrease in property values and tax base, increases in insurance costs, loss of services, and impairment of infrastructure such as roads and septic systems.⁶⁹

⁶⁵ *Id.* at 21.

⁶⁶ *Id.* at 24, 25.

⁶⁷ EDR, *Annual Assessment of Flooding and Sea Level Rise* at 2.

⁶⁸ Sea Level Rise Ad Hoc Work Group, Southeast Florida Regional Climate Change Compact (SFRCCC), *Unified Sea Level Rise Projection: Southeast Florida*, 5 (2019), available at https://southeastfloridacclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf.

⁶⁹ Sea Level Rise Ad Hoc Work Group, Southeast Florida Regional Climate Change Compact (SFRCCC), *Unified Sea Level Rise Projection: Southeast Florida* at 5.

Sea Level Rise Projections

Entities from the international to the local level use scientific data and modeling to create projections of future sea level rise for planning and decision-making. The NOAA operates tide gauges along the nation's coasts and satellites that measure changes in sea level. In 2017 and 2022, the NOAA published sea level rise projections for the U.S.⁷⁰ The NOAA's projections include observation-based extrapolations and five scenarios ranging from "low" to "high."⁷¹ Interactive maps have been developed to depict local conditions under each NOAA scenario.⁷²

Resilience and Nature-Based Solutions

Resilience is the ability of a community to prepare for anticipated natural hazards, adapt to changing conditions, and withstand and recover rapidly from disruptions.⁷³ Resilience planning includes preparing for hazard events, risk mitigation, and post-event recovery and should be proactive, continuous, and integrated into other community goals and plans.⁷⁴

Nature-based solutions are an important part of resilience planning. Nature-based solutions use natural features and processes to combat climate change, reduce flood risks, improve water quality, protect coastal property, restore and protect wetlands, and stabilize shorelines.⁷⁵

Examples of nature-based solutions include:

- Living shorelines, which stabilize a shore by combining living components, such as plants, with structural elements, such as rock or sand. Living shorelines can slow waves, reduce erosion, and protect coastal property.
- Oyster reefs. Oysters are often referred to as "ecosystem engineers" because of their tendency to attach to hard surfaces and create large reefs made of thousands of individuals. In addition to offering shelter and food to coastal species, oyster reefs buffer coasts from waves and filter surrounding waters.
- Dunes, which often have dune grasses or other vegetation and serve as a barrier between the water's edge and inland areas.⁷⁶

⁷⁰ NOAA, *Global and Regional Sea Level Rise Scenarios for the United States*, (2017), available at https://tidesandcurrents.noaa.gov/publications/techrpt83_Global_and_Regional_SLR_Scenarios_for_the_US_final.pdf;

NOAA, *Global and Regional Sea Level Rise Scenarios for the United States*, (2022), available at <https://aambpublicoceanservice.blob.core.windows.net/oceanserviceprod/hazards/sealevelrise/noaa-nos-techrpt01-global-regional-SLR-scenarios-US.pdf>.

⁷¹ NOAA, *Global and Regional Sea Level Rise Scenarios for the United States*, 15 (2022). The 2017 projections also included an "extreme" scenario, which has been removed from the 2022 report. See NOAA, *Global and Regional Sea Level Rise Scenarios for the United States*, 23 (2017).

⁷² University of Florida, *Florida Sea Level Scenario Sketch Planning Tool*, <https://sls.geoplan.ufl.edu/viewer/> (last visited Jan. 18, 2024).

⁷³ Federal Emergency Management Agency (FEMA), *National Risk Index: Community Resilience*, <https://hazards.fema.gov/nri/community-resilience> (last visited Jan. 18, 2024).

⁷⁴ National Institute of Standards and Technology, U.S. Dep't of Commerce, *Community Resilience Planning Guide for Buildings and Infrastructure Systems*, 1 (2016), available at <https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.1190v1.pdf>.

⁷⁵ FEMA, *FEMA Resources for Climate Resilience*, 5 (2021), available at https://www.fema.gov/sites/default/files/documents/fema_resources-climate-resilience.pdf.

⁷⁶ FEMA, *Types of Nature-Based Solutions*, <https://www.fema.gov/emergency-managers/risk-management/nature-based-solutions/types> (last visited Jan. 18, 2024).

The Resilient Florida Grant Program

The Florida Legislature has established several statewide resilience programs, including the Resilient Florida Grant Program, the Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set, and the Statewide Flooding and Sea Level Rise Resilience Plan.

The Resilient Florida Grant Program provides grants to counties or municipalities for community resilience planning, including vulnerability assessments, plan development, and projects to adapt critical assets.⁷⁷ In the program's first two years, 263 implementation projects were awarded a total of nearly \$954 million.⁷⁸ Vulnerability assessments funded through this program must encompass the entire county or municipality; use the most recent publicly available Digital Elevation Model and dynamic modeling techniques, if available; and analyze the vulnerability of and risks to critical assets,⁷⁹ including regionally significant assets.⁸⁰ In addition, vulnerability assessments must include, where applicable:

- Peril of flood comprehensive plan amendments that address the requirements of s. 163.3178(2)(f), F.S.,⁸¹ if the county or municipality is subject to, but has not complied with, such requirements;
- The depth of tidal flooding, current and future storm surge flooding, rainfall-induced flooding (including for a 100-year and 500-year storm), and compound flooding or the combination of tidal, storm surge, and rainfall-induced flooding; and
- The following scenarios and standards:
 - All analyses in the North American Vertical Datum of 1988;⁸²
 - At least two local sea level rise scenarios, which must include the 2017 NOAA intermediate-low and intermediate-high sea level rise projections;
 - At least two planning horizons that include planning horizons for the years 2040 and 2070; and

⁷⁷ Section 380.093(2)(a), F.S. "Critical asset" is defined to include broad lists of assets relating to transportation, critical infrastructure, emergency facilities, natural resources, and historical and cultural resources.

⁷⁸ This figure includes \$270 million of state funding for the Statewide Flooding and Sea Level Resilience Plan. DEP, *Presentation to the Florida Senate Committee on Environment and Natural Resources* (Feb. 23, 2023), available at https://www.flsenate.gov/Committees/Show/SSHR/MeetingPacket/5700/10150_MeetingPacket_5700_2.23.23.pdf.

⁷⁹ Critical assets include transportation assets and evacuation routes (airports, bridges, bus terminals, major roadways, etc.), critical infrastructure (wastewater and stormwater treatment facilities, drinking water facilities, solid and hazardous waste facilities, etc.), critical community and emergency facilities (schools, correctional facilities, fire stations, hospitals, etc.), and natural, cultural, and historical resources (conservation lands, parks, shorelines, wetlands, etc.). Section 380.093(2)(a), F.S.

⁸⁰ Section 380.093(3)(c), F.S. Regionally significant assets are critical assets that support the needs of communities spanning multiple geopolitical jurisdictions. Section 380.093(2)(d), F.S.

⁸¹ This section provides that, in communities abutting the Gulf of Mexico or Atlantic Ocean or other coastal areas defined by statute, a local government's comprehensive plan must include a coastal management element. Sections 163.3178(2) and 163.3177(6)(g), F.S. This element must contain a redevelopment component that outlines the principles that must be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise. Section 163.3178(2)(f), F.S.

⁸² A vertical datum is a surface of zero elevation to which heights of various points are referenced. Traditionally, vertical datums have used classical survey methods to measure height differences (i.e. geodetic leveling) to best fit the surface of the earth. The current vertical datum for the contiguous United States and Alaska is the North American Vertical Datum of 1988. NOAA, *National Geodetic Survey: Vertical Datums*, <https://www.ngs.noaa.gov/datums/vertical/#:~:text=TABLE%201%3A%20Current%20Vertical%20Datums%20for%20United%20States,%202002-present%20%201%20more%20rows%20> (last visited Jan. 18, 2024).

- Local sea level data that has been interpolated between the two closest NOAA tide gauges.⁸³

The Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment will provide information necessary to determine the risks to inland and coastal communities.⁸⁴ By July 1, 2023, the DEP must develop a data set providing statewide sea level rise projections and information necessary to determine the risks of flooding and sea level rise to inland and coastal communities. By July 1, 2024, the DEP must develop a statewide assessment (using the statewide data set) identifying vulnerable infrastructure, geographic areas, and communities. The statewide assessment must include an inventory of critical assets and be updated every five years.⁸⁵

The Statewide Flooding and Sea Level Rise Resilience Plan consists of ranked projects that address risks of flooding and sea level rise to coastal and inland communities.⁸⁶ Examples of projects include construction of living shorelines, seawalls, and pump stations, elevation projects, and infrastructure hardening.⁸⁷ Counties, municipalities, water management districts, regional water supply authorities, and other entities may submit to the DEP an annual list of proposed projects. Each project must have a minimum 50 percent cost share, unless the project assists or is within a financially disadvantaged community.⁸⁸ The DEP ranks the projects using a four-tier scoring system.⁸⁹ The DEP has adopted rules to implement s. 380.093, F.S., relating to the Statewide Flooding and Sea Level Rise Resilience Plan and project submittal requirements. These rules can be found in Chapter 62S-8 of the Florida Administrative Code.⁹⁰ In December 2022, the DEP submitted the FY 23-24 Statewide Flooding and Sea Level Rise Resilience Plan totaling nearly \$408 million over the next three years.⁹¹

The DEP may also provide funding for regional resilience entities to assist local governments with planning for the resilience needs of communities and coordinating intergovernmental solutions to mitigate adverse impacts of flooding and sea level rise.⁹² As of February 2023, \$4 million had been appropriated to regional resilience entities.⁹³

⁸³ Section 380.093(3)(d)

⁸⁴ Section 380.093(4), F.S.; DEP, *Resilient Florida Program – Statewide Assessment*, <https://floridadep.gov/rcp/resilient-florida-program/content/resilient-florida-program-statewide-assessment> (last visited Jan. 18, 2024).

⁸⁵ *Id.* See also DEP, *Resilient Florida Program – Statewide Assessment*.

⁸⁶ Section 380.093(5), F.S.

⁸⁷ DEP, *2023-2024 Statewide Flooding and Sea Level Rise Resilience Plan*, available at https://floridadep.gov/sites/default/files/2023-24%20Statewide%20Flooding%20and%20Sea%20Level%20Rise%20Resilience%20Plan_0.pdf.

⁸⁸ Section 380.093(5)(e), F.S. A financially disadvantaged small community is a municipality with a population of 10,000 or fewer, or a county with a population of 50,000 or fewer, where the per capita annual income is less than the state's per capita annual income. *Id.*

⁸⁹ Section 380.093(5)(h), F.S.

⁹⁰ Fla. Admin. Code Chapter 62S-8, available at https://floridadep.gov/sites/default/files/Final%20Rule%20Language_0.pdf.

⁹¹ DEP and Florida Statewide Office of Resilience, *2022 Flood Resilience and Mitigation Efforts Across Florida*, 9, available at https://floridadep.gov/sites/default/files/2022%20Flood%20Resilience%20and%20Mitigation%20Efforts%20Report%20Only_0.pdf

⁹² Section 380.093(6), F.S.

⁹³ DEP, *Presentation to the Florida Senate Committee on Environment and Natural Resources*, 18 (Feb. 23, 2023), available at https://www.flsenate.gov/Committees/Show/SSHR/MeetingPacket/5700/10150_MeetingPacket_5700_2.23.23.pdf.

In 2022, the Statewide Office of Resilience was created within the Executive Office of the Governor for the purpose of reviewing all flood resilience and mitigation activities in the state and coordinating flood resilience and mitigation efforts with federal, state, and local governmental entities and other stakeholders. The office's Chief Resilience Officer and the DEP worked together to provide the Governor and the Legislature with a report on flood resilience and mitigation efforts across Florida.⁹⁴

Florida Flood Hub for Applied Research and Innovation

The Florida Flood Hub for Applied Research and Innovation was established within the University of South Florida College of Marine Science to coordinate efforts between the academic and research institutions of the state.⁹⁵ The Florida Flood Hub is tasked with, among other things, organizing existing data needs for a comprehensive statewide flood vulnerability and sea level rise analysis and performing gap analyses to determine data needs; developing statewide open source hydrologic models for physically based flood frequency estimation and real-time forecasting of flood; establishing community-based programs to improve flood monitoring and prediction along major waterways; and providing tidal and storm surge flooding data to counties and municipalities for vulnerability assessments.⁹⁶

Water Reuse

Water reuse is an important component of both wastewater management and water resource management in Florida. Reuse is defined as the deliberate application of reclaimed water for a beneficial purpose.⁹⁷ Whereas, reclaimed water is defined as water from a domestic wastewater⁹⁸ treatment facility that has received at least secondary treatment⁹⁹ and basic disinfection¹⁰⁰ for reuse.¹⁰¹

Florida has approximately 2,000 permitted domestic wastewater treatment facilities.¹⁰² These facilities may require state and federal permits for discharges to surface waters.¹⁰³ Federal

⁹⁴ DEP and Florida Statewide Office of Resilience, *2022 Flood Resilience and Mitigation Efforts Across Florida*, 2, available at

https://floridadep.gov/sites/default/files/2022%20Flood%20Resilience%20and%20Mitigation%20Efforts%20Report%20Only_0.pdf; Letter from Department of Economic Opportunity to DEP, 1-2 (Nov. 9, 2022), available at https://floridadep.gov/DEO_PoF_Letter2022.

⁹⁵ Section 380.0933(1), F.S.

⁹⁶ Section 380.0933(2) and (3), F.S.

⁹⁷ Fla. Admin. Code R. 62-610.200(52).

⁹⁸ Section 367.021(5), F.S., defines the term “domestic wastewater” to mean wastewater principally from dwellings, business buildings, institutions, and sanitary wastewater or sewage treatment plants.

⁹⁹ Fla. Admin. Code R. 62-610.200(54) defines the term “secondary treatment” to mean “wastewater treatment to a level that will achieve the effluent limitations specified in paragraph 62-600.420(1)(a), F.A.C.”

¹⁰⁰ Fla. Admin. Code R. 62-600.440(5) provides the requirements for basic disinfection.

¹⁰¹ Section 373.019(17), F.S.; Fla. Admin. Code R. 62-610.200(48).

¹⁰² DEP, *General Facts and Statistics about Wastewater in Florida*, <https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida> (last visited Jan. 18, 2024).

¹⁰³ For required state permits, see Section 403.087, F.S.; see also DEP, *Wastewater Permitting*, available at <https://floridadep.gov/water/domestic-wastewater/content/wastewater-permitting> (last visited Jan. 18, 2024). For federal permits, see 33 U.S.C. s. 1342.

requirements for most facilities or activities are generally incorporated into a state-issued permit.¹⁰⁴ The DEP also regulates the construction and operation of domestic wastewater treatment facilities and establishes disinfection requirements for the reuse of reclaimed water.¹⁰⁵

Reusing water helps conserve drinking water supplies by replacing the use of drinking quality water for non-drinking water purposes, such as irrigation, industrial cooling, groundwater recharge, and prevention of saltwater intrusion in coastal groundwater aquifers.¹⁰⁶ Water reuse also provides environmental benefits, including reduced groundwater withdrawals, reduced needs for new drinking water supplies and infrastructure, and improved water quality of the natural environment by reducing the amount of nutrients that are discharged directly to surface water and groundwater by wastewater treatment facilities.¹⁰⁷ The use of reclaimed water also provides for the recovery of water that would otherwise be lost to tide and evaporation.

In its rules, the DEP requires promotion of reuse of reclaimed water, recycling of stormwater for irrigation and other beneficial uses, recycling of industrial wastewater, and encourages local governments to create programs for reuse.¹⁰⁸ Water conservation and the promotion of water reuse have also been established as formal state objectives by the Legislature.¹⁰⁹ State law further provides that the use of reclaimed water provided by wastewater treatment plants permitted and operated under a reuse program by the DEP are considered environmentally acceptable and are not a threat to public health and safety.¹¹⁰

Florida tracks its reuse inventory in an annual report compiled by the DEP.¹¹¹ In 2021, a total of 455 domestic wastewater treatment facilities reported making reclaimed water available for reuse.¹¹² Approximately 908 million gallons per day (mgd) of reclaimed water were used for beneficial purposes in 2021,¹¹³ which represents approximately 53 percent of the total domestic wastewater flow in the state.¹¹⁴ The total reuse flow associated with reuse systems was 1,701 mgd,¹¹⁵ which represents approximately 61 percent of the total domestic wastewater treatment flow in the state.¹¹⁶

¹⁰⁴ Sections 403.061 and 403.087, F.S.

¹⁰⁵ Fla. Admin. Code R. 62-600.

¹⁰⁶ Martinez, Christopher J. and Clark, Mark W., *Reclaimed Water and Florida's Water Reuse Program*, UF/IFAS Agricultural and Biological Engineering Department (rev. 07/2012), available at <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.590.5063&rep=rep1&type=pdf>.

¹⁰⁷ *Id.*

¹⁰⁸ Fla. Admin. Code R. 62-40.416.

¹⁰⁹ Sections 403.064(1) and 373.250(1), F.S.

¹¹⁰ *Id.*

¹¹¹ See DEP, *2021 Reuse Inventory Report* (2022), available at <https://floridadep.gov/sites/default/files/2021%20Reuse%20Inventory.pdf>; compiled from reports collected pursuant to chapter 62-610 of the Florida Administrative Code.

¹¹² DEP, *2019 Reuse Inventory Report* at 2.

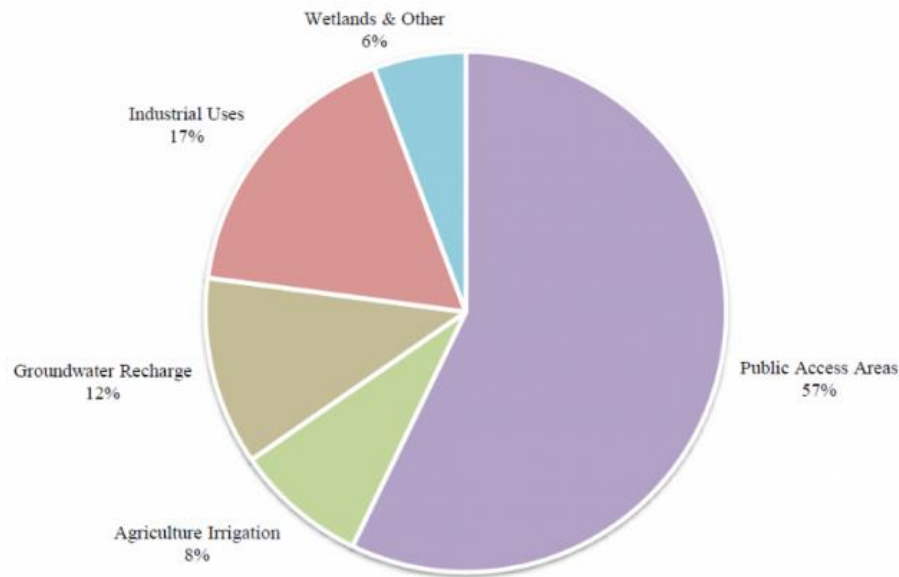
¹¹³ This represents an average per capita reuse of 38.66 gallons per day per person. DEP, *Florida's Reuse Activities*, <https://floridadep.gov/water/domestic-wastewater/content/floridas-reuse-activities> (last visited Jan. 18, 2024).

¹¹⁴ DEP, *2019 Reuse Inventory Report* at 2, 3.

¹¹⁵ *Id.* at 2.

¹¹⁶ *Id.* at 3.

The chart below shows the percentage of reclaimed water utilization by flow.¹¹⁷



Note: Agriculture irrigation includes edible crops (e.g., citrus) as well as feed and fodder crops (e.g., spray fields).

In 2021, the Legislature passed SB 64, which required domestic wastewater utilities that dispose of effluent, reclaimed water, or reuse water by surface water discharge to submit a plan for eliminating non-beneficial surface water discharge by January 2032.¹¹⁸ The plan must include the average gallons per day that discharges are reduced, the average gallons per day of discharges that will continue, the level of treatment discharged water receives, and any modified or new plans submitted by a utility since the last report.¹¹⁹

SB 64 authorized discharges that are being beneficially used or otherwise regulated, including discharges associated with an indirect potable reuse project; permitted wet weather discharge; discharges into a stormwater management system, which are subsequently withdrawn for irrigation purposes; utilities that operate domestic wastewater treatment facilities with reuse systems that reuse at least 90 percent of a facility's annual average flow; or discharges that provide direct ecological or public water supply benefits.¹²⁰ The bill further specified that potable reuse is an alternative water supply and made reuse projects eligible for alternative water supply funding and incentivized the development of potable reuse projects.¹²¹

Reclaimed Water as Alternative Water Supply

When traditional water supplies are constrained, alternative water supplies must be developed in addition to water conservation efforts. Alternative water supply can include reclaimed water,

¹¹⁷ DEP, *Florida's Reuse Activities*.

¹¹⁸ Chapter 2021-168, Laws of Fla.; s. 403.064(17), F.S.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

brackish groundwater, surface water, and excess surface water captured and stored in reservoirs or aquifer storage and recovery wells.¹²²

Reclaimed water is a type of alternative water supply and is eligible to receive alternative water supply funding.¹²³ Reclaimed water can be used for many purposes to meet water demand, including:

- Irrigation of golf courses, parks, residential properties, and landscaped areas;
- Urban uses, such as toilet flushing, car washing, and aesthetic purposes;
- Agricultural uses, such as irrigation of food crops, pasture lands, and at nurseries;
- Wetlands creation, restoration, and enhancement;
- Recharging groundwater through rapid infiltration basins, absorption fields, and direct injection;
- Augmentation of surface waters used for drinking water supplies; and
- Industrial uses such as processing and cooling water.¹²⁴

Regulation of Reclaimed Water

Both the DEP and the water management districts (districts) play a regulatory role in the use of reclaimed water. The DEP regulations focus on water quality and ensure that reclaimed water is appropriately treated for its intended use to ensure protection of public health and the environment. The districts work with local utilities and water users to maximize the beneficial use of reclaimed water as an alternative water supply. The districts include alternative water supply projects in their regional water supply plans¹²⁵ and implement cost-share programs to assist communities in developing reclaimed water systems.¹²⁶

In its rules, the DEP provides detailed reclaimed water treatment requirements depending upon how the reclaimed water will be used, including for groundwater recharge, surface water discharge, or to protect water quality.¹²⁷ In order to be reused as reclaimed water, domestic wastewater must meet, at minimum, a treatment standard of secondary treatment, basic disinfection, and pH control.¹²⁸ The regulations also include requirements for groundwater monitoring at reuse and land application sites.¹²⁹

¹²² DEP, *Alternative Water Supply*, <https://floridadep.gov/water-policy/water-policy/content/alternative-water-supply#Alternative%20Water%20Supply> (last visited Jan. 18, 2024).

¹²³ Section 373.250(2), F.S.

¹²⁴ DEP, *Uses of Reclaimed Water*, <https://floridadep.gov/water/domestic-wastewater/content/uses-reclaimed-water> (last visited Jan. 18, 2024).

¹²⁵ Section 373.036(2), F.S.

¹²⁶ DEP, *Water Management District Reuse Programs*, <https://floridadep.gov/water/domestic-wastewater/content/water-management-district-reuse-programs> (last visited Jan. 18, 2024).

¹²⁷ Fla. Admin. Code R. 62-610.

¹²⁸ DEP, *Applicable Rules for Reuse Projects*, <https://floridadep.gov/water/domestic-wastewater/content/applicable-rules-reuse-projects#:~:text=Treatment%20and%20disinfection%20requirements%20for%20reuse%20of%20reclaimed,in%20order%20to%20be%20reused%20as%20reclaimed%20water> (last visited Jan. 18, 2024).

¹²⁹ Fla. Admin. Code R. 62-610.412.

The districts are responsible for the administration of water resources at a regional level, including programs to protect water supply, water quality, and natural systems.¹³⁰ The districts issue consumptive use permits (CUPs) to manage the use of water. A CUP allows the holder to withdraw a specified amount of water from surface water and groundwater sources for reasonable and beneficial use.¹³¹ CUPs require water conservation to prevent wasteful uses, require the reuse of reclaimed water instead of higher-quality groundwater where appropriate, and set limits on the amount of water that can be withdrawn.¹³² The districts may not require CUPs for reclaimed water.¹³³

The districts also implement minimum flows and minimum water levels (MFLs) to balance public water supply needs with protection of the state's natural systems.¹³⁴ For water bodies that are below or projected to fall below their MFL, the districts are required to implement a recovery or prevention strategy to ensure the MFL is maintained.¹³⁵

¹³⁰ DEP, *Water Management Districts*, <https://floridadep.gov/water-policy/water-policy/content/water-management-districts> (last visited Jan. 18, 2024).

¹³¹ South Florida Water Management District, *Consumptive Water Use Permits*, <https://www.sfwmd.gov/doing-business-with-us/permits/water-use-permits> (last visited Jan. 18, 2024).

¹³² *Id.*

¹³³ Section 373.250, F.S.

¹³⁴ DEP, *Minimum Flows and Minimum Water Levels and Reservations*, <https://floridadep.gov/water-policy/water-policy/content/minimum-flows-and-minimum-water-levels-and-reservations> (last visited Jan. 18, 2024); *see also* section 373.042(1), F.S. Minimum flows and minimum water levels are the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area.

¹³⁵ *Id.*

Class I Injection Wells

Class I injections wells are used to inject hazardous and non-hazardous wastes into deep, confined rock formations (see the image to the right).¹³⁶ Class I wells are typically drilled thousands of feet below the lowermost underground source of drinking water.¹³⁷ There are more than 180 active Class I wells in Florida, the majority of which dispose of non-hazardous, secondary-treated effluent from domestic wastewater treatment plants.¹³⁸ New hazardous waste wells were banned in Florida in 1983.¹³⁹

Class I injections wells are required to be constructed, maintained, and operated so that the injection fluid remains in the injection zone, and the unapproved interchange of water between aquifers is prohibited. The wells are monitored so that any migration of injection fluids would be detected before reaching the underground source of drinking water.¹⁴⁰

Aquatic Preserves

The State of Florida passed the Aquatic Preserve Act in 1975 to ensure that the state-owned submerged lands in areas with exceptional biological, aesthetic, and scientific value were set aside forever as aquatic preserves or sanctuaries for the benefit of future generations.¹⁴¹ There are currently 42 aquatic preserves encompassing about 2.2 million acres.¹⁴² All but four are located along Florida's 8,400 miles of coastline.¹⁴³

Aquatic preserves only include lands or water bottoms owned by the state. The Aquatic Preserve Act excludes any privately owned lands or water bottoms, or any publicly owned and maintained navigation channel or other public works project authorized by the U.S. Congress designed to improve or maintain commerce and



¹³⁶ U.S. Environmental Protection Agency, *Underground Injection Control, Class I Industrial and Municipal Waste Disposal Wells*, <https://www.epa.gov/uic/class-i-industrial-and-municipal-waste-disposal-wells> (last visited Jan. 18, 2024).

¹³⁷ *Id.*

¹³⁸ DEP, *UIC Wells Classification*, <https://floridadep.gov/water/aquifer-protection/content/uic-wells-classification#:~:text=In%20Florida%2C%20there%20are%20six%20classes%20of%20injection,than%20180%20active%20Class%20I%20wells%20in%20Florida> (last visited Jan., 18, 2024).

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ Section 258.36, F.S.; DEP, *Aquatic Preserve Program*, <https://floridadep.gov/rcp/aquatic-preserve> (last visited Jan. 18, 2024).

¹⁴² DEP, *Aquatic Preserve Program*; DEP, Geospatial Open Data, *Florida Aquatic Preserves*, <https://geodata.dep.state.fl.us/datasets/FDEP::florida-aquatic-preserves/explore?location=27.492338%2C-83.860873%2C5.95> (last visited Jan. 18, 2024); DEP, Office of Resilience and Coastal Protection, *Aquatic Preserve Program*, https://floridaapdata.org/about_FCO.php (last visited Jan. 18, 2024).

¹⁴³ DEP ORCP, *Aquatic Preserve Program*.

navigation.¹⁴⁴ Further, the Aquatic Preserve Act excludes all lands lost by avulsion or artificially induced erosion.¹⁴⁵

The Board of Trustees of the Internal Improvement Trust Fund (Board) may establish additional aquatic preserves, subject to confirmation by the Legislature.¹⁴⁶ Following public notice and public hearing in the county or counties in which the proposed preserve is to be located, the Board may adopt a resolution formally setting aside such areas. The resolution must include:

- A legal description of the area to be included;
- The designation of the type of aquatic preserve being set aside;
- A general statement of what is sought to be preserved; and
- A clear statement of the management responsibilities for the area.¹⁴⁷

Privately-owned lands and water bottoms may be included in an aquatic preserve upon specific authorization from the owner as a dedication in perpetuity or a lease.¹⁴⁸

Current law restricts certain activities in aquatic preserves, including the construction of utility cables and pipes and spoil disposal.¹⁴⁹ Further, the Board may not:

- Sell, lease, or transfer sovereign submerged lands¹⁵⁰ unless it is in the public interest.
- Approve the waterward relocation or setting of bulkhead lines waterward of the line of mean high water within the preserve, except when public road and bridge construction projects have no reasonable alternative and it is not contrary to the public interest.
- Approve further dredging or filling of submerged lands, except for certain activities that must be authorized pursuant to a permit.¹⁵¹

Only minimal or maintenance dredging is permitted in an aquatic preserve and any alteration of the preserves' physical conditions is restricted unless the alteration enhances the quality or utility of the preserve or the public health generally.¹⁵² Oil and gas well drilling is prohibited within the aquatic preserve. Docking facilities and structures for shore protection are restricted as to size and location.¹⁵³

No wastes or effluents may be discharged into an aquatic preserve if they substantially inhibit the accomplishment of the purposes of the Aquatic Preserve Act. Riparian owners may selectively trim or alter mangroves on adjacent publicly owned submerged lands, provided that the selective

¹⁴⁴ Section 258.40, F.S.

¹⁴⁵ *Id.*

¹⁴⁶ Section 258.41, F.S.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ Section 258.42, F.S.

¹⁵⁰ Sovereign submerged lands include, but are not limited to, tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally influenced waters. The Board holds title to sovereign submerged lands. DEP, *Submerged Lands Management*, <https://floridadep.gov/lands/bureau-public-land-administration/content/submerged-lands-management> (last visited Jan 18, 2024).

¹⁵¹ Section 258.42, F.S.

¹⁵² Fla. Admin. Code R. 18-20.004. Note that every aquatic preserve in the state has specific restrictions and policies that are set out in the Florida Administrative Code and/or ch. 258, F.S.

¹⁵³ Section 258.42, F.S. Administrative rules applicable to aquatic preserves generally may be found in Chapters 18-20, F.A.C., Management Policies, Standards and Criteria.

trimming or alteration is in compliance with the requirements of state law including permit requirements for mangrove trimming.¹⁵⁴

Leases of sovereign submerged lands are more costly within aquatic preserves. A rate of two times the existing rate is applied to aquatic preserve leases if 75 percent or more of the lease shoreline and the adjacent 1000 feet on either side of the leased area is in a natural, unbulkheaded, non-seawalled or non-riprapped condition.¹⁵⁵

The Board has a duty to conserve and improve state-owned lands and the products thereof, which includes the preservation and regeneration of seagrass.¹⁵⁶ A person operating a vessel outside a lawfully marked channel in a careless manner that causes seagrass scarring within an aquatic preserve, with the exception of the Lake Jackson, Oklawaha River, Wekiva River, and Rainbow Springs aquatic preserves, commits a noncriminal infraction. The Nature Coast Aquatic Preserve is also not included. The penalties are as follows:

- \$100 for a first offense;
- \$250 for a second offense occurring within 12 months of a prior conviction;
- \$500 for a third offense occurring within 36 months of a prior conviction; and
- \$1,000 for a fourth or subsequent offense occurring within 72 months of a prior conviction.¹⁵⁷

The Nature Coast Aquatic Preserve

The Florida Legislature designated the Nature Coast Aquatic Preserve in 2020¹⁵⁸ and it is the 42nd aquatic preserve.¹⁵⁹ The preserve is the second-largest in Florida. It encompasses 800 square miles of coastal waters, including 625 miles of shoreline along Citrus, Hernando, and Pasco Counties. The preserve is bordered to the north and south by three other aquatic preserves. The combination of all four aquatic preserves protects the largest contiguous seagrass meadow in the Gulf of Mexico and the largest spring-fed seagrass habitat in the world.¹⁶⁰

The preserve by itself protects nearly 400,000 acres of seagrass that support working waterfront industries, including fisheries, seafood production, and ecotourism. The preserve also includes mangrove islands, saltmarsh, sponge beds, marine springs, oyster reefs, and limestone hardbottom habitats.¹⁶¹

Kristin Jacobs Coral Reef Ecosystem Conservation Area

The Kristin Jacobs Coral Reef Ecosystem Conservation Area, formerly known as the Southeast Florida Coral Reef Initiative, was officially established on July 1, 2018.¹⁶² The conservation area

¹⁵⁴ Section 258.42, F.S.

¹⁵⁵ Fla. Admin. Code Rule 18-21.011(1)(b)5.

¹⁵⁶ Section 253.04(3), F.S.

¹⁵⁷ Section 327.73(x), F.S.

¹⁵⁸ Section 258.3991, F.S.

¹⁵⁹ DEP, *Nature Coast Aquatic Preserve*, <https://floridadep.gov/NatureCoastAP> (last visited Jan. 18, 2024).

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² Section 253.90, F.S.; DEP, *Coral ECA: Kristin Jacobs Coral Reef Ecosystem Conservation Area*, <https://floridadep.gov/rcp/coral/content/coral-eca-kristin-jacobs-coral-reef-ecosystem-conservation-area> (last visited Jan. 18, 2024).

is the northernmost section of Florida's coral reef and runs 105 miles from the St. Lucie Inlet to the northern boundary of Biscayne National Park. The conservation area is part of the only barrier reef system in the continental U.S. and is home to more than 6,000 species of marine life including fish, stony corals, gorgonians, sponges, and other marine invertebrates.¹⁶³

III. Effect of Proposed Changes:

Section 1 amends s. 253.04, F.S., to extend the area in which a person operating a vessel outside a lawfully marked channel in a careless manner that causes seagrass scarring within an aquatic preserve commits a noncriminal infraction. The area now includes the Nature Coast Aquatic Preserve.

Section 2 amends s. 258.39, F.S., to declare as an aquatic preserve the Kristin Jacobs Coral Reef Ecosystem Conservation Area, as designated by chapter 2021-107, Laws of Florida, the boundaries of which consist of the sovereignty submerged lands and waters of the state offshore of Broward, Martin, Miami-Dade, and Palm Beach Counties from the St. Lucie Inlet to the northern boundary of the Biscayne National Park.

Section 3 amends s. 373.250, F.S., to direct each water management district, in coordination with the Department of Environmental Protection (DEP), to develop rules by December 31, 2025, to promote the use of reclaimed water and encourage potable quantifiable water offsets that produce significant water savings beyond those required in a consumptive use permit.

The bill requires that the rules must provide that if an applicant proposes a water supply development or water resource development project using reclaimed water that meets the advanced wastewater treatment standards for total nitrogen and total phosphorous as part of an application for consumptive use, the applicant is eligible for a permit duration of up to 30 years if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. The bill provides that the rules developed pursuant to this paragraph must include, at a minimum:

- A requirement that the permittee demonstrate how quantifiable groundwater or surface water savings associated with the new water supply development or water resource development project helps meet water demands beyond a 20-year permit duration or is completed to benefit a waterbody with a minimum flow or minimum water level with a recovery or prevention strategy; and
- Guidelines for a district to follow in determining the permit duration based on the project's implementation.

The bill requires that the rules must also provide authorization for a consumptive use permittee to seek a permit extension of up to 10 years if the permittee proposes a water supply development or water resource development project using reclaimed water that meets the advanced wastewater treatment standards for total nitrogen and total phosphorous during the term of its permit which results in the reduction of groundwater or surface water withdrawals or is completed to benefit a waterbody with a minimum flow or minimum water level with a

¹⁶³ DEP, *Coral ECA: Kristin Jacobs Coral Reef Ecosystem Conservation Area*.

recovery or prevention strategy. The bill provides that rules associated with this paragraph must include, at a minimum:

- A requirement that the permittee be in compliance with the permittee's consumptive use permit;
- A requirement that the permittee demonstrate how the quantifiable groundwater or surface water savings associated with the new water supply development or water resource development project helps meet water demands beyond the issued permit duration or benefits a waterbody with a minimum flow or minimum water level with a recover or prevention strategy;
- A requirement that the permittee demonstrate a water demand for the permit's allocation through the term of the extension; and
- Guidelines for a district to follow in determining the number of years extended, including a minimum year requirement, based on the project implementation.

The bill expressly states that these provisions do not limit the existing authority of a water management district to protect from harm the water resources or ecology of the area, or to otherwise ensure compliance with the conditions for permit issuance.

Section 4 amends s. 380.093, F.S., to define the "Florida Flood Hub" as the Florida Flood Hub for Applied Research and Innovation established pursuant to s. 380.0933, F.S.

The bill amends the definition of "preconstruction activities" to specify that the activities are those associated with a project that *addresses the risks of flooding and sea level rise* that occur before construction begins.

Resilient Florida Grant Program

The bill provides that the DEP may provide grants to a county or municipality to fund updates to the county's or municipality's inventory of critical assets, including regionally significant assets that are currently or reasonably expected to be impacted by flooding and sea level rise. The bill adds that the updated inventory must be submitted to the DEP and, at the time of submission, must reflect all such assets that are currently, or within 50 years may reasonably be expected to be, impacted by flooding and sea level rise.

The bill adds that the DEP may provide grants to a county or municipality to fund the development of strategies, in addition to projects, plans, and policies, that enhance community preparations for threats from flooding and sea level rise, including adaptation plans that help local governments prioritize project development and implementation across one or more jurisdictions in a manner consistent with departmental guidance.

The bill specifies that, under the grant program, the DEP may provide grants to a county or municipality for the cost of permitting for projects designed to achieve reductions in the risks or impacts of flooding and sea level rise using nature-based solutions.

The bill requires that, upon completion of a vulnerability assessment, the county or municipality must submit to the DEP an inventory of critical assets, including regionally significant assets that

are currently, or within 50 years are reasonably expected to be, impacted by flooding and sea level rise.

The bill requires that a vulnerability assessment make use of the best available information through the Florida Flood Hub as certified by the Chief Science Officer, in consultation with the Chief Resilience Officer. The bill adds that this includes analyzing impacts related to the depth of tidal flooding, current and future storm surge flooding, and rainfall-induced flooding, which are already listed in statute. With regard to current and future storm surge flooding, the bill removes language directing the use of publicly available National Oceanic and Atmospheric Administration (NOAA) or Federal Emergency Management Agency storm surge data, unless there is an absence of applicable data from the Florida Flood Hub. Further, the bill adds that higher frequency storm events may be analyzed to understand the exposure of a regionally significant asset. With regard to rainfall-induced flooding, the bill specifies that a spatiotemporal analysis used in the analysis must be GIS-based.

The bill requires that a vulnerability assessment initiated after July 1, 2024, must apply at a minimum the 2022 NOAA intermediate-low and intermediate sea level rise scenarios or the statewide sea level rise projections developed pursuant to the comprehensive statewide flood vulnerability and sea level rise assessment. This replaces language in current law requiring two local sea level rise scenarios that must include the 2017 NOAA intermediate-low and intermediate-high sea level rise scenarios.

The bill adds that a vulnerability assessment apply at least two planning horizons that are identified in the following table which correspond with the appropriate comprehensive statewide flood vulnerability and sea level rise assessment for which the DEP, at the time of award, determines such local vulnerability assessment will be incorporated:

Year of assessment	20-year planning horizon	50-year planning horizon
2024	2040	2070
2029	2050	2080
2034	2055	2085
2039	2060	2090
2044	2065	2095
2049	2070	2100

The bill requires that the local sea level data required to be applied in a vulnerability assessment must be the data maintained by the Florida Flood Hub which reflect the best available scientific information as certified by the Chief Science Officer, in consultation with the Chief Resilience Officer. If such data is not available, then the bill allows the use of local sea level data that may be interpolated between the two closest NOAA tide gauges.

Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment

The bill updates an out-of-date requirement, to require the DEP to develop and maintain a comprehensive statewide flood vulnerability and sea level rise data set. The bill directs the DEP to develop and maintain the data set in coordination with the Chief Resilience Officer. The bill

requires the compilation, analysis, and incorporation of information related to critical asset inventories. The bill requires the Chief Science Officer to coordinate specifically with the Chief Resilience Officer and the Florida Flood Hub to develop statewide sea level rise projections. The bill updates an out-of-date provision and requires the DEP to coordinate with the Chief Resilience Officer and the Florida Flood Hub, to complete a comprehensive statewide flood vulnerability and sea level rise assessment. The bill requires that the assessment must include the 20- and 50-year projected sea level rise at each active NOAA tidal gauge off the coast of this state as derived from the statewide sea level rise projections.

The bill requires the DEP to coordinate with the Chief Resilience Officer and the Florida Flood Hub to update the comprehensive statewide flood vulnerability and sea level rise data set using the best available information each year at least every five years. The bill removes language requiring the DEP to update the data set and assessment more frequently than every five years if it determines that updates are necessary to maintain their validity.

Statewide Flooding and Sea Level Rise Resilience Plan

The bill removes an out-of-date requirement regarding a preliminary plan to be submitted by December 1, 2021. The bill requires that each annual plan must *primarily* address risks of flooding and sea level rise, but adds that it may also include, at the DEP's discretion in consultation with the Chief Resilience Officer, certain other projects that address risks of flooding and sea level rise to critical assets not yet identified in the comprehensive statewide flood vulnerability and sea level rise assessment.

The bill specifies that local governments, special districts, and regional resilience entities may submit proposed projects that address risks of flooding or sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment.

The bill extends the deadline for counties, municipalities, special districts, and regional resilience entities acting on behalf of one or more member counties or municipalities to submit projects identified in existing vulnerability assessments that do not comply with the requirements of the Resilient Florida Grant Program to December 1, 2024. Such entities may submit those projects only if the entity is actively developing a vulnerability assessment that is either under a signed grant agreement with the DEP pursuant to the grant program or funded by another state or federal agency, or is self-funded and intended to meet the grant program's vulnerability assessment requirements or the existing vulnerability assessment was completed using previously compliant statutory requirements. The bill provides that projects identified from this category of vulnerability assessments are eligible for submittal until the prior vulnerability assessment has been updated to meet the most recent statutory requirements

The bill removes the term "financially disadvantaged community" for purposes of reduced cost share and replaces it with the term "community eligible for reduced cost share" and includes a municipality or county with a per capita annual income that is equal to or less than 75 percent of the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce.

The bill specifies that water management, drainage, erosion control, and flood control districts and regional water supply authorities may submit proposed projects that address risks of flooding or sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment or vulnerability assessments that meet the requirements of the Resilient Florida Grant Program.

The bill removes language requiring that for a project to be eligible for inclusion in the plan, it must have been submitted by an authorized entity or must have been identified in the comprehensive statewide flood vulnerability and sea level rise assessment, as applicable.

The bill authorizes the DEP to adopt rules to implement this section.

Regional Resilience Entities

The bill specifically includes regional planning councils and estuary partnerships as regional entities that may receive funding for certain purposes.

The bill specifies that one of the purposes for which the DEP may provide funding to certain regional entities is to coordinate and conduct activities authorized by the Resilient Florida Grant Program with broad regional benefit or on behalf of multiple member counties and municipalities. This replaces language authorizing the DEP to provide funding for the purpose of coordinating multijurisdictional vulnerability assessments.

Section 5 amends s. 381.0061, F.S., to remove an authorization allowing the Department of Health (DOH) to impose a fine for a violation of the laws relating to onsite sewage treatment and disposal systems (OSTDSs) regulations, OSTDS fees, and septic tank contracting.

The bill specifies that the DOH may impose a fine for a violation of any rule adopted by the DOH under ch. 381, F.S., relating to public health, or for a violation of ch. 386, F.S., relating to sanitary nuisances and the Florida Clean Air Act, that does not involve OSTDSs.

Section 6 provides that the Legislature intends that the transfer of the regulation of the Onsite Sewage Program from the DOH to the DEP, as required by the Clean Waterways Act, be completed in a phased approach.

The bill directs that before the phased transfer, the DEP must coordinate with the DOH to identify equipment and vehicles that were previously used to carry out the program in each county and that are no longer needed for such purpose. The DOH must transfer the agreed-upon equipment and vehicles to the DEP, to the extent that each county agrees to relinquish ownership of such equipment and vehicles to the DOH.

The bill provides that when the DEP begins implementing the program within a county, the DOH may no longer implement or collect fees for the program unless specified by separate delegation or contract with the DEP.

Section 7 amends s. 381.0065, F.S., to specify that the DEP must conduct enforcement activities in accordance with part I of chapter 403, F.S., relating to pollution control, as well as for a violation of any rule adopted by the DEP under laws regulating OSTDSs, sanitary nuisances relating to OSTDSs, or septic tank contracting.

The bill adds that all references in this section (s. 381.0065, F.S.) to part I of chapter 386, regarding sanitary nuisances, relate solely to nuisances that involve improperly built or maintained septic tanks or other OSTDSs and untreated or improperly treated or transported waste from OSTDSs. The bill provides that the DEP shall have all the duties and authorities of the DOH for sanitary nuisances involving OSTDSs. The bill provides that this authority is in addition to and may be pursued independently of or simultaneously with the enforcement remedies provided under this section relating to OSTDSs regulations and ch. 403, F.S., relating to pollution control.

The bill directs the DEP to adopt rules establishing and implementing a program of general permits for projects, or categories of projects, which have, individually or cumulatively, a minimal adverse impact on public health or the environment. The rules must:

- Specify design or performance criteria which, if applied, would result in compliance with appropriate standards; and
- Authorize a person who complies with the general permit eligibility requirements to use the permit 30 days after giving notice to the DEP without any agency action by the DEP. Within the 30-day notice period, the DEP shall determine whether the activity qualifies for a general permit. Further, if the activity does not qualify or the notice does not contain all the required information, the DEP must notify the person.

The bill specifies that for DEP personnel to gain entry to a residence or private building, the DEP must obtain permission from the owner or occupant or secure an inspection warrant from a court of competent jurisdiction pursuant to the procedures of s. 403.091, F.S., relating to inspections (see Section 13 of the bill). The bill removes language authorizing the DEP to issue citations that may contain an order of correction or an order to pay a fine, or both, and instead provides that the DEP has all the judicial and administrative remedies available to it pursuant to part I of ch. 403, F.S., relating to pollution control.

The bill removes all requirements relating to the DEP issuing citations.

The bill provides that DEP shall deposit any damages, costs, or penalties it collects pursuant to this section on OSTDSs regulations and part I of ch. 403, F.S., relating to pollution control, in the Water Quality Assurance Trust Fund. The bill removes language directing the DEP to deposit money from fines into the county health department trust fund.

Section 8 amends s. 381.0066, F.S., relating to OSTDS fees, to provide that the fee schedule for application review, permit issuance, or system inspection applies when performed by the DEP or a private provider inspector.

The bill removes language providing that fees collected with respect to OSTDS must be deposited in a trust fund administered by the DEP, to be used for purposes stated in the OSTDS fees and regulations laws. The bill directs that funds collected for the implementation of OSTDS

regulation, connection of existing OSTDSs to central sewerage systems, and corrective orders relating to OSTDSs and private and certain public water systems, subsequent to any phased transfer of implementation from the DOH to the DEP within any county, must be deposited in the Florida Permit Fee Trust Fund, to be administered by the DEP.

Section 9 amends s. 403.061, F.S., to direct that, upon direction of the DEP, all counties must make available necessary scientific, technical, research, administrative, and operational services and facilities. Current law only requires all state agencies to make these services and facilities available.

Section 10 amends s. 403.064, F.S., to provide a Legislative finding that the reuse of reclaimed water is a critical component of meeting the state's existing and future water supply needs while sustaining natural systems and encouraging its best and most beneficial use.

Therefore, the bill would require *all* applicants for permits to construct and operate a domestic wastewater treatment facility to prepare a reuse feasibility study. Currently, this requirement is limited to wastewater treatment facilities discharging to a water resource caution area.

The bill makes the following changes to the content requirements of reuse feasibility studies:

- A reuse feasibility study must include an evaluation of the estimated water savings resulting from different types of reuse, if implemented;
- A reuse feasibility study must include an evaluation of environmental and water resource benefits associated with different types of reuse;
- A reuse feasibility study must include an evaluation of economic, environmental, and technical constraints associated with the different types of reuse, including any constraints caused by potential water quality impacts.

The bill requires that a domestic wastewater treatment facility that disposes of effluent or a portion thereof by Class I deep well injection, surface water discharge, land application, or other method to dispose of effluent or a portion thereof must give consideration to direct ecological or public water supply benefits afforded by any disposal and implement reuse to the degree that it is feasible.

Section 11 amends s. 403.067, F.S., to specify that if a local government is required to develop a wastewater treatment plan as part of a basin management action plan (BMAP), that plan is a *domestic* wastewater treatment plan. The bill adds that public and private domestic wastewater treatment facilities that specifically provide services or are located within the jurisdiction of the local government must participate in developing the domestic wastewater treatment plan.

The bill adds that private domestic wastewater facilities and special districts providing domestic wastewater services must provide the required wastewater facility information to the applicable local governments.

Section 12 amends s. 403.0673, F.S., which creates the water quality improvement grant program to require the DEP in the annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on projects funded in the water quality grant program to include a status report on each project funded since 2021. The status report must, at a

minimum, identify which projects have been completed and, if such information is available, provide nutrient load improvements or water quality testing data for the waterbody. The bill also directs the DEP to include projects funded under the water quality grant program on a user-friendly website or dashboard.

Section 13 amends s. 403.086, F.S., to require that by July 1, 2034, within a BMAP or a reasonable assurance plan area, any wastewater treatment facility providing reclaimed water that will be used for commercial or residential irrigation or be otherwise land applied must meet the standards for advanced waste treatment for total nitrogen and phosphorous as set in statute,¹⁶⁴ if the DEP has determined in an applicable BMAP or reasonable assurance plan that the use of reclaimed water is contributing to the nutrient impairment being addressed in such plan. The bill provides that for such DEP determinations made in a nutrient BMAP or reasonable assurance plan after July 1, 2024, an applicable wastewater treatment facility must meet the requisite advanced wastewater treatment standards within 10 years after such determination. The DEP is not prevented from requiring an alternative treatment standard, including a more stringent treatment standard, if the DEP determines that alternative standard is necessary to achieve the total maximum daily load or applicable water quality criteria. The bill provides that this criteria does not apply to reclaimed water that is otherwise land applied as part of a water quality restoration project or water resource development project approved by the DEP to meet a total maximum daily load or minimum flow or level and where such reclaimed water will be at or below the advanced wastewater treatment standards before entering groundwater or surface water.

Section 14 amends s. 403.091, F.S., to provide that any duly authorized representative of the DEP may at any reasonable time enter and inspect, for the purpose of ascertaining the state of compliance with the law or rules and regulations of the DEP, any property, premises, or place, except a building used exclusively for a private residence, on or at which an OSTDS is located or is being constructed or installed or where certain required records are kept.

The bill provides that any authorized representative may at any reasonable times obtain any other information necessary to determine compliance with permit conditions or other requirements of OSTDSs regulations, sanitary nuisances for purposes of OSTDSs only, septic tank contracting, or rules of standards adopted pursuant thereto. The bill adds that an inspection warrant may be issued:

- When it appears that the properties to be inspected may be connected with or contain evidence of the violation of any of the laws listed above.
- When the inspection sought is an integral part of a larger scheme of systematic routine inspections which are necessary to, and consistent with, the continuing efforts of the DEP to ensure compliance with the law listed above.

Section 15 amends s. 403.121, F.S., to provide that the DEP shall have certain judicial and administrative remedies available to it for violations of statutes relating to:

- General requirements for OSTDSs (ss. 381.0065-381.0067, F.S.);
- Sanitary nuisances for purposes of OSTDSs only (part I of ch. 386, F.S.);
- Septic tank contracting (part III of ch. 489, F.S., or any rule promulgated thereunder).

¹⁶⁴ Section 403.086(4), F.S.

With regard to the schedule for administrative penalties, the DEP shall assess a penalty of \$2,000 for the following violations:

- Failure to obtain an OSTDS permit or for another violation of s. 381.0065, F.S., relating to OSTDSs regulations;
- The creation of or maintenance of a nuisance related to an OSTDS under part I of ch. 386, F.S.; or
- For a violation of part III of ch. 489, relating to septic tank contracting, or any rule properly promulgated thereunder.

The bill adds that each day the cause of a sanitary nuisance is not addressed constitutes a separate offense.

Section 16 amends s. 403.9301, F.S., to require the Office of Economic and Demographic Research to provide, beginning July 1, 2024, and annually thereafter, a publicly-accessible data visualization tool on its website related to its statewide wastewater services projections.

Section 17 amends s. 403.9302, F.S., to require the Office of Economic and Demographic Research to provide, beginning July 1, 2024, and annually thereafter, a publicly accessible data visualization tool on its website related to its statewide stormwater services projections.

Section 18 amends s. 403.0671, F.S., to clarify that BMAP wastewater reports must include projects to construct, upgrade, or expand domestic wastewater treatment facilities to meet the *domestic* wastewater treatment plan. This change conforms to amendments made in Section 11 of the bill.

Sections 19 reenacts s. 327.73(1)(x), F.S., relating to noncriminal infractions, to incorporate the amendment made by this bill in a reference to the amended section.

Section 20 reenacts s. 381.0072(4)(a) and (6)(a), F.S., relating to food service protection, to incorporate the amendment made by this bill in a reference to the amended section.

Section 21 reenacts s. 381.0086(4), F.S., relating to public health rules, variances, and penalties, to incorporate the amendment made by this bill in a reference to the amended section.

Section 22 reenacts s. 381.0098(7), F.S., relating to biomedical waste, to incorporate the amendment made by this bill in a reference to the amended section.

Section 23 reenacts s. 513.10(2), F.S., relating to operating a mobile home or recreational vehicle park without a permit, enforcement, and penalties, to incorporate the amendment made by this bill in a reference to the amended section.

Section 24 provides an effective date of July 1, 2024.

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

Article VII, s. 18 of the Florida Constitution prohibits a general law that requires a county or municipality to spend funds to take an action requiring the expenditure of funds, unless the law fulfills an important state interest and unless an exception applies. This bill may contain a local mandate because it requires all counties, at the direction of the Department of Environmental Protection, to make available necessary scientific, technical, research, administrative, and operational services and facilities. Because these are services and facilities that the local government would already have available, the exemption for insignificant fiscal impacts may apply.

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 Department of Environmental Protection (DEP) shall assess a penalty of \$2,000 for the following violations:

- Failure to obtain an OSTDS permit or for another violation of s. 381.0065, F.S., relating to OSTDSs regulations;
- The creation of or maintenance of a nuisance related to an OSTDS under part I of ch. 386, F.S.; or
- For a violation of part III of ch. 489, relating to septic tank contracting, or any rule properly promulgated thereunder.

C. Government Sector Impact:

This bill may have a positive fiscal impact on certain local governments, because opportunities for reduced cost share now includes a municipality or county with a per capita annual income that is equal or less than 75 percent of the state's per capita annual income as shown in the most recent census for the Resilient Florida Grant Program. With more counties and municipalities available for reduced cost share and a finite amount of funds, some counties and municipalities may not receive grants that they may otherwise have.

This bill may have a negative fiscal impact on local governments due to the requirement that all counties must make available necessary scientific, technical, research, administrative, and operational services and facilities. Further, county health departments will lose revenue and staffing that is being taken over by the DEP, but they will also no longer have to provide those services.

This bill may have a positive fiscal impact on state government, because the DEP is directed to deposit certain damages, costs, or penalties it collects relating to onsite sewage treatment and disposal systems regulations into the Water Quality Assurance Trust Fund. Local governments may experience a negative fiscal impact, because the bill removes language directed the DEP to deposit funds from fines into the county health department trust fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 253.04, 258.39, 373.250, 380.093, 381.0061, 381.0065, 381.0066, 403.061, 403.064, 403.067, 403.0673, 403.086, 403.091, 403.9301, 403.9302, 403.121, and 403.0671,.

This bill reenacts the following sections of the Florida Statutes: 327.73(1)(x), 381.0072(4)(a) and (6)(a), 381.0086(4), 381.0098(7), and 513.10(2).

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

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

CS by Appropriations Committee on Agriculture, Environment, and General Government on February 13, 2024:

The committee substitute:

- Clarifies that resiliency projects identified in a previously completed vulnerability assessment remain eligible for funding in the state resilience plan and project applications may be submitted to the department any time prior to September 1 of each year.
- Specifies that the requirement to treat reclaimed water used for irrigation to advanced waste treatment standards only applies to the nitrogen and phosphorous criteria and if within a nutrient basin management action plan where the department has determined that the use of reclaimed water is causing or contributing to the nutrient impairment.
- Directs the Office of Economic and Demographic Research to provide a publicly-accessible data visualization tool related to its statewide wastewater and stormwater needs analysis.
- Directs the DEP to include the Water Quality Grant Program projects funded under the water quality grant program on a user-friendly website or dashboard.
- Specifies that a consumptive use permit extension authorized in the bill only applies if the reclaimed water meets the advanced treatment standards for total nitrogen and phosphorous.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
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	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (Calatayud) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (3) of section
253.04, Florida Statutes, is amended to read:

253.04 Duty of board to protect, etc., state lands; state
may join in any action brought.—

(3) (a) The duty to conserve and improve state-owned lands
and the products thereof includes ~~shall include~~ the preservation



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and regeneration of seagrass, which is deemed essential to the oceans, gulfs, estuaries, and shorelines of the state. A person operating a vessel outside a lawfully marked channel in a careless manner that causes seagrass scarring within an aquatic preserve established in ss. 258.39-258.3991 ~~ss. 258.39-258.399~~, with the exception of the Lake Jackson, Oklawaha River, Wekiva River, and Rainbow Springs aquatic preserves, commits a noncriminal infraction, punishable as provided in s. 327.73. Each violation is a separate offense. As used in this subsection, the term:

1. "Seagrass" means Cuban shoal grass (*Halodule wrightii*), turtle grass (*Thalassia testudinum*), manatee grass (*Syringodium filiforme*), star grass (*Halophila engelmannii*), paddle grass (*Halophila decipiens*), Johnson's seagrass (*Halophila johnsonii*), or widgeon grass (*Ruppia maritima*).

2. "Seagrass scarring" means destruction of seagrass roots, shoots, or stems that results in tracks on the substrate commonly referred to as prop scars or propeller scars caused by the operation of a motorized vessel in waters supporting seagrasses.

Section 2. Subsection (33) is added to section 258.39, Florida Statutes, to read:

258.39 Boundaries of preserves.—The submerged lands included within the boundaries of Nassau, Duval, St. Johns, Flagler, Volusia, Brevard, Indian River, St. Lucie, Charlotte, Pinellas, Martin, Palm Beach, Miami-Dade, Monroe, Collier, Lee, Citrus, Franklin, Gulf, Bay, Okaloosa, Marion, Santa Rosa, Hernando, and Escambia Counties, as hereinafter described, with the exception of privately held submerged lands lying landward



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of established bulkheads and of privately held submerged lands within Monroe County where the establishment of bulkhead lines is not required, are hereby declared to be aquatic preserves. Such aquatic preserve areas include:

(33) Kristin Jacobs Coral Reef Ecosystem Conservation Area, as designated by chapter 2021-107, Laws of Florida, the boundaries of which consist of the sovereignty submerged lands and waters of the state offshore of Broward, Martin, Miami-Dade, and Palm Beach Counties from the St. Lucie Inlet to the northern boundary of the Biscayne National Park.

Any and all submerged lands theretofore conveyed by the Trustees of the Internal Improvement Trust Fund and any and all uplands now in private ownership are specifically exempted from this dedication.

Section 3. Subsection (9) is added to section 373.250, Florida Statutes, to read:

373.250 Reuse of reclaimed water.—

(9) To promote the use of reclaimed water and encourage quantifiable potable water offsets that produce significant water savings beyond those required in a consumptive use permit, each water management district, in coordination with the department, shall develop rules by December 31, 2025, which provide all of the following:

(a) If an applicant proposes a water supply development or water resource development project using reclaimed water that meets the advanced waste treatment standards for total nitrogen and total phosphorous as defined in s. 403.086(4)(a), as part of an application for consumptive use, the applicant is eligible



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for a permit duration of up to 30 years if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. Rules developed pursuant to this paragraph must include, at a minimum:

1. A requirement that the permittee demonstrate how quantifiable groundwater or surface water savings associated with the new water supply development or water resource development project either meets water demands beyond a 20-year permit duration or is completed to benefit a waterbody with a minimum flow or minimum water level with a recovery or prevention strategy; and

2. Guidelines for a district to follow in determining the permit duration based on the project's implementation.

This paragraph does not limit the existing authority of a water management district to issue a shorter duration permit to protect from harm the water resources or ecology of the area, or to otherwise ensure compliance with the conditions for permit issuance.

(b) Authorization for a consumptive use permittee to seek a permit extension of up to 10 years if the permittee proposes a water supply development or water resource development project using reclaimed water that meets the advanced waste treatment standards for total nitrogen and total phosphorous as defined in s. 403.086(4) (a) during the term of its permit which results in the reduction of groundwater or surface water withdrawals or is completed to benefit a waterbody with a minimum flow or minimum water level with a recovery or prevention strategy. Rules



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associated with this paragraph must include, at a minimum:

1. A requirement that the permittee be in compliance with the permittee's consumptive use permit;

2. A requirement that the permittee demonstrate how the quantifiable groundwater or surface water savings associated with the new water supply development or water resource development project either meets water demands beyond the issued permit duration or benefits a waterbody with a minimum flow or minimum water level with a recovery or prevention strategy;

3. A requirement that the permittee demonstrate a water demand for the permit's allocation through the term of the extension; and

4. Guidelines for a district to follow in determining the number of years extended, including a minimum year requirement, based on the project implementation.

This paragraph does not limit the existing authority of a water management district to protect from harm the water resources or ecology of the area, or to otherwise ensure compliance with the conditions for permit issuance.

Section 4. Present paragraphs (c) and (d) of subsection (2) of section 380.093, Florida Statutes, are redesignated as paragraphs (d) and (e), respectively, a new paragraph (c) is added to that subsection, and present paragraph (c) of subsection (2), paragraphs (b), (c), and (d) of subsection (3), and subsections (4), (5), and (6) of that section are amended, to read:

380.093 Resilient Florida Grant Program; comprehensive statewide flood vulnerability and sea level rise data set and



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assessment; Statewide Flooding and Sea Level Rise Resilience Plan; regional resilience entities.—

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

(c) “Florida Flood Hub” means the Florida Flood Hub for Applied Research and Innovation established pursuant to s. 380.0933.

~~(d)~~ ~~(e)~~ “Preconstruction activities” means activities associated with a project that addresses the risks of flooding and sea level rise that occur before construction begins, including, but not limited to, design of the project, permitting for the project, surveys and data collection, site development, solicitation, public hearings, local code or comprehensive plan amendments, establishing local funding sources, and easement acquisition.

(3) RESILIENT FLORIDA GRANT PROGRAM.—

(b) Subject to appropriation, the department may provide grants to each of the following entities:

1. A county or municipality to fund:

a. The costs of community resilience planning and necessary data collection for such planning, including comprehensive plan amendments and necessary corresponding analyses that address the requirements of s. 163.3178(2)(f).

b. Vulnerability assessments that identify or address risks of inland or coastal flooding and sea level rise.

c. Updates to the county’s or municipality’s inventory of critical assets, including regionally significant assets that are currently or reasonably expected to be impacted by flooding and sea level rise. The updated inventory must be submitted to the department and, at the time of submission, must reflect all



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such assets that are currently, or within 50 years may reasonably be expected to be, impacted by flooding and sea level rise.

d. The development of projects, plans, strategies, and policies that enhance community preparations allow communities to prepare for threats from flooding and sea level rise, including adaptation plans that help local governments prioritize project development and implementation across one or more jurisdictions in a manner consistent with departmental guidance.

~~e.d. Preconstruction activities for projects to be submitted for inclusion in the Statewide Flooding and Sea Level Rise Resilience Plan. Only a county or municipality eligible for a reduced cost share as defined in paragraph (5)(e) is eligible for such preconstruction activities that are located in a municipality that has a population of 10,000 or fewer or a county that has a population of 50,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website.~~

~~f.e. Feasibility studies and the cost of permitting for nature-based solutions that reduce the impact of flooding and sea level rise.~~

g. The cost of permitting for projects designed to achieve reductions in the risks or impacts of flooding and sea level rise using nature-based solutions.

2. A water management district identified in s. 373.069 to support local government adaptation planning, which may be conducted by the water management district or by a third party on behalf of the water management district. Such grants must be



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used for the express purpose of supporting the Florida Flood Hub
~~for Applied Research and Innovation~~ and the department in
implementing this section through data creation and collection,
modeling, and the implementation of statewide standards.
Priority must be given to filling critical data gaps identified
by the Florida Flood Hub ~~for Applied Research and Innovation~~
under s. 380.0933(2) (a).

(c) A vulnerability assessment conducted pursuant to
paragraph (b) must encompass the entire county or municipality;
include all critical assets owned or maintained by the grant
applicant; and use the most recent publicly available Digital
Elevation Model and generally accepted analysis and modeling
techniques. An assessment may encompass a smaller geographic
area or include only a portion of the critical assets owned or
maintained by the grant applicant with appropriate rationale and
upon approval by the department. Locally collected elevation
data may also be included as part of the assessment as long as
it is submitted to the department pursuant to this paragraph.

1. The assessment must include an analysis of the
vulnerability of and risks to critical assets, including
regionally significant assets, owned or managed by the county or
municipality.

2. Upon completion of a vulnerability assessment, the
county or municipality shall submit to the department all of the
following:

- a. A report detailing the findings of the assessment.
- b. All electronic mapping data used to illustrate flooding
and sea level rise impacts identified in the assessment. When
submitting such data, the county or municipality shall include:



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(I) Geospatial data in an electronic file format suitable for input to the department's mapping tool.

(II) Geographic information system (GIS) data that has been projected into the appropriate Florida State Plane Coordinate System and that is suitable for the department's mapping tool. The county or municipality must also submit metadata using standards prescribed by the department.

c. An inventory ~~A list~~ of critical assets, including regionally significant assets, that are currently, or within 50 years are reasonably expected to be, impacted by flooding and sea level rise.

(d) A vulnerability assessment conducted pursuant to paragraph (b) must do ~~include~~ all of the following:

1. Include peril of flood comprehensive plan amendments that address the requirements of s. 163.3178(2)(f), if the county or municipality is subject to such requirements and has not complied with such requirements as determined by the Department of Commerce ~~Economic Opportunity~~.

2. Make use of the best available information through the Florida Flood Hub as certified by the Chief Science Officer, in consultation with the Chief Resilience Officer, including, as if applicable, analyzing impacts related to the depth of:

a. Tidal flooding, including future high tide flooding, which must use thresholds published and provided by the department. To the extent practicable, the analysis should also geographically display the number of tidal flood days expected for each scenario and planning horizon.

b. Current and future storm surge flooding ~~using publicly available National Oceanic and Atmospheric Administration or~~



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~~Federal Emergency Management Agency storm surge data.~~ The
initial storm surge event used must equal or exceed the current
100-year flood event. Higher frequency storm events may be
analyzed to understand the exposure of a critical asset or
regionally significant asset. Publicly available National
Oceanic and Atmospheric Administration (NOAA) or Federal
Emergency Management Agency storm surge data may be used in the
absence of applicable data from the Florida Flood Hub.

c. To the extent practicable, rainfall-induced flooding
using a GIS-based spatiotemporal analysis or existing hydrologic
and hydraulic modeling results. Future boundary conditions
should be modified to consider sea level rise and high tide
conditions. Vulnerability assessments for rainfall-induced
flooding must include the depth of rainfall-induced flooding for
a 100-year storm and a 500-year storm, as defined by the
applicable water management district or, if necessary, the
appropriate federal agency. Future rainfall conditions should be
used, if available. Noncoastal communities must perform a
rainfall-induced flooding assessment.

d. To the extent practicable, compound flooding or the
combination of tidal, storm surge, and rainfall-induced
flooding.

3. Apply the following scenarios and standards:

a. All analyses in the North American Vertical Datum of
1988.

b. For a vulnerability assessment initiated after July 1,
2024, at a minimum ~~least two local sea level rise scenarios,~~
~~which must include the~~ 2022 NOAA ~~2017 National Oceanic and~~
~~Atmospheric Administration~~ intermediate-low and intermediate



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~~intermediate-high~~ sea level rise scenarios or the statewide sea level rise projections developed pursuant to paragraph (4) (a) projections.

c. At least two planning horizons identified in the following table which correspond with the appropriate comprehensive statewide flood vulnerability and sea level rise assessment for which the department, at the time of award, determines such local vulnerability assessment will be incorporated:

<u>Year of assessment</u>	<u>20-year planning horizon</u>	<u>50-year planning horizon</u>
<u>2024</u>	<u>2040</u>	<u>2070</u>
<u>2029</u>	<u>2050</u>	<u>2080</u>
<u>2034</u>	<u>2055</u>	<u>2085</u>
<u>2039</u>	<u>2060</u>	<u>2090</u>
<u>2044</u>	<u>2065</u>	<u>2095</u>
<u>2049</u>	<u>2070</u>	<u>2100</u>

~~that include planning horizons for the years 2040 and 2070.~~

d. Local sea level data maintained by the Florida Flood Hub



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which reflect the best available scientific information as certified by the Chief Science Officer, in consultation with the Chief Resilience Officer. If such data is not available, local sea level data may be ~~that has been~~ interpolated between the two closest NOAA National Oceanic and Atmospheric Administration tide gauges; however, such ~~Local sea level~~ data may be taken from only one of the two closest NOAA tide gauges ~~such gauge~~ if the gauge has a higher mean sea level or may be. ~~Data~~ taken from an alternate tide gauge ~~may be used~~ with appropriate rationale and department approval, as long as it is publicly available or submitted to the department pursuant to paragraph (b).

(4) COMPREHENSIVE STATEWIDE FLOOD VULNERABILITY AND SEA LEVEL RISE DATA SET AND ASSESSMENT.—

(a) ~~By July 1, 2023,~~ The department shall develop and maintain ~~complete the development of~~ a comprehensive statewide flood vulnerability and sea level rise data set sufficient to conduct a comprehensive statewide flood vulnerability and sea level rise assessment. In developing and maintaining the data set, the department shall, in coordination with the Chief Resilience Officer and the Florida Flood Hub ~~for Applied Research and Innovation~~, compile, analyze, and incorporate, as appropriate, information related to vulnerability assessments and critical asset inventories submitted to the department pursuant to subsection (3) or any previously completed assessments that meet the requirements of subsection (3).

1. The Chief Science Officer shall, in coordination with the Chief Resilience Officer and the Florida Flood Hub ~~necessary experts and resources~~, develop statewide sea level rise projections that incorporate temporal and spatial variability,



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to the extent practicable, for inclusion in the data set. This subparagraph does not supersede regionally adopted projections.

2. The data set must include information necessary to determine the risks to inland and coastal communities, including, but not limited to, elevation, tidal levels, and precipitation.

(b) ~~By July 1, 2024,~~ The department, in coordination with the Chief Resilience Officer and the Florida Flood Hub, shall complete a comprehensive statewide flood vulnerability and sea level rise assessment that identifies inland and coastal infrastructure, geographic areas, and communities in this ~~the~~ state which ~~that~~ are vulnerable to flooding and sea level rise and the associated risks.

1. The department shall use the comprehensive statewide flood vulnerability and sea level rise data set to conduct the assessment.

2. The assessment must incorporate local and regional analyses of vulnerabilities and risks, including, as appropriate, local mitigation strategies and postdisaster redevelopment plans.

3. The assessment must include an inventory of critical assets, including regionally significant assets, that are essential for critical government and business functions, national security, public health and safety, the economy, flood and storm protection, water quality management, and wildlife habitat management, and must identify and analyze the vulnerability of and risks to such critical assets. When identifying critical assets for inclusion in the assessment, the department shall also take into consideration the critical



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assets identified by local governments and submitted to the department pursuant to subsection (3).

4. The assessment must include the 20-year and 50-year projected sea level rise at each active NOAA tidal gauge off the coast of this state as derived from the statewide sea level rise projections developed pursuant to paragraph (a).

(c) The department, in coordination with the Chief Resilience Officer and the Florida Flood Hub, shall update the comprehensive statewide flood vulnerability and sea level rise data set with the best available information each year and shall update the assessment at least every 5 years. ~~The department may update the data set and assessment more frequently if it determines that updates are necessary to maintain the validity of the data set and assessment.~~

(5) STATEWIDE FLOODING AND SEA LEVEL RISE RESILIENCE PLAN.—

(a) By December 1 ~~of, 2021, and each year~~ December 1 ~~thereafter,~~ the department shall develop a Statewide Flooding and Sea Level Rise Resilience Plan on a 3-year planning horizon and submit it to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The plan must consist of ranked projects that address risks of flooding and sea level rise to coastal and inland communities in the state. All eligible projects submitted to the department pursuant to this section must be ranked and included in the plan. Each plan must include a detailed narrative overview describing how the plan was developed, including a description of the methodology used by the department to determine project eligibility, a description of the methodology used to rank projects, the specific scoring system used, the project proposal application



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form, a copy of each submitted project proposal application form separated by eligible projects and ineligible projects, the total number of project proposals received and deemed eligible, the total funding requested, and the total funding requested for eligible projects.

~~(b) The plan submitted by December 1, 2021, before the comprehensive statewide flood vulnerability and sea level rise assessment is completed, will be a preliminary plan that includes projects that address risks of flooding and sea level rise identified in available local government vulnerability assessments and projects submitted by water management districts that mitigate the risks of flooding or sea level rise on water supplies or water resources of the state. The plan submitted by December 1, 2022, and the plan submitted by December 1, 2023, will be updates to the preliminary plan. The plan submitted by December 1, 2024, and each plan submitted by December 1 thereafter:~~

1. Shall primarily address risks of flooding and sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment; and

2. May include, at the discretion of the department in consultation with the Chief Resilience Officer, other projects submitted pursuant to paragraph (d) which address risks of flooding and sea level rise to critical assets not yet identified in the comprehensive statewide flood vulnerability and sea level rise assessment.

(c) Each plan submitted by the department pursuant to this subsection must include all of the following information for each recommended project:



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1. A description of the project.
2. The location of the project.
3. An estimate of how long the project will take to complete.
4. An estimate of the cost of the project.
5. The cost-share percentage available for the project.
6. A summary of the priority score assigned to the project.
7. The project sponsor.

(d)1. By September 1 ~~of, 2021, and each year September 1 thereafter,~~ all of the following entities may submit to the department a list of proposed projects that address risks of flooding or sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment or vulnerability assessments that meet the requirements of subsection (3):

- a. Counties.
- b. Municipalities.
- c. Special districts as defined in s. 189.012 which ~~that~~ are responsible for the management and maintenance of inlets and intracoastal waterways or for the operation and maintenance of a potable water facility, a wastewater facility, an airport, or a seaport facility.

d. Regional resilience entities acting on behalf of one or more member counties or municipalities.

For the plans submitted by December 1, 2024, such entities may submit projects identified in existing vulnerability assessments that do not comply with subsection (3) only if the entity is actively developing a vulnerability assessment that is either



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under a signed grant agreement with the department pursuant to subsection (3) or funded by another state or federal agency, or is self-funded and intended to meet the requirements of paragraph (3)(d) or the existing vulnerability assessment was completed using previously compliant statutory requirements.

Projects identified from this category of vulnerability assessments are eligible for submittal until the prior vulnerability assessment has been updated to meet most recent statutory requirements ~~2021; December 1, 2022; and December 1, 2023,~~ such entities may submit projects identified in existing vulnerability assessments that do not comply with subsection (3). A regional resilience entity may also submit proposed projects to the department pursuant to this subparagraph on behalf of one or more member counties or municipalities.

2. By September 1 ~~of, 2021,~~ and each year ~~September 1~~ ~~thereafter,~~ all of the following entities may submit to the department a list of any proposed projects that address risks of flooding or sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment or vulnerability assessments that meet the requirements of subsection (3), or that mitigate the risks of flooding or sea level rise on water supplies or water resources of the state and a corresponding evaluation of each project:

- a. Water management districts.
 - b. Drainage districts.
 - c. Erosion control districts.
 - d. Flood control districts.
 - e. Regional water supply authorities.
3. Each project submitted to the department pursuant to



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this paragraph for consideration by the department for inclusion in the plan must include all of the following information:

a. A description of the project.

b. The location of the project.

c. An estimate of how long the project will take to complete.

d. An estimate of the cost of the project.

e. The cost-share percentage available for the project.

f. The project sponsor.

(e) Each project included in the plan must have a minimum 50 percent cost share unless the project assists or is within a ~~financially disadvantaged small~~ community eligible for a reduced cost share. For purposes of this section, the term "community eligible for a reduced cost share" ~~"financially disadvantaged small community"~~ means:

1. A municipality that has a population of 10,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website, and a per capita annual income that is less than the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce that includes both measurements; ~~or~~

2. A county that has a population of 50,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website, and a per capita annual income that is less than the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce that includes both measurements; or



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3. A municipality or a county with a per capita annual income that is equal to or less than 75 percent of the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce.

~~(f) To be eligible for inclusion in the plan, a project must have been submitted pursuant to paragraph (d) or must have been identified in the comprehensive statewide flood vulnerability and sea level rise assessment, as applicable.~~

~~(g)~~ Expenses ineligible for inclusion in the plan include, but are not limited to, expenses associated with any of the following:

1. Aesthetic vegetation.

2. Recreational structures such as piers, docks, and boardwalks.

3. Water quality components of stormwater and wastewater management systems, except for expenses to mitigate water quality impacts caused by the project or expenses related to water quality which are necessary to obtain a permit for the project.

4. Maintenance and repair of over-walks.

5. Park activities and facilities, except expenses to control flooding or erosion.

6. Navigation construction, operation, and maintenance activities.

7. Projects that provide only recreational benefits.

(g) ~~(h)~~ The department shall implement a scoring system for assessing each project eligible for inclusion in the plan pursuant to this subsection. The scoring system must include the



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following tiers and associated criteria:

1. Tier 1 must account for 40 percent of the total score and consist of all of the following criteria:

a. The degree to which the project addresses the risks posed by flooding and sea level rise identified in the local government vulnerability assessments or the comprehensive statewide flood vulnerability and sea level rise assessment, as applicable.

b. The degree to which the project addresses risks to regionally significant assets.

c. The degree to which the project reduces risks to areas with an overall higher percentage of vulnerable critical assets.

d. The degree to which the project contributes to existing flooding mitigation projects that reduce upland damage costs by incorporating new or enhanced structures or restoration and revegetation projects.

2. Tier 2 must account for 30 percent of the total score and consist of all of the following criteria:

a. The degree to which flooding and erosion currently affect the condition of the project area.

b. The overall readiness of the project to proceed in a timely manner, considering the project's readiness for the construction phase of development, the status of required permits, the status of any needed easement acquisition, and the availability of local funding sources.

c. The environmental habitat enhancement or inclusion of nature-based options for resilience, with priority given to state or federal critical habitat areas for threatened or endangered species.



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d. The cost-effectiveness of the project.

3. Tier 3 must account for 20 percent of the total score and consist of all of the following criteria:

a. The availability of local, state, and federal matching funds, considering the status of the funding award, and federal authorization, if applicable.

b. Previous state commitment and involvement in the project, considering previously funded phases, the total amount of previous state funding, and previous partial appropriations for the proposed project.

c. The exceedance of the flood-resistant construction requirements of the Florida Building Code and applicable flood plain management regulations.

4. Tier 4 must account for 10 percent of the total score and consist of all of the following criteria:

a. The proposed innovative technologies designed to reduce project costs and provide regional collaboration.

b. The extent to which the project assists financially disadvantaged communities.

(h)~~(i)~~ The total amount of funding proposed for each year of the plan may not be less than \$100 million. Upon review and subject to appropriation, the Legislature shall approve funding for the projects as specified in the plan. Multiyear projects that receive funding for the first year of the project must be included in subsequent plans and funded until the project is complete, provided that the project sponsor has complied with all contractual obligations and funds are available.

(i)~~(j)~~ The department shall adopt rules ~~initiate rulemaking~~ ~~by August 1, 2021,~~ to implement this section.



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(6) REGIONAL RESILIENCE ENTITIES.—Subject to specific legislative appropriation, the department may provide funding for all of the following purposes to regional entities, including regional planning councils and estuary partnerships, that are established by general purpose local governments and whose responsibilities include planning for the resilience needs of communities and coordinating intergovernmental solutions to mitigate adverse impacts of flooding and sea level rise:

(a) Providing technical assistance to counties and municipalities.

(b) Coordinating and conducting activities authorized by subsection (3) with broad regional benefit or on behalf of multiple member counties and municipalities ~~multijurisdictional vulnerability assessments.~~

(c) Developing project proposals to be submitted for inclusion in the Statewide Flooding and Sea Level Rise Resilience Plan.

Section 5. Subsection (1) of section 381.0061, Florida Statutes, is amended to read:

381.0061 Administrative fines.—

(1) In addition to any administrative action authorized by chapter 120 or by other law, the department may impose a fine, which may not exceed \$500 for each violation, for a violation of s. 381.006(15) or, s. 381.0065, s. 381.0066, s. 381.0072, or ~~part III of chapter 489,~~ for a violation of any rule adopted by the department under this chapter, or for a violation of chapter 386 not involving onsite sewage treatment and disposal systems. The department shall give an alleged violator a notice of intent to impose such fine ~~shall be given by the department to the~~



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~~alleged violator~~. Each day that a violation continues may constitute a separate violation.

Section 6. The Legislature intends that the transfer of the regulation of the Onsite Sewage Program from the Department of Health to the Department of Environmental Protection, as required by the Clean Waterways Act, chapter 2020-150, Laws of Florida, be completed in a phased approach.

(1) Before the phased transfer, the Department of Environmental Protection shall coordinate with the Department of Health to identify equipment and vehicles that were previously used to carry out the program in each county and that are no longer needed for such purpose. The Department of Health shall transfer the agreed-upon equipment and vehicles to the Department of Environmental Protection, to the extent that each county agrees to relinquish ownership of such equipment and vehicles to the Department of Health.

(2) When the Department of Environmental Protection begins implementing the program within a county, the Department of Health may no longer implement or collect fees for the program unless specified by separate delegation or contract with the Department of Environmental Protection.

Section 7. Paragraph (h) of subsection (3) and subsections (5) and (7) of section 381.0065, Florida Statutes, are amended, paragraph (o) is added to subsection (3) of that section, and subsection (9) is added to that section, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(3) DUTIES AND POWERS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.—The department shall:



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(h) Conduct enforcement activities in accordance with part I of chapter 403, including imposing fines, issuing citations, suspensions, revocations, injunctions, and emergency orders for violations of this section, part I of chapter 386, or part III of chapter 489 or for a violation of any rule adopted by the department under this section, part I of chapter 386, or part III of chapter 489. All references to part I of chapter 386 in this section relate solely to nuisances involving improperly built or maintained septic tanks or other onsite sewage treatment and disposal systems, and untreated or improperly treated or transported waste from onsite sewage treatment and disposal systems. The department shall have all the duties and authorities of the Department of Health in part I of chapter 386 for nuisances involving onsite sewage treatment and disposal systems. The department's authority under part I of chapter 386 is in addition to and may be pursued independently of or simultaneously with the enforcement remedies provided under this section and chapter 403.

(o) Adopt rules establishing and implementing a program of general permits for this section for projects, or categories of projects, which have, individually or cumulatively, a minimal adverse impact on public health or the environment. Such rules must:

1. Specify design or performance criteria which, if applied, would result in compliance with appropriate standards; and

2. Authorize a person who complies with the general permit eligibility requirements to use the permit 30 days after giving notice to the department without any agency action by the



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department. Within the 30-day notice period, the department shall determine whether the activity qualifies for a general permit. If the activity does not qualify or the notice does not contain all the required information, the department must notify the person.

(5) ENFORCEMENT; RIGHT OF ENTRY; ~~CITATIONS.~~

(a) Department personnel who have reason to believe noncompliance exists, may at any reasonable time, enter the premises permitted under ss. 381.0065-381.0066, or the business premises of any septic tank contractor or master septic tank contractor registered under part III of chapter 489, or any premises that the department has reason to believe is being operated or maintained not in compliance, to determine compliance with the provisions of this section, part I of chapter 386, or part III of chapter 489 or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489. As used in this paragraph, the term "premises" does not include a residence or private building. To gain entry to a residence or private building, the department must obtain permission from the owner or occupant or secure an inspection warrant from a court of competent jurisdiction pursuant to the procedures of s. 403.091.

(b) ~~1.~~ The department has all of the judicial and administrative remedies available to it pursuant to part I of chapter 403 ~~may issue citations that may contain an order of correction or an order to pay a fine, or both, for violations of ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489 or the rules adopted by the department, when a violation of these sections or rules is enforceable by an~~



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~~administrative or civil remedy, or when a violation of these sections or rules is a misdemeanor of the second degree. A citation issued under ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489 constitutes a notice of proposed agency action.~~

~~2. A citation must be in writing and must describe the particular nature of the violation, including specific reference to the provisions of law or rule allegedly violated.~~

~~3. The fines imposed by a citation issued by the department may not exceed \$500 for each violation. Each day the violation exists constitutes a separate violation for which a citation may be issued.~~

~~4. The department shall inform the recipient, by written notice pursuant to ss. 120.569 and 120.57, of the right to an administrative hearing to contest the citation within 21 days after the date the citation is received. The citation must contain a conspicuous statement that if the recipient fails to pay the fine within the time allowed, or fails to appear to contest the citation after having requested a hearing, the recipient has waived the recipient's right to contest the citation and must pay an amount up to the maximum fine.~~

~~5. The department may reduce or waive the fine imposed by the citation. In determining whether to reduce or waive the fine, the department must consider the gravity of the violation, the person's attempts at correcting the violation, and the person's history of previous violations including violations for which enforcement actions were taken under ss. 381.0065-381.0067, part I of chapter 386, part III of chapter 489, or other provisions of law or rule.~~



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~~6. Any person who willfully refuses to sign and accept a citation issued by the department commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

7. The department, pursuant to ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489, shall deposit any damages, costs, or penalties ~~it collects pursuant to this section and part I of chapter 403 in the Water Quality Assurance Trust Fund~~ ~~county health department trust fund for use in providing services specified in those sections.~~

~~8. This section provides an alternative means of enforcing ss. 381.0065-381.0067, part I of chapter 386, and part III of chapter 489. This section does not prohibit the department from enforcing ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489, or its rules, by any other means. However, the department must elect to use only a single method of enforcement for each violation.~~

(7) USE OF ENHANCED NUTRIENT-REDUCING ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS.-To meet the requirements of a total maximum daily load, the department shall implement a fast-track approval process of no longer than 6 months for the determination of the use of American National Standards Institute 245 systems approved by NSF International before July 1, 2020. The department shall also establish an enhanced nutrient-reducing onsite sewage treatment and disposal system approval program that will expeditiously evaluate and approve such systems for use in this state to comply with ss. 403.067(7)(a)10. and 373.469(3)(d).

(9) CONTRACT OR DELEGATION AUTHORITY.-The department may



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contract with or delegate its powers and duties under this
section to a county as provided in s. 403.061 or s. 403.182.

Section 8. Subsection (2) of section 381.0066, Florida
Statutes, is amended to read:

381.0066 Onsite sewage treatment and disposal systems;
fees.—

(2) The minimum fees in the following fee schedule apply
until changed by rule by the department within the following
limits:

(a) Application review, permit issuance, or system
inspection, when performed by the department or a private
provider inspector, including repair of a subsurface, mound,
filled, or other alternative system or permitting of an
abandoned system: a fee of not less than \$25, or more than \$125.

(b) Site evaluation, site reevaluation, evaluation of a
system previously in use, or a per annum septage disposal site
evaluation: a fee of not less than \$40, or more than \$115.

(c) Biennial operating permit for aerobic treatment units
or performance-based treatment systems: a fee of not more than
\$100.

(d) Annual operating permit for systems located in areas
zoned for industrial manufacturing or equivalent uses or where
the system is expected to receive wastewater which is not
domestic in nature: a fee of not less than \$150, or more than
\$300.

(e) Innovative technology: a fee not to exceed \$25,000.

(f) Septage disposal service, septage stabilization
facility, portable or temporary toilet service, tank
manufacturer inspection: a fee of not less than \$25, or more



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than \$200, per year.

(g) Application for variance: a fee of not less than \$150, or more than \$300.

(h) Annual operating permit for waterless, incinerating, or organic waste composting toilets: a fee of not less than \$15, or more than \$30.

(i) Aerobic treatment unit or performance-based treatment system maintenance entity permit: a fee of not less than \$25, or more than \$150, per year.

(j) Reinspection fee per visit for site inspection after system construction approval or for noncompliant system installation per site visit: a fee of not less than \$25, or more than \$100.

(k) Research: An additional \$5 fee shall be added to each new system construction permit issued to be used to fund onsite sewage treatment and disposal system research, demonstration, and training projects. Five dollars from any repair permit fee collected under this section shall be used for funding the hands-on training centers described in s. 381.0065(3)(j).

(l) Annual operating permit, including annual inspection and any required sampling and laboratory analysis of effluent, for an engineer-designed performance-based system: a fee of not less than \$150, or more than \$300.

The funds collected pursuant to this subsection for the implementation of onsite sewage treatment and disposal system regulation and for the purposes of ss. 381.00655 and 381.0067, subsequent to any phased transfer of implementation from the Department of Health to the department within any county



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pursuant to s. 381.0065, must be deposited in the Florida Permit Fee Trust Fund under s. 403.0871, to be administered by the department ~~a trust fund administered by the department, to be used for the purposes stated in this section and ss. 381.0065 and 381.00655.~~

Section 9. Subsection (4) of section 403.061, Florida Statutes, is amended to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(4) Secure necessary scientific, technical, research, administrative, and operational services by interagency agreement, by contract, or otherwise. All state agencies and counties, upon direction of the department, shall make these services and facilities available.

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 10. Subsections (1), (2), (14), and (15) of section 403.064, Florida Statutes, are amended to read:

403.064 Reuse of reclaimed water.—

(1) The encouragement and promotion of water conservation, and reuse of reclaimed water, as defined by the department, are state objectives and are considered to be in the public interest. The Legislature finds that the reuse of reclaimed water is a critical component of meeting the state's existing



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and future water supply needs while sustaining natural systems and encouraging its best and most beneficial use. The Legislature further finds that for those wastewater treatment plants permitted and operated under an approved reuse program by the department, the reclaimed water shall be considered environmentally acceptable and not a threat to public health and safety. The Legislature encourages the development of incentive-based programs for reuse implementation.

(2) All applicants for permits to construct or operate a domestic wastewater treatment facility ~~located within, serving a population located within, or discharging within a water resource caution area~~ shall prepare a reuse feasibility study as part of their application for the permit. Reuse feasibility studies must ~~shall~~ be prepared in accordance with department guidelines adopted by rule and shall include, but are not limited to:

(a) Evaluation of monetary costs and benefits for several levels and types of reuse.

(b) Evaluation of the estimated water savings resulting from different types of ~~if~~ reuse, if ~~is~~ implemented.

(c) Evaluation of rates and fees necessary to implement reuse.

(d) Evaluation of environmental and water resource benefits associated with the different types of reuse.

(e) Evaluation of economic, environmental, and technical constraints associated with the different types of reuse, including any constraints caused by potential water quality impacts.

(f) A schedule for implementation of reuse. The schedule



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872 ~~must shall~~ consider phased implementation.

873 (14) After conducting a feasibility study under subsection
874 (2), a domestic wastewater treatment facility facilities that
875 disposes dispose of effluent by Class I deep well injection, as
876 defined in 40 C.F.R. s. 144.6(a), surface water discharge, land
877 application, or other method to dispose of effluent or a portion
878 thereof must implement reuse to the degree that reuse is
879 feasible, based upon the applicant's reuse feasibility study,
880 with consideration given to direct ecological or public water
881 supply benefits afforded by any disposal. Applicable permits
882 issued by the department ~~must shall~~ be consistent with the
883 requirements of this subsection.

884 (a) This subsection does not limit the use of a Class I
885 deep well injection as defined in 40 C.F.R. s. 144.6(a), surface
886 water discharge, land application, or another method to dispose
887 of effluent or a portion thereof for backup use only facility as
888 ~~backup for a reclaimed water reuse system.~~

889 ~~(b) This subsection applies only to domestic wastewater~~
890 ~~treatment facilities located within, serving a population~~
891 ~~located within, or discharging within a water resource caution~~
892 ~~area.~~

893 ~~(15) After conducting a feasibility study under subsection~~
894 ~~(2), domestic wastewater treatment facilities that dispose of~~
895 ~~effluent by surface water discharges or by land application~~
896 ~~methods must implement reuse to the degree that reuse is~~
897 ~~feasible, based upon the applicant's reuse feasibility study.~~
898 This subsection does not apply to surface water discharges or
899 land application systems which are currently categorized as
900 reuse under department rules. ~~Applicable permits issued by the~~



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~~department shall be consistent with the requirements of this subsection.~~

~~(a) This subsection does not limit the use of a surface water discharge or land application facility as backup for a reclaimed water reuse system.~~

~~(b) This subsection applies only to domestic wastewater treatment facilities located within, serving a population located within, or discharging within a water resource caution area.~~

Section 11. Paragraph (a) of subsection (7) of section 403.067, Florida Statutes, is amended to read:

403.067 Establishment and implementation of total maximum daily loads.—

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

(a) *Basin management action plans.*—

1. In developing and implementing the total maximum daily load for a waterbody, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the waterbody. Such plan must integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151. The plan must establish a schedule implementing the management strategies, establish a basis for evaluating the plan's effectiveness, and identify feasible funding strategies for



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implementing the plan's management strategies. The management strategies may include regional treatment systems or other public works, when appropriate, and voluntary trading of water quality credits to achieve the needed pollutant load reductions.

2. A basin management action plan must equitably allocate, pursuant to paragraph (6) (b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). When appropriate, the plan may take into account the benefits of pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, before the development of the basin management action plan. The plan must also identify the mechanisms that will address potential future increases in pollutant loading.

3. The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process.



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The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the watershed or basin lies at least 5 days, but not more than 15 days, before the public meeting. A basin management action plan does not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.

4. Each new or revised basin management action plan must include all of the following:

a. The appropriate management strategies available through existing water quality protection programs to achieve total maximum daily loads, which may provide for phased implementation to promote timely, cost-effective actions as provided for in s. 403.151.

b. A description of best management practices adopted by rule.

c. For the applicable 5-year implementation milestone, a list of projects that will achieve the pollutant load reductions needed to meet the total maximum daily load or the load allocations established pursuant to subsection (6). Each project must include a planning-level cost estimate and an estimated date of completion.

d. A list of projects developed pursuant to paragraph (e), if applicable.

e. The source and amount of financial assistance to be made



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available by the department, a water management district, or other entity for each listed project, if applicable.

f. A planning-level estimate of each listed project's expected load reduction, if applicable.

5. The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement this section.

6. The basin management action plan must include 5-year milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Any entity with a specific pollutant load reduction requirement established in a basin management action plan shall identify the projects or strategies that such entity will undertake to meet current 5-year pollution reduction milestones, beginning with the first 5-year milestone for new basin management action plans, and submit such projects to the department for inclusion in the appropriate basin management action plan. Each project identified must include an estimated amount of nutrient reduction that is reasonably expected to be achieved based on the best scientific information available. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures in subparagraph (c)4. Revised basin management action



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plans must be adopted pursuant to subparagraph 5.

7. In accordance with procedures adopted by rule under paragraph (9)(c), basin management action plans, and other pollution control programs under local, state, or federal authority as provided in subsection (4), may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum daily load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.

8. The department's rule relating to the equitable abatement of pollutants into surface waters do not apply to water bodies or waterbody segments for which a basin management plan that takes into account future new or expanded activities or discharges has been adopted under this section.

9. In order to promote resilient wastewater utilities, if the department identifies domestic wastewater treatment facilities or onsite sewage treatment and disposal systems as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the department determines remediation is necessary to achieve the total maximum daily



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load, a basin management action plan for a nutrient total maximum daily load must include the following:

a. A domestic wastewater treatment plan developed by each local government, in cooperation with the department, the water management district, and the public and private domestic wastewater treatment facilities providing services or located within the jurisdiction of the local government, which ~~that~~ addresses domestic wastewater. Private domestic wastewater facilities and special districts providing domestic wastewater services must provide the required wastewater facility information to the applicable local governments. The domestic wastewater treatment plan must:

(I) Provide for construction, expansion, or upgrades necessary to achieve the total maximum daily load requirements applicable to the domestic wastewater treatment facility.

(II) Include the permitted capacity in average annual gallons per day for the domestic wastewater treatment facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a projected timeline of the dates by which the construction of any facility improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The domestic wastewater treatment plan must be adopted as part of the basin management action plan no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to



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develop a domestic wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a total maximum daily load. A local government is not responsible for a private domestic wastewater facility's compliance with a basin management action plan unless such facility is operated through a public-private partnership to which the local government is a party.

b. An onsite sewage treatment and disposal system remediation plan developed by each local government in cooperation with the department, the Department of Health, water management districts, and public and private domestic wastewater treatment facilities.

(I) The onsite sewage treatment and disposal system remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for onsite sewage treatment and disposal systems. To identify cost-effective and financially feasible projects for remediation of onsite sewage treatment and disposal systems, the local government shall:

(A) Include an inventory of onsite sewage treatment and disposal systems based on the best information available;

(B) Identify onsite sewage treatment and disposal systems that would be eliminated through connection to existing or future central domestic wastewater infrastructure in the jurisdiction or domestic wastewater service area of the local government, that would be replaced with or upgraded to enhanced nutrient-reducing onsite sewage treatment and disposal systems, or that would remain on conventional onsite sewage treatment and



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disposal systems;

(C) Estimate the costs of potential onsite sewage treatment and disposal system connections, upgrades, or replacements; and

(D) Identify deadlines and interim milestones for the planning, design, and construction of projects.

(II) The department shall adopt the onsite sewage treatment and disposal system remediation plan as part of the basin management action plan no later than July 1, 2025, or as required for Outstanding Florida Springs under s. 373.807.

10. The installation of new onsite sewage treatment and disposal systems constructed within a basin management action plan area adopted under this section, a reasonable assurance plan, or a pollution reduction plan is prohibited where connection to a publicly owned or investor-owned sewerage system is available as defined in s. 381.0065(2)(a). On lots of 1 acre or less within a basin management action plan adopted under this section, a reasonable assurance plan, or a pollution reduction plan where a publicly owned or investor-owned sewerage system is not available, the installation of enhanced nutrient-reducing onsite sewage treatment and disposal systems or other wastewater treatment systems that achieve at least 65 percent nitrogen reduction is required.

11. When identifying wastewater projects in a basin management action plan, the department may not require the higher cost option if it achieves the same nutrient load reduction as a lower cost option. A regulated entity may choose a different cost option if it complies with the pollutant reduction requirements of an adopted total maximum daily load and meets or exceeds the pollution reduction requirement of the



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original project.

12. Annually, local governments subject to a basin management action plan or located within the basin of a waterbody not attaining nutrient or nutrient-related standards must provide to the department an update on the status of construction of sanitary sewers to serve such areas, in a manner prescribed by the department.

Section 12. Paragraph (f) of subsection (2) and subsection (7) of section 403.0673, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

403.0673 Water quality improvement grant program.—A grant program is established within the Department of Environmental Protection to address wastewater, stormwater, and agricultural sources of nutrient loading to surface water or groundwater.

(2) The department may provide grants for all of the following types of projects that reduce the amount of nutrients entering those waterbodies identified in subsection (1):

(f) Projects identified in a domestic wastewater treatment plan or an onsite sewage treatment and disposal system remediation plan developed pursuant to s. 403.067(7)(a)9.a. and b.

(7) Beginning January 15, 2024, and each January 15 thereafter, the department shall submit a report regarding the projects funded pursuant to this section to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(a) The report must include a list of those projects receiving funding and the following information for each project:



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1.~~(a)~~ A description of the project;
2.~~(b)~~ The cost of the project;
3.~~(c)~~ The estimated nutrient load reduction of the project;
4.~~(d)~~ The location of the project;
5.~~(e)~~ The waterbody or waterbodies where the project will
reduce nutrients; and

6.~~(f)~~ The total cost share being provided for the project.
(b) The report must also include a status report on each
project funded since 2021. The status report must, at a minimum,
identify which projects have been completed and, if such
information is available, provide nutrient load improvements or
water quality testing data for the waterbody.

(8) By July 1, 2025, the department must include the
projects funded pursuant to this section on a user-friendly
website or dashboard. The website or dashboard must allow the
user to see the information provided in subsection (7) and must
be updated at least annually.

Section 13. Paragraph (c) of subsection (1) of section
403.086, Florida Statutes, is amended to read:

403.086 Sewage disposal facilities; advanced and secondary
waste treatment.—

(1)

(c)1. Notwithstanding this chapter or chapter 373, sewage
disposal facilities may not dispose any wastes into the
following waters without providing advanced waste treatment, as
defined in subsection (4), as approved by the department or a
more stringent treatment standard if the department determines
the more stringent standard is necessary to achieve the total
maximum daily load or applicable water quality criteria:



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a. Old Tampa Bay; Tampa Bay; Hillsborough Bay; Boca Ciega Bay; St. Joseph Sound; Clearwater Bay; Sarasota Bay; Little Sarasota Bay; Roberts Bay; Lemon Bay; Charlotte Harbor Bay; Biscayne Bay; or any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto.

b. Beginning July 1, 2025, Indian River Lagoon, or any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto.

c. By January 1, 2033, waterbodies that are currently not attaining nutrient or nutrient-related standards or that are subject to a nutrient or nutrient-related basin management action plan adopted pursuant to s. 403.067 or adopted reasonable assurance plan.

2. For any waterbody determined not to be attaining nutrient or nutrient-related standards after July 1, 2023, or subject to a nutrient or nutrient-related basin management action plan adopted pursuant to s. 403.067 or adopted reasonable assurance plan after July 1, 2023, sewage disposal facilities are prohibited from disposing any wastes into such waters without providing advanced waste treatment, as defined in subsection (4), as approved by the department within 10 years after such determination or adoption.

3. By July 1, 2034, a wastewater treatment facility providing reclaimed water that will be used for commercial or residential irrigation or be otherwise land applied within a nutrient basin management action plan or reasonable assurance plan area must meet the advanced waste treatment standards for total nitrogen and total phosphorous as defined in paragraph (4) (a) if the department has determined in an applicable basin



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management action plan or reasonable assurance plan that the use
of reclaimed water as described in this subparagraph is causing
or contributing to the nutrient impairment being addressed in
such plan. For such department determinations made in a nutrient
basin management action plan or reasonable assurance plan after
July 1, 2024, an applicable wastewater treatment facility must
meet the requisite advanced waste treatment standards described
in this subparagraph within 10 years after such determination.
This subparagraph does not prevent the department from requiring
an alternative treatment standard, including a more stringent
treatment standard, if the department determines that the
alternative standard is necessary to achieve the total maximum
daily load or applicable water quality criteria. This
subparagraph does not apply to reclaimed water that is otherwise
land applied as part of a water quality restoration project or
water resource development project approved by the department to
meet a total maximum daily load or minimum flow or level and
where such reclaimed water will be at or below the advanced
waste treatment standards described above before entering
groundwater or surface water.

Section 14. Paragraphs (a) and (b) of subsection (1) and
paragraph (b) of subsection (3) of section 403.091, Florida
Statutes, are amended to read:

403.091 Inspections.—

(1)(a) Any duly authorized representative of the department
may at any reasonable time enter and inspect, for the purpose of
ascertaining the state of compliance with the law or rules and
regulations of the department, any property, premises, or place,
except a building which is used exclusively for a private



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residence, on or at which:

1. A hazardous waste generator, transporter, or facility or other air or water contaminant source;

2. A discharger, including any nondomestic discharger which introduces any pollutant into a publicly owned treatment works;

3. An onsite sewage treatment and disposal system as defined in s. 381.0065(2)(m);

4. Any facility, as defined in s. 376.301; or

5.4. A resource recovery and management facility

is located or is being constructed or installed or where records which are required under this chapter, ss. 376.30-376.317, or department rule are kept.

(b) Any duly authorized representative may at reasonable times have access to and copy any records required under this chapter or ss. 376.30-376.317; inspect any monitoring equipment or method; sample for any pollutants as defined in s. 376.301, effluents, or wastes which the owner or operator of such source may be discharging or which may otherwise be located on or underlying the owner's or operator's property; and obtain any other information necessary to determine compliance with permit conditions or other requirements of this chapter, ss. 376.30-376.317, ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489, or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, or part III of chapter 489, or department rules.

(3)



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(b) Upon proper affidavit being made, an inspection warrant may be issued under ~~the provisions of~~ this chapter or ss. 376.30-376.317:

1. When it appears that the properties to be inspected may be connected with or contain evidence of the violation of ~~any of the provisions of~~ this chapter or ss. 376.30-376.317, ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489, or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, or part III of chapter 489 or any rule properly promulgated thereunder; or

2. When the inspection sought is an integral part of a larger scheme of systematic routine inspections which are necessary to, and consistent with, the continuing efforts of the department to ensure compliance with the provisions of this chapter or ss. 376.30-376.317, ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489, or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, or part III of chapter 489 and any rules adopted thereunder.

Section 15. Section 403.121, Florida Statutes, is amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1), ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part



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III of chapter 489, or any rule promulgated thereunder.

(1) Judicial Remedies:

(a) The department may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.

(b) The department may institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than \$15,000 per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense.

(c) Except as provided in paragraph (2)(c), it is not a defense to, or ground for dismissal of, these judicial remedies for damages and civil penalties that the department has failed to exhaust its administrative remedies, has failed to serve a notice of violation, or has failed to hold an administrative hearing before the institution of a civil action.

(2) Administrative Remedies:

(a) The department may institute an administrative proceeding to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, or aquatic life, of the state caused by any violation. The department may order that the violator pay a specified sum as damages to the state. Judgment for the amount of damages determined by the department may be entered in any court having jurisdiction thereof and may be enforced as any other judgment.

(b) If the department has reason to believe a violation has



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occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. Except for violations involving hazardous wastes, asbestos, or underground injection, the department shall proceed administratively in all cases in which the department seeks administrative penalties that do not exceed \$50,000 per assessment as calculated in accordance with subsections (3), (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty assessed pursuant to subsection (3), subsection (4), or subsection (5) against a public water system serving a population of more than 10,000 may not be less than \$1,000 per day per violation. The department may not impose administrative penalties in excess of \$50,000 in a notice of violation. The department may not have more than one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation.

(c) An administrative proceeding shall be instituted by the department's serving of a written notice of violation upon the alleged violator by certified mail. If the department is unable to effect service by certified mail, the notice of violation may be hand delivered or personally served in accordance with chapter 48. The notice shall specify the law, rule, regulation, permit, certification, or order of the department alleged to be violated and the facts alleged to constitute a violation thereof. An order for corrective action, penalty assessment, or damages may be included with the notice. When the department is



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seeking to impose an administrative penalty for any violation by issuing a notice of violation, any corrective action needed to correct the violation or damages caused by the violation must be pursued in the notice of violation or they are waived. However, an order is not effective until after service and an administrative hearing, if requested within 20 days after service. Failure to request an administrative hearing within this time period constitutes a waiver thereof, unless the respondent files a written notice with the department within this time period opting out of the administrative process initiated by the department to impose administrative penalties. Any respondent choosing to opt out of the administrative process initiated by the department in an action that seeks the imposition of administrative penalties must file a written notice with the department within 20 days after service of the notice of violation opting out of the administrative process. A respondent's decision to opt out of the administrative process does not preclude the department from initiating a state court action seeking injunctive relief, damages, and the judicial imposition of civil penalties.

(d) If a person timely files a petition challenging a notice of violation, that person will thereafter be referred to as the respondent. The hearing requested by the respondent shall be held within 180 days after the department has referred the initial petition to the Division of Administrative Hearings unless the parties agree to a later date. The department has the burden of proving with the preponderance of the evidence that the respondent is responsible for the violation. Administrative penalties should not be imposed unless the department satisfies



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that burden. Following the close of the hearing, the administrative law judge shall issue a final order on all matters, including the imposition of an administrative penalty. When the department seeks to enforce that portion of a final order imposing administrative penalties pursuant to s. 120.69, the respondent may not assert as a defense the inappropriateness of the administrative remedy. The department retains its final-order authority in all administrative actions that do not request the imposition of administrative penalties.

(e) After filing a petition requesting a formal hearing in response to a notice of violation in which the department imposes an administrative penalty, a respondent may request that a private mediator be appointed to mediate the dispute by contacting the Florida Conflict Resolution Consortium within 10 days after receipt of the initial order from the administrative law judge. The Florida Conflict Resolution Consortium shall pay all of the costs of the mediator and for up to 8 hours of the mediator's time per case at \$150 per hour. Upon notice from the respondent, the Florida Conflict Resolution Consortium shall provide to the respondent a panel of possible mediators from the area in which the hearing on the petition would be heard. The respondent shall select the mediator and notify the Florida Conflict Resolution Consortium of the selection within 15 days of receipt of the proposed panel of mediators. The Florida Conflict Resolution Consortium shall provide all of the administrative support for the mediation process. The mediation must be completed at least 15 days before the final hearing date set by the administrative law judge.

(f) In any administrative proceeding brought by the



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department, the prevailing party shall recover all costs as provided in ss. 57.041 and 57.071. The costs must be included in the final order. The respondent is the prevailing party when an order is entered awarding no penalties to the department and such order has not been reversed on appeal or the time for seeking judicial review has expired. The respondent is entitled to an award of attorney fees if the administrative law judge determines that the notice of violation issued by the department seeking the imposition of administrative penalties was not substantially justified as defined in s. 57.111(3)(e). An award of attorney fees as provided by this subsection may not exceed \$15,000.

(g) This section does not prevent any other legal or administrative action in accordance with law and does not limit the department's authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief. When the department exercises its authority to judicially pursue injunctive relief, penalties in any amount up to the statutory maximum sought by the department must be pursued as part of the state court action and not by initiating a separate administrative proceeding. The department retains the authority to judicially pursue penalties in excess of \$50,000 for violations not specifically included in the administrative penalty schedule, or for multiple or multiday violations alleged to exceed a total of \$50,000. The department also retains the authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief and damages, if a notice of violation seeking the imposition of administrative penalties has not been issued. The department has the authority to enter into



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a settlement, before or after initiating a notice of violation, and the settlement may include a penalty amount different from the administrative penalty schedule. Any case filed in state court because it is alleged to exceed a total of \$50,000 in penalties may be settled in the court action for less than \$50,000.

(h) Chapter 120 applies to any administrative action taken by the department or any delegated program pursuing administrative penalties in accordance with this section.

(3) Except for violations involving hazardous wastes, asbestos, or underground injection, administrative penalties must be calculated according to the following schedule:

(a) For a drinking water contamination violation, the department shall assess a penalty of \$3,000 for a Maximum Containment Level (MCL) violation; plus \$1,500 if the violation is for a primary inorganic, organic, or radiological Maximum Contaminant Level or it is a fecal coliform bacteria violation; plus \$1,500 if the violation occurs at a community water system; and plus \$1,500 if any Maximum Contaminant Level is exceeded by more than 100 percent. For failure to obtain a clearance letter before placing a drinking water system into service when the system would not have been eligible for clearance, the department shall assess a penalty of \$4,500.

(b) For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, or obtain an onsite sewage treatment and disposal system permit, or for a violation of s. 381.0065, or the creation of or maintenance of a nuisance related to an onsite sewage treatment and disposal system under part I of chapter 386, or for a



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violation of part III of chapter 489, or any rule properly promulgated thereunder, the department shall assess a penalty of \$2,000. For a domestic or industrial wastewater violation, not involving a surface water or groundwater quality violation, the department shall assess a penalty of \$4,000 for an unpermitted or unauthorized discharge or effluent-limitation exceedance or for failure to comply with s. 403.061(14) or s. 403.086(7) or rules adopted thereunder. For an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation, the department shall assess a penalty of \$10,000. Each day the cause of an unauthorized discharge of domestic wastewater or sanitary nuisance is not addressed constitutes a separate offense.

(c) For a dredge and fill or stormwater violation, the department shall assess a penalty of \$1,500 for unpermitted or unauthorized dredging or filling or unauthorized construction of a stormwater management system against the person or persons responsible for the illegal dredging or filling, or unauthorized construction of a stormwater management system plus \$3,000 if the dredging or filling occurs in an aquatic preserve, an Outstanding Florida Water, a conservation easement, or a Class I or Class II surface water, plus \$1,500 if the area dredged or filled is greater than one-quarter acre but less than or equal to one-half acre, and plus \$1,500 if the area dredged or filled is greater than one-half acre but less than or equal to one acre. The administrative penalty schedule does not apply to a dredge and fill violation if the area dredged or filled exceeds one acre. The department retains the authority to seek the judicial imposition of civil penalties for all dredge and fill



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violations involving more than one acre. The department shall assess a penalty of \$4,500 for the failure to complete required mitigation, failure to record a required conservation easement, or for a water quality violation resulting from dredging or filling activities, stormwater construction activities or failure of a stormwater treatment facility. For stormwater management systems serving less than 5 acres, the department shall assess a penalty of \$3,000 for the failure to properly or timely construct a stormwater management system. In addition to the penalties authorized in this subsection, the department shall assess a penalty of \$7,500 per violation against the contractor or agent of the owner or tenant that conducts unpermitted or unauthorized dredging or filling. For purposes of this paragraph, the preparation or signing of a permit application by a person currently licensed under chapter 471 to practice as a professional engineer does not make that person an agent of the owner or tenant.

(d) For mangrove trimming or alteration violations, the department shall assess a penalty of \$7,500 per violation against the contractor or agent of the owner or tenant that conducts mangrove trimming or alteration without a permit as required by s. 403.9328. For purposes of this paragraph, the preparation or signing of a permit application by a person currently licensed under chapter 471 to practice as a professional engineer does not make that person an agent of the owner or tenant.

(e) For solid waste violations, the department shall assess a penalty of \$3,000 for the unpermitted or unauthorized disposal or storage of solid waste; plus \$1,000 if the solid waste is



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Class I or Class III (excluding yard trash) or if the solid waste is construction and demolition debris in excess of 20 cubic yards, plus \$1,500 if the waste is disposed of or stored in any natural or artificial body of water or within 500 feet of a potable water well, plus \$1,500 if the waste contains PCB at a concentration of 50 parts per million or greater; untreated biomedical waste; friable asbestos greater than 1 cubic meter which is not wetted, bagged, and covered; used oil greater than 25 gallons; or 10 or more lead acid batteries. The department shall assess a penalty of \$4,500 for failure to properly maintain leachate control; unauthorized burning; failure to have a trained spotter on duty at the working face when accepting waste; or failure to provide access control for three consecutive inspections. The department shall assess a penalty of \$3,000 for failure to construct or maintain a required stormwater management system.

(f) For an air emission violation, the department shall assess a penalty of \$1,500 for an unpermitted or unauthorized air emission or an air-emission-permit exceedance, plus \$4,500 if the emission was from a major source and the source was major for the pollutant in violation; plus \$1,500 if the emission was more than 150 percent of the allowable level.

(g) For storage tank system and petroleum contamination violations, the department shall assess a penalty of \$7,500 for failure to empty a damaged storage system as necessary to ensure that a release does not occur until repairs to the storage system are completed; when a release has occurred from that storage tank system; for failure to timely recover free product; or for failure to conduct remediation or monitoring activities



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until a no-further-action or site-rehabilitation completion order has been issued. The department shall assess a penalty of \$4,500 for failure to timely upgrade a storage tank system. The department shall assess a penalty of \$3,000 for failure to conduct or maintain required release detection; failure to timely investigate a suspected release from a storage system; depositing motor fuel into an unregistered storage tank system; failure to timely assess or remediate petroleum contamination; or failure to properly install a storage tank system. The department shall assess a penalty of \$1,500 for failure to properly operate, maintain, or close a storage tank system.

(4) In an administrative proceeding, in addition to the penalties that may be assessed under subsection (3), the department shall assess administrative penalties according to the following schedule:

(a) For failure to satisfy financial responsibility requirements or for violation of s. 377.371(1), \$7,500.

(b) For failure to install, maintain, or use a required pollution control system or device, \$6,000.

(c) For failure to obtain a required permit before construction or modification, \$4,500.

(d) For failure to conduct required monitoring or testing; failure to conduct required release detection; or failure to construct in compliance with a permit, \$3,000.

(e) For failure to maintain required staff to respond to emergencies; failure to conduct required training; failure to prepare, maintain, or update required contingency plans; failure to adequately respond to emergencies to bring an emergency situation under control; or failure to submit required



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notification to the department, \$1,500.

(f) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to prepare, submit, maintain, or use required reports or other required documentation, \$750.

(5) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to comply with any other departmental regulatory statute or rule requirement not otherwise identified in this section, the department may assess a penalty of \$1,000.

(6) For each additional day during which a violation occurs, the administrative penalties in subsections (3)-(5) may be assessed per day per violation.

(7) The history of noncompliance of the violator for any previous violation resulting in an executed consent order, but not including a consent order entered into without a finding of violation, or resulting in a final order or judgment after the effective date of this law involving the imposition of \$3,000 or more in penalties shall be taken into consideration in the following manner:

(a) One previous such violation within 5 years before the filing of the notice of violation will result in a 25-percent per day increase in the scheduled administrative penalty.

(b) Two previous such violations within 5 years before the filing of the notice of violation will result in a 50-percent per day increase in the scheduled administrative penalty.

(c) Three or more previous such violations within 5 years before the filing of the notice of violation will result in a 100-percent per day increase in the scheduled administrative



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penalty.

(8) The direct economic benefit gained by the violator from the violation, where consideration of economic benefit is provided by Florida law or required by federal law as part of a federally delegated or approved program, must be added to the scheduled administrative penalty. The total administrative penalty, including any economic benefit added to the scheduled administrative penalty, may not exceed \$15,000.

(9) The administrative penalties assessed for any particular violation may not exceed \$10,000 against any one violator, unless the violator has a history of noncompliance, the economic benefit of the violation as described in subsection (8) exceeds \$10,000, or there are multiday violations. The total administrative penalties may not exceed \$50,000 per assessment for all violations attributable to a specific person in the notice of violation.

(10) The administrative law judge may receive evidence in mitigation. The penalties identified in subsections (3)-(5) may be reduced up to 50 percent by the administrative law judge for mitigating circumstances, including good faith efforts to comply before or after discovery of the violations by the department. Upon an affirmative finding that the violation was caused by circumstances beyond the reasonable control of the respondent and could not have been prevented by respondent's due diligence, the administrative law judge may further reduce the penalty.

(11) Penalties collected pursuant to this section must ~~shall~~ be deposited into the Water Quality Assurance Trust Fund or other trust fund designated by statute and shall be used to fund the restoration of ecosystems, or polluted areas of the



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state, as defined by the department, to their condition before pollution occurred. The Florida Conflict Resolution Consortium may use a portion of the fund to administer the mediation process provided in paragraph (2)(e) and to contract with private mediators for administrative penalty cases.

(12) The purpose of the administrative penalty schedule and process is to provide a more predictable and efficient manner for individuals and businesses to resolve relatively minor environmental disputes. Subsections (3)-(7) may not be construed as limiting a state court in the assessment of damages. The administrative penalty schedule does not apply to the judicial imposition of civil penalties in state court as provided in this section.

Section 16. Subsection (5) of section 403.9301, Florida Statutes, is amended to read:

403.9301 Wastewater services projections.—

(5) The Office of Economic and Demographic Research shall evaluate the compiled documents from the counties for the purpose of developing a statewide analysis for inclusion in the assessment due the following January 1, 2023, pursuant to s. 403.928. Beginning July 1, 2024, and by the July 1 following subsequent publications of the analysis required by this section, the Office of Economic and Demographic Research shall provide a publicly accessible data visualization tool on its website which allows for comparative analyses of key information.

Section 17. Subsection (5) of section 403.9302, Florida Statutes, is amended to read:

403.9302 Stormwater management projections.—



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(5) The Office of Economic and Demographic Research shall evaluate the compiled documents from the counties for the purpose of developing a statewide analysis for inclusion in the assessment due the following January 1, ~~2023~~, pursuant to s. 403.928. Beginning July 1, 2024, and by the July 1 following subsequent publications of the analysis required by this section, the Office of Economic and Demographic Research shall provide a publicly accessible data visualization tool on its website which allows for comparative analyses of key information.

Section 18. Subsection (1) of section 403.0671, Florida Statutes, is amended to read:

403.0671 Basin management action plan wastewater reports.—

(1) By July 1, 2021, the department, in coordination with the county health departments, wastewater treatment facilities, and other governmental entities, shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives evaluating the costs of wastewater projects identified in the basin management action plans developed pursuant to ss. 373.807 and 403.067(7) and the onsite sewage treatment and disposal system remediation plans and other restoration plans developed to meet the total maximum daily loads required under s. 403.067. The report must include all of the following:

(a) Projects to:

1. Replace onsite sewage treatment and disposal systems with enhanced nutrient-reducing onsite sewage treatment and disposal systems.

2. Install or retrofit onsite sewage treatment and disposal



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systems with enhanced nutrient-reducing technologies.

3. Construct, upgrade, or expand domestic wastewater treatment facilities to meet the domestic wastewater treatment plan required under s. 403.067(7)(a)9.

4. Connect onsite sewage treatment and disposal systems to domestic wastewater treatment facilities.~~+~~

(b) The estimated costs, nutrient load reduction estimates, and other benefits of each project.~~+~~

(c) The estimated implementation timeline for each project.~~+~~

(d) A proposed 5-year funding plan for each project and the source and amount of financial assistance the department, a water management district, or other project partner will make available to fund the project.~~+~~~~and~~

(e) The projected costs of installing enhanced nutrient-reducing onsite sewage treatment and disposal systems on buildable lots in priority focus areas to comply with s. 373.811.

Section 19. For the purpose of incorporating the amendment made by this act to section 253.04, Florida Statutes, in a reference thereto, paragraph (x) of subsection (1) of section 327.73, Florida Statutes, is reenacted to read:

327.73 Noncriminal infractions.—

(1) Violations of the following provisions of the vessel laws of this state are noncriminal infractions:

(x) Section 253.04(3)(a), relating to carelessly causing seagrass scarring, for which the civil penalty upon conviction is:

1. For a first offense, \$100.



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2. For a second offense occurring within 12 months after a prior conviction, \$250.

3. For a third offense occurring within 36 months after a prior conviction, \$500.

4. For a fourth or subsequent offense occurring within 72 months after a prior conviction, \$1,000.

Any person cited for a violation of this subsection shall be deemed to be charged with a noncriminal infraction, shall be cited for such an infraction, and shall be cited to appear before the county court. The civil penalty for any such infraction is \$100, except as otherwise provided in this section. Any person who fails to appear or otherwise properly respond to a uniform boating citation, in addition to the charge relating to the violation of the boating laws of this state, must be charged with the offense of failing to respond to such citation and, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A written warning to this effect shall be provided at the time such uniform boating citation is issued.

Section 20. For the purpose of incorporating the amendment made by this act to section 381.0061, Florida Statutes, in references thereto, paragraph (a) of subsection (4) and paragraph (a) of subsection (6) of section 381.0072, Florida Statutes, are reenacted to read:

381.0072 Food service protection.—

(4) LICENSES REQUIRED.—

(a) *Licenses; annual renewals.*—Each food service establishment regulated under this section shall obtain a



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license from the department annually. Food service establishment licenses shall expire annually and are not transferable from one place or individual to another. However, those facilities licensed by the department's Office of Licensure and Certification, the Child Care Services Program Office, or the Agency for Persons with Disabilities are exempt from this subsection. It shall be a misdemeanor of the second degree, punishable as provided in s. 381.0061, s. 775.082, or s. 775.083, for such an establishment to operate without this license. The department may refuse a license, or a renewal thereof, to any establishment that is not constructed or maintained in accordance with law and with the rules of the department. Annual application for renewal is not required.

(6) FINES; SUSPENSION OR REVOCATION OF LICENSES;
PROCEDURE.—

(a) The department may impose fines against the establishment or operator regulated under this section for violations of sanitary standards, in accordance with s. 381.0061. All amounts collected shall be deposited to the credit of the County Health Department Trust Fund administered by the department.

Section 21. For the purpose of incorporating the amendment made by this act to section 381.0061, Florida Statutes, in a reference thereto, subsection (4) of section 381.0086, Florida Statutes, is reenacted to read:

381.0086 Rules; variances; penalties.—

(4) A person who violates any provision of ss. 381.008-381.00895 or rules adopted under such sections is subject either to the penalties provided in ss. 381.0012 and 381.0061 or to the



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penalties provided in s. 381.0087.

Section 22. For the purpose of incorporating the amendment made by this act to section 381.0061, Florida Statutes, in a reference thereto, subsection (7) of section 381.0098, Florida Statutes, is reenacted to read:

381.0098 Biomedical waste.—

(7) ENFORCEMENT AND PENALTIES.—Any person or public body in violation of this section or rules adopted under this section is subject to penalties provided in ss. 381.0012 and 381.0061. However, an administrative fine not to exceed \$2,500 may be imposed for each day such person or public body is in violation of this section. The department may deny, suspend, or revoke any biomedical waste permit or registration if the permittee violates this section, any rule adopted under this section, or any lawful order of the department.

Section 23. For the purpose of incorporating the amendment made by this act to section 381.0061, Florida Statutes, in a reference thereto, subsection (2) of section 513.10, Florida Statutes, is reenacted to read:

513.10 Operating without permit; enforcement of chapter; penalties.—

(2) This chapter or rules adopted under this chapter may be enforced in the manner provided in s. 381.0012 and as provided in this chapter. Violations of this chapter and the rules adopted under this chapter are subject to the penalties provided in this chapter and in s. 381.0061.

Section 24. This act shall take effect July 1, 2024.

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



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And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to the Department of Environmental Protection; amending s. 253.04, F.S.; revising the aquatic preserves within which a person may not operate a vessel outside a lawfully marked channel under certain circumstances; amending s. 258.39, F.S.; declaring the Kristin Jacobs Coral Reef Ecosystem Conservation Area an aquatic preserve area; amending s. 373.250, F.S.; requiring each water management district, in coordination with the department, to develop rules that promote the use of reclaimed water and encourage quantifiable potable water offsets; providing requirements for such rules; providing construction; amending s. 380.093, F.S.; defining the term "Florida Flood Hub"; revising the definition of the term "preconstruction activities"; revising the purposes for which counties and municipalities may use Resilient Florida Grant Program funds; revising vulnerability assessment requirements; revising requirements for the development and maintenance of the comprehensive statewide flood vulnerability and sea level rise data set and assessment; requiring the department to coordinate with the Chief Resilience Officer and the Florida Flood Hub to update the data set and assessment at specified intervals; revising requirements for the Statewide Flooding and Sea Level



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1858 Rise Resilience Plan; revising the purposes of the
1859 funding for regional resilience entities; making
1860 technical changes; amending s. 381.0061, F.S.;
1861 revising the violations for which the department may
1862 impose a specified fine; providing legislative intent
1863 regarding a phased transfer of the Department of
1864 Health's Onsite Sewage Program to the Department of
1865 Environmental Protection; requiring the Department of
1866 Environmental Protection to coordinate with the
1867 Department of Health regarding the identification and
1868 transfer of certain equipment and vehicles under
1869 certain circumstances; prohibiting the Department of
1870 Health from implementing or collecting fees for the
1871 program when the Department of Environmental
1872 Protection begins implementing the program; providing
1873 exceptions; amending s. 381.0065, F.S.; requiring the
1874 Department of Environmental Protection to conduct
1875 enforcement activities for violations of certain
1876 onsite sewage treatment and disposal system
1877 regulations in accordance with specified provisions;
1878 specifying the department's authority with respect to
1879 specific provisions; requiring the department to adopt
1880 rules for a program for general permits for certain
1881 projects; providing requirements for such rules;
1882 revising department enforcement provisions; deleting
1883 certain criminal penalties; requiring the damages,
1884 costs, or penalties collected to be deposited into the
1885 Water Quality Assurance Trust Fund rather than the
1886 relevant county health department trust fund;



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1887 requiring the department to establish an enhanced
1888 nutrient-reducing onsite sewage treatment and disposal
1889 system approval program; authorizing the department to
1890 contract with or delegate certain powers and duties to
1891 a county; amending s. 381.0066, F.S.; requiring
1892 certain fees to be deposited into the Florida Permit
1893 Fee Trust Fund after a specified timeframe; amending
1894 s. 403.061, F.S.; requiring counties to make certain
1895 services and facilities available upon the direction
1896 of the department; amending s. 403.064, F.S.; revising
1897 legislative findings; revising the domestic wastewater
1898 treatment facilities required to submit a reuse
1899 feasibility study as part of a permit application;
1900 revising the contents of a required reuse feasibility
1901 study; revising the domestic wastewater facilities
1902 required to implement reuse under certain
1903 circumstances; revising applicability; revising
1904 construction; amending s. 403.067, F.S.; requiring
1905 certain facilities and systems to include a domestic
1906 wastewater treatment plan as part of a basin
1907 management action plan for nutrient total maximum
1908 daily loads; amending s. 403.0673, F.S.; revising the
1909 information to be included in the water quality
1910 improvement grant program annual report; requiring the
1911 department to include specified information on a user-
1912 friendly website or dashboard by a specified date;
1913 providing requirements for the website or dashboard;
1914 amending s. 403.086, F.S.; requiring wastewater
1915 treatment facilities within a basin management action



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1916 plan or reasonable assurance plan area which provide
1917 reclaimed water for specified purposes to meet
1918 advanced waste treatment or a more stringent treatment
1919 standard under certain circumstances; providing
1920 applicability; amending s. 403.091, F.S.; authorizing
1921 certain department representatives to enter and
1922 inspect premises on which an onsite sewage treatment
1923 and disposal system is located or being constructed or
1924 installed or where certain records are kept; revising
1925 requirements for such access; revising the
1926 circumstances under which an inspection warrant may be
1927 issued; amending s. 403.121, F.S.; revising department
1928 enforcement provisions; revising administrative
1929 penalty calculations for failure to obtain certain
1930 required permits and for certain violations; amending
1931 ss. 403.9301 and 403.9302, F.S.; requiring the Office
1932 of Economic and Demographic Research to provide a
1933 publicly accessible data visualization tool on its
1934 website for comparative analyses of key information;
1935 amending s. 403.0671, F.S.; conforming provisions to
1936 changes made by the act; reenacting s. 327.73(1)(x),
1937 F.S., relating to noncriminal infractions, to
1938 incorporate the amendment made to s. 253.04, F.S., in
1939 a reference thereto; reenacting ss. 381.0072(4)(a) and
1940 (6)(a), 381.0086(4), 381.0098(7), and 513.10(2), F.S.,
1941 relating to food service protection, penalties,
1942 biomedical waste, and operating without a permit,
1943 respectively, to incorporate the amendment made to s.
1944 381.0061, F.S., in references thereto; providing an



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1945

effective date.

By Senator Calatayud

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1 A bill to be entitled
 2 An act relating to the Department of Environmental
 3 Protection; amending s. 253.04, F.S.; revising the
 4 aquatic preserves within which a person may not
 5 operate a vessel outside a lawfully marked channel
 6 under certain circumstances; amending s. 258.39, F.S.;
 7 declaring the Kristin Jacobs Coral Reef Ecosystem
 8 Conservation Area an aquatic preserve area; amending
 9 s. 373.250, F.S.; requiring each water management
 10 district, in coordination with the department, to
 11 develop rules that promote the use of reclaimed water
 12 and encourage potable water offsets; providing
 13 requirements for such rules; providing construction;
 14 amending s. 380.093, F.S.; defining the term "Florida
 15 Flood Hub"; revising the definition of the term
 16 "preconstruction activities"; revising the purposes
 17 for which counties and municipalities may use
 18 Resilient Florida Grant Program funds; revising
 19 vulnerability assessment requirements; revising
 20 requirements for the development and maintenance of
 21 the comprehensive statewide flood vulnerability and
 22 sea level rise data set and assessment; requiring the
 23 department to coordinate with the Chief Resilience
 24 Officer and the Florida Flood Hub to update the data
 25 set and assessment at specified intervals; revising
 26 requirements for the Statewide Flooding and Sea Level
 27 Rise Resilience Plan; revising the purposes of the
 28 funding for regional resilience entities; making
 29 technical changes; amending s. 381.0061, F.S.;

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30 revising the violations for which the department may
 31 impose a specified fine; providing legislative intent
 32 regarding a phased transfer of the Department of
 33 Health's Onsite Sewage Program to the Department of
 34 Environmental Protection; requiring the Department of
 35 Environmental Protection to coordinate with the
 36 Department of Health regarding the identification and
 37 transfer of certain equipment and vehicles under
 38 certain circumstances; prohibiting the Department of
 39 Health from implementing or collecting fees for the
 40 program when the Department of Environmental
 41 Protection begins implementing the program; providing
 42 exceptions; amending s. 381.0065, F.S.; requiring the
 43 Department of Environmental Protection to conduct
 44 enforcement activities for violations of certain
 45 onsite sewage treatment and disposal system
 46 regulations in accordance with specified provisions;
 47 specifying the department's authority with respect to
 48 specific provisions; requiring the department to adopt
 49 rules for a program for general permits for certain
 50 projects; providing requirements for such rules;
 51 revising department enforcement provisions; deleting
 52 certain criminal penalties; requiring the damages,
 53 costs, or penalties collected to be deposited into the
 54 Water Quality Assurance Trust Fund rather than the
 55 relevant county health department trust fund;
 56 requiring the department to establish an enhanced
 57 nutrient-reducing onsite sewage treatment and disposal
 58 system approval program; authorizing the department to

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59 contract with or delegate certain powers and duties to
 60 a county; amending s. 381.0066, F.S.; requiring
 61 certain fees to be deposited into the Florida Permit
 62 Fee Trust Fund after a specified timeframe; amending
 63 s. 403.061, F.S.; requiring counties to make certain
 64 services and facilities available upon the direction
 65 of the department; amending s. 403.064, F.S.; revising
 66 legislative findings; revising the domestic wastewater
 67 treatment facilities required to submit a reuse
 68 feasibility study as part of a permit application;
 69 revising the contents of a required reuse feasibility
 70 study; revising the domestic wastewater facilities
 71 required to implement reuse under certain
 72 circumstances; revising applicability; revising
 73 construction; amending s. 403.067, F.S.; requiring
 74 certain facilities and systems to include a domestic
 75 wastewater treatment plan as part of a basin
 76 management action plan for nutrient total maximum
 77 daily loads; amending s. 403.086, F.S.; requiring
 78 wastewater treatment facilities within a basin
 79 management action plan or reasonable assurance plan
 80 area which provide reclaimed water for specified
 81 purposes to meet advanced waste treatment or a more
 82 stringent treatment standard under certain
 83 circumstances; amending s. 403.091, F.S.; authorizing
 84 certain department representatives to enter and
 85 inspect premises on which an onsite sewage treatment
 86 and disposal system is located or being constructed or
 87 installed or where certain records are kept; revising

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88 requirements for such access; revising the
 89 circumstances under which an inspection warrant may be
 90 issued; amending s. 403.121, F.S.; revising department
 91 enforcement provisions; revising administrative
 92 penalty calculations for failure to obtain certain
 93 required permits and for certain violations; amending
 94 ss. 403.0671 and 403.0673, F.S.; conforming provisions
 95 to changes made by the act; reenacting s.
 96 327.73(1)(x), F.S., relating to noncriminal
 97 infractions, to incorporate the amendment made to s.
 98 253.04, F.S., in a reference thereto; reenacting ss.
 99 381.0072(4)(a) and (6)(a), 381.0086(4), 381.0098(7),
 100 and 513.10(2), F.S., relating to food service
 101 protection, penalties, biomedical waste, and operating
 102 without a permit, respectively, to incorporate the
 103 amendment made to s. 381.0061, F.S., in references
 104 thereto; providing an effective date.

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

108 Section 1. Paragraph (a) of subsection (3) of section
 109 253.04, Florida Statutes, is amended to read:

110 253.04 Duty of board to protect, etc., state lands; state
 111 may join in any action brought.—

112 (3)(a) The duty to conserve and improve state-owned lands
 113 and the products thereof includes ~~shall include~~ the preservation
 114 and regeneration of seagrass, which is deemed essential to the
 115 oceans, gulfs, estuaries, and shorelines of the state. A person
 116 operating a vessel outside a lawfully marked channel in a

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careless manner that causes seagrass scarring within an aquatic preserve established in ~~ss. 258.39-258.3991~~ ~~ss. 258.39-258.399~~, with the exception of the Lake Jackson, Oklawaha River, Wekiva River, and Rainbow Springs aquatic preserves, commits a noncriminal infraction, punishable as provided in s. 327.73. Each violation is a separate offense. As used in this subsection, the term:

1. "Seagrass" means Cuban shoal grass (*Halodule wrightii*), turtle grass (*Thalassia testudinum*), manatee grass (*Syringodium filiforme*), star grass (*Halophila engelmannii*), paddle grass (*Halophila decipiens*), Johnson's seagrass (*Halophila johnsonii*), or widgeon grass (*Ruppia maritima*).

2. "Seagrass scarring" means destruction of seagrass roots, shoots, or stems that results in tracks on the substrate commonly referred to as prop scars or propeller scars caused by the operation of a motorized vessel in waters supporting seagrasses.

Section 2. Subsection (33) is added to section 258.39, Florida Statutes, to read:

258.39 Boundaries of preserves.—The submerged lands included within the boundaries of Nassau, Duval, St. Johns, Flagler, Volusia, Brevard, Indian River, St. Lucie, Charlotte, Pinellas, Martin, Palm Beach, Miami-Dade, Monroe, Collier, Lee, Citrus, Franklin, Gulf, Bay, Okaloosa, Marion, Santa Rosa, Hernando, and Escambia Counties, as hereinafter described, with the exception of privately held submerged lands lying landward of established bulkheads and of privately held submerged lands within Monroe County where the establishment of bulkhead lines is not required, are hereby declared to be aquatic preserves.

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Such aquatic preserve areas include:

(33) Kristin Jacobs Coral Reef Ecosystem Conservation Area, as designated by chapter 2021-107, Laws of Florida, the boundaries of which consist of the sovereignty submerged lands and waters of the state offshore of Broward, Martin, Miami-Dade, and Palm Beach Counties from the St. Lucie Inlet to the northern boundary of the Biscayne National Park.

Any and all submerged lands theretofore conveyed by the Trustees of the Internal Improvement Trust Fund and any and all uplands now in private ownership are specifically exempted from this dedication.

Section 3. Subsection (9) is added to section 373.250, Florida Statutes, to read:

373.250 Reuse of reclaimed water.—

(9) To promote the use of reclaimed water and encourage potable water offsets that produce significant water savings beyond those required in a consumptive use permit, each water management district, in coordination with the department, shall develop rules by December 31, 2025, which provide all of the following:

(a) If an applicant proposes a water supply development or water resource development project using reclaimed water as part of an application for consumptive use, the applicant is eligible for a permit duration of up to 30 years if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. Rules developed pursuant to this paragraph must include, at a minimum:

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1. A requirement that the permittee demonstrate how quantifiable groundwater or surface water savings associated with the new water supply development or water resource development project helps meets water demands beyond a 20-year permit duration or is completed to benefit a waterbody with a minimum flow or minimum water level with a recovery or prevention strategy; and

2. Guidelines for a district to follow in determining the permit duration based on the project's implementation.

This paragraph does not limit the existing authority of a water management district to issue a shorter duration permit to protect from harm the water resources or ecology of the area, or to otherwise ensure compliance with the conditions for permit issuance.

(b) Authorization for a consumptive use permittee to seek a permit extension of up to 10 years if the permittee proposes a water supply development or water resource development project using reclaimed water during the term of its permit which results in the reduction of groundwater or surface water withdrawals or is completed to benefit a waterbody with a minimum flow or minimum water level with a recovery or prevention strategy. Rules associated with this paragraph must include, at a minimum:

1. A requirement that the permittee be in compliance with the permittee's consumptive use permit;

2. A requirement that the permittee demonstrate how the quantifiable groundwater or surface water savings associated with the new water supply development or water resource

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development project helps meet water demands beyond the issued permit duration or benefits a waterbody with a minimum flow or minimum water level with a recovery or prevention strategy;

3. A requirement that the permittee demonstrate a water demand for the permit's allocation through the term of the extension; and

4. Guidelines for a district to follow in determining the number of years extended, including a minimum year requirement, based on the project implementation.

This paragraph does not limit the existing authority of a water management district to protect from harm the water resources or ecology of the area, or to otherwise ensure compliance with the conditions for permit issuance.

Section 4. Present paragraphs (c) and (d) of subsection (2) of section 380.093, Florida Statutes, are redesignated as paragraphs (d) and (e), respectively, a new paragraph (c) is added to that subsection, and present paragraph (c) of subsection (2), paragraphs (b), (c), and (d) of subsection (3), and subsections (4), (5), and (6) of that section are amended, to read:

380.093 Resilient Florida Grant Program; comprehensive statewide flood vulnerability and sea level rise data set and assessment; Statewide Flooding and Sea Level Rise Resilience Plan; regional resilience entities.—

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

(c) "Florida Flood Hub" means the Florida Flood Hub for Applied Research and Innovation established pursuant to s. 380.0933.

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233 (d)(e) "Preconstruction activities" means activities
 234 associated with a project that addresses the risks of flooding
 235 and sea level rise that occur before construction begins,
 236 including, but not limited to, design of the project, permitting
 237 for the project, surveys and data collection, site development,
 238 solicitation, public hearings, local code or comprehensive plan
 239 amendments, establishing local funding sources, and easement
 240 acquisition.

241 (3) RESILIENT FLORIDA GRANT PROGRAM.—

242 (b) Subject to appropriation, the department may provide
 243 grants to each of the following entities:

244 1. A county or municipality to fund:

245 a. The costs of community resilience planning and necessary
 246 data collection for such planning, including comprehensive plan
 247 amendments and necessary corresponding analyses that address the
 248 requirements of s. 163.3178(2)(f).

249 b. Vulnerability assessments that identify or address risks
 250 of inland or coastal flooding and sea level rise.

251 c. Updates to the county's or municipality's inventory of
 252 critical assets, including regionally significant assets that
 253 are currently or reasonably expected to be impacted by flooding
 254 and sea level rise. The updated inventory must be submitted to
 255 the department and, at the time of submission, must reflect all
 256 such assets that are currently, or within 50 years may
 257 reasonably be expected to be, impacted by flooding and sea level
 258 rise.

259 d. The development of projects, plans, strategies, and
 260 policies that enhance community preparations ~~allow communities~~
 261 ~~to prepare~~ for threats from flooding and sea level rise,

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262 including adaptation plans that help local governments
 263 prioritize project development and implementation across one or
 264 more jurisdictions in a manner consistent with departmental
 265 guidance.

266 ~~e.d.~~ Preconstruction activities for projects to be
 267 submitted for inclusion in the Statewide Flooding and Sea Level
 268 Rise Resilience Plan which ~~that~~ are located in a municipality
 269 that has a population of 10,000 or fewer or a county that has a
 270 population of 50,000 or fewer, according to the most recent
 271 April 1 population estimates posted on the Office of Economic
 272 and Demographic Research's website.

273 ~~f.e.~~ Feasibility studies ~~and the cost of permitting~~ for
 274 nature-based solutions that reduce the impact of flooding and
 275 sea level rise.

276 g. The cost of permitting for projects designed to achieve
 277 reductions in the risks or impacts of flooding and sea level
 278 rise using nature-based solutions.

279 2. A water management district identified in s. 373.069 to
 280 support local government adaptation planning, which may be
 281 conducted by the water management district or by a third party
 282 on behalf of the water management district. Such grants must be
 283 used for the express purpose of supporting the Florida Flood Hub
 284 ~~for Applied Research and Innovation~~ and the department in
 285 implementing this section through data creation and collection,
 286 modeling, and the implementation of statewide standards.
 287 Priority must be given to filling critical data gaps identified
 288 by the Florida Flood Hub ~~for Applied Research and Innovation~~
 289 under s. 380.0933(2)(a).

290 (c) A vulnerability assessment conducted pursuant to

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paragraph (b) must encompass the entire county or municipality; include all critical assets owned or maintained by the grant applicant; and use the most recent publicly available Digital Elevation Model and generally accepted analysis and modeling techniques. An assessment may encompass a smaller geographic area or include only a portion of the critical assets owned or maintained by the grant applicant with appropriate rationale and upon approval by the department. Locally collected elevation data may also be included as part of the assessment as long as it is submitted to the department pursuant to this paragraph.

1. The assessment must include an analysis of the vulnerability of and risks to critical assets, including regionally significant assets, owned or managed by the county or municipality.

2. Upon completion of a vulnerability assessment, the county or municipality shall submit to the department all of the following:

a. A report detailing the findings of the assessment.

b. All electronic mapping data used to illustrate flooding and sea level rise impacts identified in the assessment. When submitting such data, the county or municipality shall include:

(I) Geospatial data in an electronic file format suitable for input to the department's mapping tool.

(II) Geographic information system (GIS) data that has been projected into the appropriate Florida State Plane Coordinate System and that is suitable for the department's mapping tool.

The county or municipality must also submit metadata using standards prescribed by the department.

c. An inventory ~~A list~~ of critical assets, including

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regionally significant assets, that are currently, or within 50 years are reasonably expected to be, impacted by flooding and sea level rise.

(d) A vulnerability assessment conducted pursuant to paragraph (b) must ~~do include~~ all of the following:

1. Include peril of flood comprehensive plan amendments that address the requirements of s. 163.3178(2)(f), if the county or municipality is subject to such requirements and has not complied with such requirements as determined by the Department of Commerce ~~Economic Opportunity~~.

2. Make use of the best available information through the Florida Flood Hub as certified by the Chief Science Officer, in consultation with the Chief Resilience Officer, including, as if applicable, analyzing impacts related to the depth of:

a. Tidal flooding, including future high tide flooding, which must use thresholds published and provided by the department. To the extent practicable, the analysis should also geographically display the number of tidal flood days expected for each scenario and planning horizon.

b. Current and future storm surge flooding ~~using publicly available National Oceanic and Atmospheric Administration or Federal Emergency Management Agency storm surge data~~. The initial storm surge event used must equal or exceed the current 100-year flood event. Higher frequency storm events may be analyzed to understand the exposure of a critical asset or regionally significant asset. Publicly available National Oceanic and Atmospheric Administration (NOAA) or Federal Emergency Management Agency storm surge data may be used in the absence of applicable data from the Florida Flood Hub.

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c. To the extent practicable, rainfall-induced flooding using a GIS-based spatiotemporal analysis or existing hydrologic and hydraulic modeling results. Future boundary conditions should be modified to consider sea level rise and high tide conditions. Vulnerability assessments for rainfall-induced flooding must include the depth of rainfall-induced flooding for a 100-year storm and a 500-year storm, as defined by the applicable water management district or, if necessary, the appropriate federal agency. Future rainfall conditions should be used, if available. Noncoastal communities must perform a rainfall-induced flooding assessment.

d. To the extent practicable, compound flooding or the combination of tidal, storm surge, and rainfall-induced flooding.

3. Apply the following scenarios and standards:

a. All analyses in the North American Vertical Datum of 1988.

b. For a vulnerability assessment initiated after July 1, 2024, at a minimum least two local sea level rise scenarios, which must include the 2022 NOAA 2017 National Oceanic and Atmospheric Administration intermediate-low and intermediate intermediate-high sea level rise scenarios or the statewide sea level rise projections developed pursuant to paragraph (4) (a) projections.

c. At least two planning horizons identified in the following table which correspond with the appropriate comprehensive statewide flood vulnerability and sea level rise assessment for which the department, at the time of award, determines such local vulnerability assessment will be

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incorporated:

	<u>20-year</u>	<u>50-year</u>
<u>Year of assessment</u>	<u>planning horizon</u>	<u>planning horizon</u>
<u>2024</u>	<u>2040</u>	<u>2070</u>
<u>2029</u>	<u>2050</u>	<u>2080</u>
<u>2034</u>	<u>2055</u>	<u>2085</u>
<u>2039</u>	<u>2060</u>	<u>2090</u>
<u>2044</u>	<u>2065</u>	<u>2095</u>
<u>2049</u>	<u>2070</u>	<u>2100</u>

~~that include planning horizons for the years 2040 and 2070.~~

d. Local sea level data maintained by the Florida Flood Hub which reflect the best available scientific information as certified by the Chief Science Officer, in consultation with the Chief Resilience Officer. If such data is not available, local sea level data may be that has been interpolated between the two closest ~~NOAA National Oceanic and Atmospheric Administration~~ tide gauges; however, such ~~Local sea level~~ data may be taken from only one of the two closest NOAA tide gauges ~~such gauge~~ if the gauge has a higher mean sea level or may be. ~~Data taken from~~ an alternate tide gauge ~~may be used~~ with appropriate rationale

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and department approval, as long as it is publicly available or submitted to the department pursuant to paragraph (b).

(4) COMPREHENSIVE STATEWIDE FLOOD VULNERABILITY AND SEA LEVEL RISE DATA SET AND ASSESSMENT.—

(a) ~~By July 1, 2023,~~ The department shall develop and maintain ~~complete the development of~~ a comprehensive statewide flood vulnerability and sea level rise data set sufficient to conduct a comprehensive statewide flood vulnerability and sea level rise assessment. In developing and maintaining the data set, the department shall, in coordination with the Chief Resilience Officer and the Florida Flood Hub ~~for Applied Research and Innovation~~, compile, analyze, and incorporate, as appropriate, information related to vulnerability assessments and critical asset inventories submitted to the department pursuant to subsection (3) or any previously completed assessments that meet the requirements of subsection (3).

1. The Chief Science Officer shall, in coordination with the Chief Resilience Officer and the Florida Flood Hub ~~necessary experts and resources~~, develop statewide sea level rise projections that incorporate temporal and spatial variability, to the extent practicable, for inclusion in the data set. This subparagraph does not supersede regionally adopted projections.

2. The data set must include information necessary to determine the risks to inland and coastal communities, including, but not limited to, elevation, tidal levels, and precipitation.

(b) ~~By July 1, 2024,~~ The department, in coordination with the Chief Resilience Officer and the Florida Flood Hub, shall complete a comprehensive statewide flood vulnerability and sea

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level rise assessment that identifies inland and coastal infrastructure, geographic areas, and communities in ~~this the~~ state ~~which that~~ are vulnerable to flooding and sea level rise and the associated risks.

1. The department shall use the comprehensive statewide flood vulnerability and sea level rise data set to conduct the assessment.

2. The assessment must incorporate local and regional analyses of vulnerabilities and risks, including, as appropriate, local mitigation strategies and postdisaster redevelopment plans.

3. The assessment must include an inventory of critical assets, including regionally significant assets, that are essential for critical government and business functions, national security, public health and safety, the economy, flood and storm protection, water quality management, and wildlife habitat management, and must identify and analyze the vulnerability of and risks to such critical assets. When identifying critical assets for inclusion in the assessment, the department shall also take into consideration the critical assets identified by local governments and submitted to the department pursuant to subsection (3).

4. The assessment must include the 20-year and 50-year projected sea level rise at each active NOAA tidal gauge off the coast of this state as derived from the statewide sea level rise projections developed pursuant to paragraph (a).

(c) The department, in coordination with the Chief Resilience Officer and the Florida Flood Hub, shall update the comprehensive statewide flood vulnerability and sea level rise

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data set with the best available information each year and shall
 update the assessment at least every 5 years. ~~The department may~~
~~update the data set and assessment more frequently if it~~
~~determines that updates are necessary to maintain the validity~~
~~of the data set and assessment.~~

(5) STATEWIDE FLOODING AND SEA LEVEL RISE RESILIENCE PLAN.—

(a) ~~By December 1, 2021, and~~ Each December 1 thereafter,
 the department shall develop a Statewide Flooding and Sea Level
 Rise Resilience Plan on a 3-year planning horizon and submit it
 to the Governor, the President of the Senate, and the Speaker of
 the House of Representatives. The plan must consist of ranked
 projects that address risks of flooding and sea level rise to
 coastal and inland communities in the state. All eligible
 projects submitted to the department pursuant to this section
 must be ranked and included in the plan. Each plan must include
 a detailed narrative overview describing how the plan was
 developed, including a description of the methodology used by
 the department to determine project eligibility, a description
 of the methodology used to rank projects, the specific scoring
 system used, the project proposal application form, a copy of
 each submitted project proposal application form separated by
 eligible projects and ineligible projects, the total number of
 project proposals received and deemed eligible, the total
 funding requested, and the total funding requested for eligible
 projects.

(b) ~~The plan submitted by December 1, 2021, before the~~
~~comprehensive statewide flood vulnerability and sea level rise~~
~~assessment is completed, will be a preliminary plan that~~
~~includes projects that address risks of flooding and sea level~~

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~~rise identified in available local government vulnerability~~
~~assessments and projects submitted by water management districts~~
~~that mitigate the risks of flooding or sea level rise on water~~
~~supplies or water resources of the state. The plan submitted by~~
~~December 1, 2022, and the plan submitted by December 1, 2023,~~
~~will be updates to the preliminary plan.~~ The plan submitted by
 December 1, 2024, and each plan submitted by December 1
 thereafter;

1. Shall primarily address risks of flooding and sea level
rise identified in the comprehensive statewide flood
vulnerability and sea level rise assessment; and
2. May include, at the discretion of the department in
consultation with the Chief Resilience Officer, other projects
submitted pursuant to paragraph (d) which address risks of
flooding and sea level rise to critical assets not yet
identified in the comprehensive statewide flood vulnerability
and sea level rise assessment.

(c) Each plan submitted by the department pursuant to this
 subsection must include all of the following information for
 each recommended project:

1. A description of the project.
 2. The location of the project.
 3. An estimate of how long the project will take to
complete.
 4. An estimate of the cost of the project.
 5. The cost-share percentage available for the project.
 6. A summary of the priority score assigned to the project.
 7. The project sponsor.
- (d) ~~1. By September 1, 2021, and~~ Each September 1

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thereafter, all of the following entities may submit to the department a list of proposed projects that address risks of flooding or sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment or vulnerability assessments that meet the requirements of subsection (3):

- a. Counties.
- b. Municipalities.
- c. Special districts as defined in s. 189.012 which that are responsible for the management and maintenance of inlets and intracoastal waterways or for the operation and maintenance of a potable water facility, a wastewater facility, an airport, or a seaport facility.
- d. Regional resilience entities acting on behalf of one or more member counties or municipalities.

For the plans submitted by December 1, 2024, such entities may submit projects identified in existing vulnerability assessments that do not comply with subsection (3) only if the entity is actively developing a vulnerability assessment that is either under a signed grant agreement with the department pursuant to subsection (3) or funded by another state or federal agency, or is self-funded and intended to meet the requirements of paragraph (3)(d) 2021, December 1, 2022, and December 1, 2023, ~~such entities may submit projects identified in existing vulnerability assessments that do not comply with subsection (3). A regional resilience entity may also submit proposed projects to the department pursuant to this subparagraph on behalf of one or more member counties or municipalities.~~

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2. ~~By September 1, 2021, and~~ Each September 1 thereafter, all of the following entities may submit to the department a list of any proposed projects that address risks of flooding or sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment or vulnerability assessments that meet the requirements of subsection (3), or that mitigate the risks of flooding or sea level rise on water supplies or water resources of the state and a corresponding evaluation of each project:

- a. Water management districts.
 - b. Drainage districts.
 - c. Erosion control districts.
 - d. Flood control districts.
 - e. Regional water supply authorities.
3. Each project submitted to the department pursuant to this paragraph for consideration by the department for inclusion in the plan must include all of the following information:
- a. A description of the project.
 - b. The location of the project.
 - c. An estimate of how long the project will take to complete.
 - d. An estimate of the cost of the project.
 - e. The cost-share percentage available for the project.
 - f. The project sponsor.

(e) Each project included in the plan must have a minimum 50 percent cost share unless the project assists or is within a financially disadvantaged small community. For purposes of this section, the term "financially disadvantaged small community" means:

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1. A municipality that has a population of 10,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website, and a per capita annual income that is less than the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce that includes both measurements; or

2. A county that has a population of 50,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website, and a per capita annual income that is less than the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce that includes both measurements.

~~(f) To be eligible for inclusion in the plan, a project must have been submitted pursuant to paragraph (d) or must have been identified in the comprehensive statewide flood vulnerability and sea level rise assessment, as applicable.~~

~~(g)~~ Expenses ineligible for inclusion in the plan include, but are not limited to, expenses associated with any of the following:

1. Aesthetic vegetation.

2. Recreational structures such as piers, docks, and boardwalks.

3. Water quality components of stormwater and wastewater management systems, except for expenses to mitigate water quality impacts caused by the project or expenses related to water quality which are necessary to obtain a permit for the project.

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4. Maintenance and repair of over-walks.

5. Park activities and facilities, except expenses to control flooding or erosion.

6. Navigation construction, operation, and maintenance activities.

7. Projects that provide only recreational benefits.

(g) ~~(h)~~ The department shall implement a scoring system for assessing each project eligible for inclusion in the plan pursuant to this subsection. The scoring system must include the following tiers and associated criteria:

1. Tier 1 must account for 40 percent of the total score and consist of all of the following criteria:

a. The degree to which the project addresses the risks posed by flooding and sea level rise identified in the local government vulnerability assessments or the comprehensive statewide flood vulnerability and sea level rise assessment, as applicable.

b. The degree to which the project addresses risks to regionally significant assets.

c. The degree to which the project reduces risks to areas with an overall higher percentage of vulnerable critical assets.

d. The degree to which the project contributes to existing flooding mitigation projects that reduce upland damage costs by incorporating new or enhanced structures or restoration and revegetation projects.

2. Tier 2 must account for 30 percent of the total score and consist of all of the following criteria:

a. The degree to which flooding and erosion currently affect the condition of the project area.

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b. The overall readiness of the project to proceed in a timely manner, considering the project's readiness for the construction phase of development, the status of required permits, the status of any needed easement acquisition, and the availability of local funding sources.

c. The environmental habitat enhancement or inclusion of nature-based options for resilience, with priority given to state or federal critical habitat areas for threatened or endangered species.

d. The cost-effectiveness of the project.

3. Tier 3 must account for 20 percent of the total score and consist of all of the following criteria:

a. The availability of local, state, and federal matching funds, considering the status of the funding award, and federal authorization, if applicable.

b. Previous state commitment and involvement in the project, considering previously funded phases, the total amount of previous state funding, and previous partial appropriations for the proposed project.

c. The exceedance of the flood-resistant construction requirements of the Florida Building Code and applicable flood plain management regulations.

4. Tier 4 must account for 10 percent of the total score and consist of all of the following criteria:

a. The proposed innovative technologies designed to reduce project costs and provide regional collaboration.

b. The extent to which the project assists financially disadvantaged communities.

(h) ~~(i)~~ The total amount of funding proposed for each year

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of the plan may not be less than \$100 million. Upon review and subject to appropriation, the Legislature shall approve funding for the projects as specified in the plan. Multiyear projects that receive funding for the first year of the project must be included in subsequent plans and funded until the project is complete, provided that the project sponsor has complied with all contractual obligations and funds are available.

(i) ~~(j)~~ The department shall adopt rules ~~initiate rulemaking~~ ~~by August 1, 2021,~~ to implement this section.

(6) REGIONAL RESILIENCE ENTITIES.—Subject to specific legislative appropriation, the department may provide funding for all of the following purposes to regional entities, including regional planning councils and estuary partnerships, that are established by general purpose local governments and whose responsibilities include planning for the resilience needs of communities and coordinating intergovernmental solutions to mitigate adverse impacts of flooding and sea level rise:

(a) Providing technical assistance to counties and municipalities.

(b) Coordinating and conducting activities authorized by subsection (3) with broad regional benefit or on behalf of multiple member counties and municipalities ~~multijurisdictional vulnerability assessments.~~

(c) Developing project proposals to be submitted for inclusion in the Statewide Flooding and Sea Level Rise Resilience Plan.

Section 5. Subsection (1) of section 381.0061, Florida Statutes, is amended to read:

381.0061 Administrative fines.—

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(1) In addition to any administrative action authorized by chapter 120 or by other law, the department may impose a fine, which may not exceed \$500 for each violation, for a violation of s. 381.006(15) ~~or, s. 381.0065, s. 381.0066, s. 381.0072, or part III of chapter 489,~~ for a violation of any rule adopted by the department under this chapter, or for a violation of chapter 386 ~~not involving onsite sewage treatment and disposal systems.~~ The department shall give an alleged violator a notice of intent to impose such fine shall be given by the department to the alleged violator. Each day that a violation continues may constitute a separate violation.

Section 6. The Legislature intends that the transfer of the regulation of the Onsite Sewage Program from the Department of Health to the Department of Environmental Protection, as required by the Clean Waterways Act, chapter 2020-150, Laws of Florida, be completed in a phased approach.

(1) Before the phased transfer, the Department of Environmental Protection shall coordinate with the Department of Health to identify equipment and vehicles that were previously used to carry out the program in each county and that are no longer needed for such purpose. The Department of Health shall transfer the agreed-upon equipment and vehicles to the Department of Environmental Protection, to the extent that each county agrees to relinquish ownership of such equipment and vehicles to the Department of Health.

(2) When the Department of Environmental Protection begins implementing the program within a county, the Department of Health may no longer implement or collect fees for the program unless specified by separate delegation or contract with the

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Department of Environmental Protection.

Section 7. Paragraph (h) of subsection (3) and subsections (5) and (7) of section 381.0065, Florida Statutes, are amended, paragraph (o) is added to subsection (3) of that section, and subsection (9) is added to that section, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(3) DUTIES AND POWERS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.—The department shall:

(h) Conduct enforcement activities in accordance with part I of chapter 403, including imposing fines, issuing citations, suspensions, revocations, injunctions, and emergency orders for violations of this section, part I of chapter 386, or part III of chapter 489 or for a violation of any rule adopted by the department under this section, part I of chapter 386, or part III of chapter 489. All references to part I of chapter 386 in this section relate solely to nuisances involving improperly built or maintained septic tanks or other onsite sewage treatment and disposal systems, and untreated or improperly treated or transported waste from onsite sewage treatment and disposal systems. The department shall have all the duties and authorities of the Department of Health in part I of chapter 386 for nuisances involving onsite sewage treatment and disposal systems. The department's authority under part I of chapter 386 is in addition to and may be pursued independently of or simultaneously with the enforcement remedies provided under this section and chapter 403.

(o) Adopt rules establishing and implementing a program of general permits for this section for projects, or categories of

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746 projects, which have, individually or cumulatively, a minimal
 747 adverse impact on public health or the environment. Such rules
 748 must:

749 1. Specify design or performance criteria which, if
 750 applied, would result in compliance with appropriate standards;
 751 and

752 2. Authorize a person who complies with the general permit
 753 eligibility requirements to use the permit 30 days after giving
 754 notice to the department without any agency action by the
 755 department. Within the 30-day notice period, the department
 756 shall determine whether the activity qualifies for a general
 757 permit. If the activity does not qualify or the notice does not
 758 contain all the required information, the department must notify
 759 the person.

760 (5) ENFORCEMENT; RIGHT OF ENTRY; ~~CITATIONS.~~-

761 (a) Department personnel who have reason to believe
 762 noncompliance exists, may at any reasonable time, enter the
 763 premises permitted under ss. 381.0065-381.0066, or the business
 764 premises of any septic tank contractor or master septic tank
 765 contractor registered under part III of chapter 489, or any
 766 premises that the department has reason to believe is being
 767 operated or maintained not in compliance, to determine
 768 compliance with the provisions of this section, part I of
 769 chapter 386, or part III of chapter 489 or rules or standards
 770 adopted under ss. 381.0065-381.0067, part I of chapter 386, or
 771 part III of chapter 489. As used in this paragraph, the term
 772 "premises" does not include a residence or private building. To
 773 gain entry to a residence or private building, the department
 774 must obtain permission from the owner or occupant or secure an

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775 inspection warrant from a court of competent jurisdiction
 776 pursuant to the procedures of s. 403.091.

777 (b) ~~1.~~ The department has all of the judicial and
 778 administrative remedies available to it pursuant to part I of
 779 ~~chapter 403 may issue citations that may contain an order of~~
 780 ~~correction or an order to pay a fine, or both, for violations of~~
 781 ~~ss. 381.0065-381.0067, part I of chapter 386, or part III of~~
 782 ~~chapter 489 or the rules adopted by the department, when a~~
 783 ~~violation of these sections or rules is enforceable by an~~
 784 ~~administrative or civil remedy, or when a violation of these~~
 785 ~~sections or rules is a misdemeanor of the second degree. A~~
 786 ~~citation issued under ss. 381.0065-381.0067, part I of chapter~~
 787 ~~386, or part III of chapter 489 constitutes a notice of proposed~~
 788 ~~agency action.~~

789 2. A citation must be in writing and must describe the
 790 particular nature of the violation, including specific reference
 791 to the provisions of law or rule allegedly violated.

792 3. ~~The fines imposed by a citation issued by the department~~
 793 ~~may not exceed \$500 for each violation. Each day the violation~~
 794 ~~exists constitutes a separate violation for which a citation may~~
 795 ~~be issued.~~

796 4. ~~The department shall inform the recipient, by written~~
 797 ~~notice pursuant to ss. 120.569 and 120.57, of the right to an~~
 798 ~~administrative hearing to contest the citation within 21 days~~
 799 ~~after the date the citation is received. The citation must~~
 800 ~~contain a conspicuous statement that if the recipient fails to~~
 801 ~~pay the fine within the time allowed, or fails to appear to~~
 802 ~~contest the citation after having requested a hearing, the~~
 803 ~~recipient has waived the recipient's right to contest the~~

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804 citation and must pay an amount up to the maximum fine.

805 5. ~~The department may reduce or waive the fine imposed by~~
 806 ~~the citation. In determining whether to reduce or waive the~~
 807 ~~fine, the department must consider the gravity of the violation,~~
 808 ~~the person's attempts at correcting the violation, and the~~
 809 ~~person's history of previous violations including violations for~~
 810 ~~which enforcement actions were taken under ss. 381.0065-~~
 811 ~~381.0067, part I of chapter 386, part III of chapter 489, or~~
 812 ~~other provisions of law or rule.~~

813 6. Any person who willfully refuses to sign and accept a
 814 citation issued by the department commits a misdemeanor of the
 815 second degree, punishable as provided in s. 775.082 or s.
 816 775.083.

817 7. The department, pursuant to ss. 381.0065-381.0067, part
 818 I of chapter 386, or part III of chapter 489, shall deposit any
 819 damages, costs, or penalties it collects pursuant to this
 820 section and part I of chapter 403 in the Water Quality Assurance
 821 Trust Fund ~~county health department trust fund for use in~~
 822 ~~providing services specified in those sections.~~

823 8. ~~This section provides an alternative means of enforcing~~
 824 ~~ss. 381.0065-381.0067, part I of chapter 386, and part III of~~
 825 ~~chapter 489. This section does not prohibit the department from~~
 826 ~~enforcing ss. 381.0065-381.0067, part I of chapter 386, or part~~
 827 ~~III of chapter 489, or its rules, by any other means. However,~~
 828 ~~the department must elect to use only a single method of~~
 829 ~~enforcement for each violation.~~

830 (7) USE OF ENHANCED NUTRIENT-REDUCING ONSITE SEWAGE
 831 TREATMENT AND DISPOSAL SYSTEMS.—To meet the requirements of a
 832 total maximum daily load, the department shall implement a fast-

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833 track approval process of no longer than 6 months for the
 834 determination of the use of American National Standards
 835 Institute 245 systems approved by NSF International before July
 836 1, 2020. The department shall also establish an enhanced
 837 nutrient-reducing onsite sewage treatment and disposal system
 838 approval program that will expeditiously evaluate and approve
 839 such systems for use in this state to comply with ss.
 840 403.067(7)(a)10. and 373.469(3)(d).

841 (9) CONTRACT OR DELEGATION AUTHORITY.—The department may
 842 contract with or delegate its powers and duties under this
 843 section to a county as provided in s. 403.061 or s. 403.182.

844 Section 8. Subsection (2) of section 381.0066, Florida
 845 Statutes, is amended to read:

846 381.0066 Onsite sewage treatment and disposal systems;
 847 fees.—

848 (2) The minimum fees in the following fee schedule apply
 849 until changed by rule by the department within the following
 850 limits:

851 (a) Application review, permit issuance, or system
 852 inspection, when performed by the department or a private
 853 provider inspector, including repair of a subsurface, mound,
 854 filled, or other alternative system or permitting of an
 855 abandoned system: a fee of not less than \$25, or more than \$125.

856 (b) Site evaluation, site reevaluation, evaluation of a
 857 system previously in use, or a per annum septage disposal site
 858 evaluation: a fee of not less than \$40, or more than \$115.

859 (c) Biennial operating permit for aerobic treatment units
 860 or performance-based treatment systems: a fee of not more than
 861 \$100.

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- 862 (d) Annual operating permit for systems located in areas
 863 zoned for industrial manufacturing or equivalent uses or where
 864 the system is expected to receive wastewater which is not
 865 domestic in nature: a fee of not less than \$150, or more than
 866 \$300.
- 867 (e) Innovative technology: a fee not to exceed \$25,000.
- 868 (f) Septage disposal service, septage stabilization
 869 facility, portable or temporary toilet service, tank
 870 manufacturer inspection: a fee of not less than \$25, or more
 871 than \$200, per year.
- 872 (g) Application for variance: a fee of not less than \$150,
 873 or more than \$300.
- 874 (h) Annual operating permit for waterless, incinerating, or
 875 organic waste composting toilets: a fee of not less than \$15, or
 876 more than \$30.
- 877 (i) Aerobic treatment unit or performance-based treatment
 878 system maintenance entity permit: a fee of not less than \$25, or
 879 more than \$150, per year.
- 880 (j) Reinspection fee per visit for site inspection after
 881 system construction approval or for noncompliant system
 882 installation per site visit: a fee of not less than \$25, or more
 883 than \$100.
- 884 (k) Research: An additional \$5 fee shall be added to each
 885 new system construction permit issued to be used to fund onsite
 886 sewage treatment and disposal system research, demonstration,
 887 and training projects. Five dollars from any repair permit fee
 888 collected under this section shall be used for funding the
 889 hands-on training centers described in s. 381.0065(3)(j).
- 890 (l) Annual operating permit, including annual inspection

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- 891 and any required sampling and laboratory analysis of effluent,
 892 for an engineer-designed performance-based system: a fee of not
 893 less than \$150, or more than \$300.
- 894
- 895 The funds collected pursuant to this subsection for the
 896 implementation of onsite sewage treatment and disposal system
 897 regulation and for the purposes of ss. 381.00655 and 381.0067,
 898 subsequent to any phased transfer of implementation from the
 899 Department of Health to the department within any county
 900 pursuant to s. 381.0065, must be deposited in the Florida Permit
 901 Fee Trust Fund under s. 403.0871, to be administered by the
 902 department ~~a trust fund administered by the department, to be~~
 903 ~~used for the purposes stated in this section and ss. 381.0065~~
 904 ~~and 381.00655.~~
- 905 Section 9. Subsection (4) of section 403.061, Florida
 906 Statutes, is amended to read:
- 907 403.061 Department; powers and duties.—The department shall
 908 have the power and the duty to control and prohibit pollution of
 909 air and water in accordance with the law and rules adopted and
 910 promulgated by it and, for this purpose, to:
- 911 (4) Secure necessary scientific, technical, research,
 912 administrative, and operational services by interagency
 913 agreement, by contract, or otherwise. All state agencies and
 914 counties, upon direction of the department, shall make these
 915 services and facilities available.
- 916
- 917 The department shall implement such programs in conjunction with
 918 its other powers and duties and shall place special emphasis on
 919 reducing and eliminating contamination that presents a threat to

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humans, animals or plants, or to the environment.

Section 10. Subsections (1), (2), (14), and (15) of section 403.064, Florida Statutes, are amended to read:

403.064 Reuse of reclaimed water.—

(1) The encouragement and promotion of water conservation, and reuse of reclaimed water, as defined by the department, are state objectives and are considered to be in the public interest. The Legislature finds that the reuse of reclaimed water is a critical component of meeting the state's existing and future water supply needs while sustaining natural systems and future water supply needs while sustaining natural systems and encouraging its best and most beneficial use. The Legislature further finds that for those wastewater treatment plants permitted and operated under an approved reuse program by the department, the reclaimed water shall be considered environmentally acceptable and not a threat to public health and safety. The Legislature encourages the development of incentive-based programs for reuse implementation.

(2) All applicants for permits to construct or operate a domestic wastewater treatment facility ~~located within, serving a population located within, or discharging within a water resource caution area~~ shall prepare a reuse feasibility study as part of their application for the permit. Reuse feasibility studies ~~must shall~~ be prepared in accordance with department guidelines adopted by rule and shall include, but are not limited to:

(a) Evaluation of monetary costs and benefits for several levels and types of reuse.

(b) Evaluation of the estimated water savings resulting from different types of if reuse, ~~if is~~ implemented.

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(c) Evaluation of rates and fees necessary to implement reuse.

(d) Evaluation of environmental and water resource benefits associated with the different types of reuse.

(e) Evaluation of economic, environmental, and technical constraints associated with the different types of reuse, including any constraints caused by potential water quality impacts.

(f) A schedule for implementation of reuse. The schedule ~~must shall~~ consider phased implementation.

(14) After conducting a feasibility study under subsection (2), a domestic wastewater treatment facility facilities that disposes dispose of effluent by Class I deep well injection, as defined in 40 C.F.R. s. 144.6(a), surface water discharge, land application, or other method to dispose of effluent or a portion thereof must implement reuse to the degree that reuse is feasible, based upon the applicant's reuse feasibility study, with consideration given to direct ecological or public water supply benefits afforded by any disposal. Applicable permits issued by the department ~~must shall~~ be consistent with the requirements of this subsection.

(a) This subsection does not limit the use of a Class I deep well injection as defined in 40 C.F.R. s. 144.6(a), surface water discharge, land application, or another method to dispose of effluent or a portion thereof for backup use only facility as backup for a reclaimed water reuse system.

~~(b) This subsection applies only to domestic wastewater treatment facilities located within, serving a population located within, or discharging within a water resource caution~~

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978 ~~area.~~

979 ~~(15) After conducting a feasibility study under subsection~~
 980 ~~(2), domestic wastewater treatment facilities that dispose of~~
 981 ~~effluent by surface water discharges or by land application~~
 982 ~~methods must implement reuse to the degree that reuse is~~
 983 ~~feasible, based upon the applicant's reuse feasibility study.~~
 984 This subsection does not apply to surface water discharges or
 985 land application systems which are currently categorized as
 986 reuse under department rules. Applicable permits issued by the
 987 department shall be consistent with the requirements of this
 988 subsection.

989 ~~(a) This subsection does not limit the use of a surface~~
 990 ~~water discharge or land application facility as backup for a~~
 991 ~~reclaimed water reuse system.~~

992 ~~(b) This subsection applies only to domestic wastewater~~
 993 ~~treatment facilities located within, serving a population~~
 994 ~~located within, or discharging within a water resource caution~~
 995 ~~area.~~

996 Section 11. Paragraph (a) of subsection (7) of section
 997 403.067, Florida Statutes, is amended to read:

998 403.067 Establishment and implementation of total maximum
 999 daily loads.—

1000 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
 1001 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

1002 (a) *Basin management action plans.*—

1003 1. In developing and implementing the total maximum daily
 1004 load for a waterbody, the department, or the department in
 1005 conjunction with a water management district, may develop a
 1006 basin management action plan that addresses some or all of the

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1007 watersheds and basins tributary to the waterbody. Such plan must
 1008 integrate the appropriate management strategies available to the
 1009 state through existing water quality protection programs to
 1010 achieve the total maximum daily loads and may provide for phased
 1011 implementation of these management strategies to promote timely,
 1012 cost-effective actions as provided for in s. 403.151. The plan
 1013 must establish a schedule implementing the management
 1014 strategies, establish a basis for evaluating the plan's
 1015 effectiveness, and identify feasible funding strategies for
 1016 implementing the plan's management strategies. The management
 1017 strategies may include regional treatment systems or other
 1018 public works, when appropriate, and voluntary trading of water
 1019 quality credits to achieve the needed pollutant load reductions.

1020 2. A basin management action plan must equitably allocate,
 1021 pursuant to paragraph (6)(b), pollutant reductions to individual
 1022 basins, as a whole to all basins, or to each identified point
 1023 source or category of nonpoint sources, as appropriate. For
 1024 nonpoint sources for which best management practices have been
 1025 adopted, the initial requirement specified by the plan must be
 1026 those practices developed pursuant to paragraph (c). When
 1027 appropriate, the plan may take into account the benefits of
 1028 pollutant load reduction achieved by point or nonpoint sources
 1029 that have implemented management strategies to reduce pollutant
 1030 loads, including best management practices, before the
 1031 development of the basin management action plan. The plan must
 1032 also identify the mechanisms that will address potential future
 1033 increases in pollutant loading.

1034 3. The basin management action planning process is intended
 1035 to involve the broadest possible range of interested parties,

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with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the watershed or basin lies at least 5 days, but not more than 15 days, before the public meeting. A basin management action plan does not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.

4. Each new or revised basin management action plan must include all of the following:

a. The appropriate management strategies available through existing water quality protection programs to achieve total maximum daily loads, which may provide for phased implementation to promote timely, cost-effective actions as provided for in s. 403.151.

b. A description of best management practices adopted by rule.

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c. For the applicable 5-year implementation milestone, a list of projects that will achieve the pollutant load reductions needed to meet the total maximum daily load or the load allocations established pursuant to subsection (6). Each project must include a planning-level cost estimate and an estimated date of completion.

d. A list of projects developed pursuant to paragraph (e), if applicable.

e. The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project, if applicable.

f. A planning-level estimate of each listed project's expected load reduction, if applicable.

5. The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement this section.

6. The basin management action plan must include 5-year milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Any entity with a specific pollutant load reduction requirement established in a basin management action plan shall identify the projects or strategies that such entity will undertake to meet current 5-year pollution reduction milestones, beginning with the first 5-year milestone for new basin management action

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plans, and submit such projects to the department for inclusion in the appropriate basin management action plan. Each project identified must include an estimated amount of nutrient reduction that is reasonably expected to be achieved based on the best scientific information available. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures in subparagraph (c)4. Revised basin management action plans must be adopted pursuant to subparagraph 5.

7. In accordance with procedures adopted by rule under paragraph (9)(c), basin management action plans, and other pollution control programs under local, state, or federal authority as provided in subsection (4), may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum daily load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.

8. The department's rule relating to the equitable abatement of pollutants into surface waters do not apply to

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water bodies or waterbody segments for which a basin management plan that takes into account future new or expanded activities or discharges has been adopted under this section.

9. In order to promote resilient wastewater utilities, if the department identifies domestic wastewater treatment facilities or onsite sewage treatment and disposal systems as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the department determines remediation is necessary to achieve the total maximum daily load, a basin management action plan for a nutrient total maximum daily load must include the following:

a. A domestic wastewater treatment plan developed by each local government, in cooperation with the department, the water management district, and the public and private domestic wastewater treatment facilities providing services or located within the jurisdiction of the local government, which ~~that~~ addresses domestic wastewater. Private domestic wastewater facilities and special districts providing domestic wastewater services must provide the required wastewater facility information to the applicable local governments. The domestic wastewater treatment plan must:

(I) Provide for construction, expansion, or upgrades necessary to achieve the total maximum daily load requirements applicable to the domestic wastewater treatment facility.

(II) Include the permitted capacity in average annual gallons per day for the domestic wastewater treatment facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a projected timeline of the dates by which the construction of any facility

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improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The domestic wastewater treatment plan must be adopted as part of the basin management action plan no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a domestic wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a total maximum daily load. A local government is not responsible for a private domestic wastewater facility's compliance with a basin management action plan unless such facility is operated through a public-private partnership to which the local government is a party.

b. An onsite sewage treatment and disposal system remediation plan developed by each local government in cooperation with the department, the Department of Health, water management districts, and public and private domestic wastewater treatment facilities.

(I) The onsite sewage treatment and disposal system remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for onsite sewage treatment and disposal systems. To identify cost-effective and financially feasible projects for remediation of onsite sewage treatment and disposal systems, the local government shall:

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(A) Include an inventory of onsite sewage treatment and disposal systems based on the best information available;

(B) Identify onsite sewage treatment and disposal systems that would be eliminated through connection to existing or future central domestic wastewater infrastructure in the jurisdiction or domestic wastewater service area of the local government, that would be replaced with or upgraded to enhanced nutrient-reducing onsite sewage treatment and disposal systems, or that would remain on conventional onsite sewage treatment and disposal systems;

(C) Estimate the costs of potential onsite sewage treatment and disposal system connections, upgrades, or replacements; and

(D) Identify deadlines and interim milestones for the planning, design, and construction of projects.

(II) The department shall adopt the onsite sewage treatment and disposal system remediation plan as part of the basin management action plan no later than July 1, 2025, or as required for Outstanding Florida Springs under s. 373.807.

10. The installation of new onsite sewage treatment and disposal systems constructed within a basin management action plan area adopted under this section, a reasonable assurance plan, or a pollution reduction plan is prohibited where connection to a publicly owned or investor-owned sewerage system is available as defined in s. 381.0065(2)(a). On lots of 1 acre or less within a basin management action plan adopted under this section, a reasonable assurance plan, or a pollution reduction plan where a publicly owned or investor-owned sewerage system is not available, the installation of enhanced nutrient-reducing onsite sewage treatment and disposal systems or other wastewater

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1210 treatment systems that achieve at least 65 percent nitrogen
1211 reduction is required.

1212 11. When identifying wastewater projects in a basin
1213 management action plan, the department may not require the
1214 higher cost option if it achieves the same nutrient load
1215 reduction as a lower cost option. A regulated entity may choose
1216 a different cost option if it complies with the pollutant
1217 reduction requirements of an adopted total maximum daily load
1218 and meets or exceeds the pollution reduction requirement of the
1219 original project.

1220 12. Annually, local governments subject to a basin
1221 management action plan or located within the basin of a
1222 waterbody not attaining nutrient or nutrient-related standards
1223 must provide to the department an update on the status of
1224 construction of sanitary sewers to serve such areas, in a manner
1225 prescribed by the department.

1226 Section 12. Paragraph (c) of subsection (1) of section
1227 403.086, Florida Statutes, is amended to read:

1228 403.086 Sewage disposal facilities; advanced and secondary
1229 waste treatment.—

1230 (1)

1231 (c)1. Notwithstanding this chapter or chapter 373, sewage
1232 disposal facilities may not dispose any wastes into the
1233 following waters without providing advanced waste treatment, as
1234 defined in subsection (4), as approved by the department or a
1235 more stringent treatment standard if the department determines
1236 the more stringent standard is necessary to achieve the total
1237 maximum daily load or applicable water quality criteria:

1238 a. Old Tampa Bay; Tampa Bay; Hillsborough Bay; Boca Ciega

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1239 Bay; St. Joseph Sound; Clearwater Bay; Sarasota Bay; Little
1240 Sarasota Bay; Roberts Bay; Lemon Bay; Charlotte Harbor Bay;
1241 Biscayne Bay; or any river, stream, channel, canal, bay, bayou,
1242 sound, or other water tributary thereto.

1243 b. Beginning July 1, 2025, Indian River Lagoon, or any
1244 river, stream, channel, canal, bay, bayou, sound, or other water
1245 tributary thereto.

1246 c. By January 1, 2033, waterbodies that are currently not
1247 attaining nutrient or nutrient-related standards or that are
1248 subject to a nutrient or nutrient-related basin management
1249 action plan adopted pursuant to s. 403.067 or adopted reasonable
1250 assurance plan.

1251 2. For any waterbody determined not to be attaining
1252 nutrient or nutrient-related standards after July 1, 2023, or
1253 subject to a nutrient or nutrient-related basin management
1254 action plan adopted pursuant to s. 403.067 or adopted reasonable
1255 assurance plan after July 1, 2023, sewage disposal facilities
1256 are prohibited from disposing any wastes into such waters
1257 without providing advanced waste treatment, as defined in
1258 subsection (4), as approved by the department within 10 years
1259 after such determination or adoption.

1260 3. By July 1, 2034, within a basin management action plan
1261 or a reasonable assurance plan area, any wastewater treatment
1262 facility providing reclaimed water that will be used for
1263 commercial or residential irrigation or be otherwise land
1264 applied must meet the standards for advanced waste treatment as
1265 defined in subsection (4), as approved by the department, or a
1266 more stringent treatment standard if the department determines
1267 the more stringent standard is necessary to achieve the total

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maximum daily load or applicable water quality criteria.

Section 13. Paragraphs (a) and (b) of subsection (1) and paragraph (b) of subsection (3) of section 403.091, Florida Statutes, are amended to read:

403.091 Inspections.—

(1) (a) Any duly authorized representative of the department may at any reasonable time enter and inspect, for the purpose of ascertaining the state of compliance with the law or rules and regulations of the department, any property, premises, or place, except a building which is used exclusively for a private residence, on or at which:

1. A hazardous waste generator, transporter, or facility or other air or water contaminant source;

2. A discharger, including any nondomestic discharger which introduces any pollutant into a publicly owned treatment works;

3. An onsite sewage treatment and disposal system as defined in s. 381.0065(2)(m);

4. Any facility, as defined in s. 376.301; or

5.4- A resource recovery and management facility

is located or is being constructed or installed or where records which are required under this chapter, ss. 376.30-376.317, or department rule are kept.

(b) Any duly authorized representative may at reasonable times have access to and copy any records required under this chapter or ss. 376.30-376.317; inspect any monitoring equipment or method; sample for any pollutants as defined in s. 376.301, effluents, or wastes which the owner or operator of such source may be discharging or which may otherwise be located on or

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underlying the owner's or operator's property; and obtain any other information necessary to determine compliance with permit conditions or other requirements of this chapter, ss. 376.30-376.317, ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489, or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, or part III of chapter 489, or department rules.

(3)

(b) Upon proper affidavit being made, an inspection warrant may be issued under ~~the provisions of~~ this chapter or ss. 376.30-376.317:

1. When it appears that the properties to be inspected may be connected with or contain evidence of the violation of ~~any of the provisions of~~ this chapter or ss. 376.30-376.317, ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489, or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, or part III of chapter 489 or any rule properly promulgated thereunder; or

2. When the inspection sought is an integral part of a larger scheme of systematic routine inspections which are necessary to, and consistent with, the continuing efforts of the department to ensure compliance with the provisions of this chapter or ss. 376.30-376.317, ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489, or rules or standards adopted

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under ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, or part III of chapter 489 and any rules adopted thereunder.

Section 14. Section 403.121, Florida Statutes, is amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1), ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489, or any rule promulgated thereunder.

(1) Judicial Remedies:

(a) The department may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.

(b) The department may institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than \$15,000 per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense.

(c) Except as provided in paragraph (2)(c), it is not a defense to, or ground for dismissal of, these judicial remedies for damages and civil penalties that the department has failed to exhaust its administrative remedies, has failed to serve a notice of violation, or has failed to hold an administrative hearing before the institution of a civil action.

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(2) Administrative Remedies:

(a) The department may institute an administrative proceeding to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, or aquatic life, of the state caused by any violation. The department may order that the violator pay a specified sum as damages to the state. Judgment for the amount of damages determined by the department may be entered in any court having jurisdiction thereof and may be enforced as any other judgment.

(b) If the department has reason to believe a violation has occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. Except for violations involving hazardous wastes, asbestos, or underground injection, the department shall proceed administratively in all cases in which the department seeks administrative penalties that do not exceed \$50,000 per assessment as calculated in accordance with subsections (3), (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty assessed pursuant to subsection (3), subsection (4), or subsection (5) against a public water system serving a population of more than 10,000 may not be less than \$1,000 per day per violation. The department may not impose administrative penalties in excess of \$50,000 in a notice of violation. The department may not have more than one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation.

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1384 (c) An administrative proceeding shall be instituted by the
 1385 department's serving of a written notice of violation upon the
 1386 alleged violator by certified mail. If the department is unable
 1387 to effect service by certified mail, the notice of violation may
 1388 be hand delivered or personally served in accordance with
 1389 chapter 48. The notice shall specify the law, rule, regulation,
 1390 permit, certification, or order of the department alleged to be
 1391 violated and the facts alleged to constitute a violation
 1392 thereof. An order for corrective action, penalty assessment, or
 1393 damages may be included with the notice. When the department is
 1394 seeking to impose an administrative penalty for any violation by
 1395 issuing a notice of violation, any corrective action needed to
 1396 correct the violation or damages caused by the violation must be
 1397 pursued in the notice of violation or they are waived. However,
 1398 an order is not effective until after service and an
 1399 administrative hearing, if requested within 20 days after
 1400 service. Failure to request an administrative hearing within
 1401 this time period constitutes a waiver thereof, unless the
 1402 respondent files a written notice with the department within
 1403 this time period opting out of the administrative process
 1404 initiated by the department to impose administrative penalties.
 1405 Any respondent choosing to opt out of the administrative process
 1406 initiated by the department in an action that seeks the
 1407 imposition of administrative penalties must file a written
 1408 notice with the department within 20 days after service of the
 1409 notice of violation opting out of the administrative process. A
 1410 respondent's decision to opt out of the administrative process
 1411 does not preclude the department from initiating a state court
 1412 action seeking injunctive relief, damages, and the judicial

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1413 imposition of civil penalties.
 1414 (d) If a person timely files a petition challenging a
 1415 notice of violation, that person will thereafter be referred to
 1416 as the respondent. The hearing requested by the respondent shall
 1417 be held within 180 days after the department has referred the
 1418 initial petition to the Division of Administrative Hearings
 1419 unless the parties agree to a later date. The department has the
 1420 burden of proving with the preponderance of the evidence that
 1421 the respondent is responsible for the violation. Administrative
 1422 penalties should not be imposed unless the department satisfies
 1423 that burden. Following the close of the hearing, the
 1424 administrative law judge shall issue a final order on all
 1425 matters, including the imposition of an administrative penalty.
 1426 When the department seeks to enforce that portion of a final
 1427 order imposing administrative penalties pursuant to s. 120.69,
 1428 the respondent may not assert as a defense the inappropriateness
 1429 of the administrative remedy. The department retains its final-
 1430 order authority in all administrative actions that do not
 1431 request the imposition of administrative penalties.
 1432 (e) After filing a petition requesting a formal hearing in
 1433 response to a notice of violation in which the department
 1434 imposes an administrative penalty, a respondent may request that
 1435 a private mediator be appointed to mediate the dispute by
 1436 contacting the Florida Conflict Resolution Consortium within 10
 1437 days after receipt of the initial order from the administrative
 1438 law judge. The Florida Conflict Resolution Consortium shall pay
 1439 all of the costs of the mediator and for up to 8 hours of the
 1440 mediator's time per case at \$150 per hour. Upon notice from the
 1441 respondent, the Florida Conflict Resolution Consortium shall

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provide to the respondent a panel of possible mediators from the area in which the hearing on the petition would be heard. The respondent shall select the mediator and notify the Florida Conflict Resolution Consortium of the selection within 15 days of receipt of the proposed panel of mediators. The Florida Conflict Resolution Consortium shall provide all of the administrative support for the mediation process. The mediation must be completed at least 15 days before the final hearing date set by the administrative law judge.

(f) In any administrative proceeding brought by the department, the prevailing party shall recover all costs as provided in ss. 57.041 and 57.071. The costs must be included in the final order. The respondent is the prevailing party when an order is entered awarding no penalties to the department and such order has not been reversed on appeal or the time for seeking judicial review has expired. The respondent is entitled to an award of attorney fees if the administrative law judge determines that the notice of violation issued by the department seeking the imposition of administrative penalties was not substantially justified as defined in s. 57.111(3)(e). An award of attorney fees as provided by this subsection may not exceed \$15,000.

(g) This section does not prevent any other legal or administrative action in accordance with law and does not limit the department's authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief. When the department exercises its authority to judicially pursue injunctive relief, penalties in any amount up to the statutory maximum sought by the department must be pursued as part of the

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state court action and not by initiating a separate administrative proceeding. The department retains the authority to judicially pursue penalties in excess of \$50,000 for violations not specifically included in the administrative penalty schedule, or for multiple or multiday violations alleged to exceed a total of \$50,000. The department also retains the authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief and damages, if a notice of violation seeking the imposition of administrative penalties has not been issued. The department has the authority to enter into a settlement, before or after initiating a notice of violation, and the settlement may include a penalty amount different from the administrative penalty schedule. Any case filed in state court because it is alleged to exceed a total of \$50,000 in penalties may be settled in the court action for less than \$50,000.

(h) Chapter 120 applies to any administrative action taken by the department or any delegated program pursuing administrative penalties in accordance with this section.

(3) Except for violations involving hazardous wastes, asbestos, or underground injection, administrative penalties must be calculated according to the following schedule:

(a) For a drinking water contamination violation, the department shall assess a penalty of \$3,000 for a Maximum Containment Level (MCL) violation; plus \$1,500 if the violation is for a primary inorganic, organic, or radiological Maximum Contaminant Level or it is a fecal coliform bacteria violation; plus \$1,500 if the violation occurs at a community water system; and plus \$1,500 if any Maximum Contaminant Level is exceeded by

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more than 100 percent. For failure to obtain a clearance letter before placing a drinking water system into service when the system would not have been eligible for clearance, the department shall assess a penalty of \$4,500.

(b) For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, or obtain an onsite sewage treatment and disposal system permit, or for a violation of s. 381.0065, or the creation of or maintenance of a nuisance related to an onsite sewage treatment and disposal system under part I of chapter 386, or for a violation of part III of chapter 489, or any rule properly promulgated thereunder, the department shall assess a penalty of \$2,000. For a domestic or industrial wastewater violation, not involving a surface water or groundwater quality violation, the department shall assess a penalty of \$4,000 for an unpermitted or unauthorized discharge or effluent-limitation exceedance or for failure to comply with s. 403.061(14) or s. 403.086(7) or rules adopted thereunder. For an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation, the department shall assess a penalty of \$10,000. Each day the cause of an unauthorized discharge of domestic wastewater or sanitary nuisance is not addressed constitutes a separate offense.

(c) For a dredge and fill or stormwater violation, the department shall assess a penalty of \$1,500 for unpermitted or unauthorized dredging or filling or unauthorized construction of a stormwater management system against the person or persons responsible for the illegal dredging or filling, or unauthorized construction of a stormwater management system plus \$3,000 if

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the dredging or filling occurs in an aquatic preserve, an Outstanding Florida Water, a conservation easement, or a Class I or Class II surface water, plus \$1,500 if the area dredged or filled is greater than one-quarter acre but less than or equal to one-half acre, and plus \$1,500 if the area dredged or filled is greater than one-half acre but less than or equal to one acre. The administrative penalty schedule does not apply to a dredge and fill violation if the area dredged or filled exceeds one acre. The department retains the authority to seek the judicial imposition of civil penalties for all dredge and fill violations involving more than one acre. The department shall assess a penalty of \$4,500 for the failure to complete required mitigation, failure to record a required conservation easement, or for a water quality violation resulting from dredging or filling activities, stormwater construction activities or failure of a stormwater treatment facility. For stormwater management systems serving less than 5 acres, the department shall assess a penalty of \$3,000 for the failure to properly or timely construct a stormwater management system. In addition to the penalties authorized in this subsection, the department shall assess a penalty of \$7,500 per violation against the contractor or agent of the owner or tenant that conducts unpermitted or unauthorized dredging or filling. For purposes of this paragraph, the preparation or signing of a permit application by a person currently licensed under chapter 471 to practice as a professional engineer does not make that person an agent of the owner or tenant.

(d) For mangrove trimming or alteration violations, the department shall assess a penalty of \$7,500 per violation

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against the contractor or agent of the owner or tenant that conducts mangrove trimming or alteration without a permit as required by s. 403.9328. For purposes of this paragraph, the preparation or signing of a permit application by a person currently licensed under chapter 471 to practice as a professional engineer does not make that person an agent of the owner or tenant.

(e) For solid waste violations, the department shall assess a penalty of \$3,000 for the unpermitted or unauthorized disposal or storage of solid waste; plus \$1,000 if the solid waste is Class I or Class III (excluding yard trash) or if the solid waste is construction and demolition debris in excess of 20 cubic yards, plus \$1,500 if the waste is disposed of or stored in any natural or artificial body of water or within 500 feet of a potable water well, plus \$1,500 if the waste contains PCB at a concentration of 50 parts per million or greater; untreated biomedical waste; friable asbestos greater than 1 cubic meter which is not wetted, bagged, and covered; used oil greater than 25 gallons; or 10 or more lead acid batteries. The department shall assess a penalty of \$4,500 for failure to properly maintain leachate control; unauthorized burning; failure to have a trained spotter on duty at the working face when accepting waste; or failure to provide access control for three consecutive inspections. The department shall assess a penalty of \$3,000 for failure to construct or maintain a required stormwater management system.

(f) For an air emission violation, the department shall assess a penalty of \$1,500 for an unpermitted or unauthorized air emission or an air-emission-permit exceedance, plus \$4,500

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if the emission was from a major source and the source was major for the pollutant in violation; plus \$1,500 if the emission was more than 150 percent of the allowable level.

(g) For storage tank system and petroleum contamination violations, the department shall assess a penalty of \$7,500 for failure to empty a damaged storage system as necessary to ensure that a release does not occur until repairs to the storage system are completed; when a release has occurred from that storage tank system; for failure to timely recover free product; or for failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued. The department shall assess a penalty of \$4,500 for failure to timely upgrade a storage tank system. The department shall assess a penalty of \$3,000 for failure to conduct or maintain required release detection; failure to timely investigate a suspected release from a storage system; depositing motor fuel into an unregistered storage tank system; failure to timely assess or remediate petroleum contamination; or failure to properly install a storage tank system. The department shall assess a penalty of \$1,500 for failure to properly operate, maintain, or close a storage tank system.

(4) In an administrative proceeding, in addition to the penalties that may be assessed under subsection (3), the department shall assess administrative penalties according to the following schedule:

(a) For failure to satisfy financial responsibility requirements or for violation of s. 377.371(1), \$7,500.

(b) For failure to install, maintain, or use a required pollution control system or device, \$6,000.

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1616 (c) For failure to obtain a required permit before
 1617 construction or modification, \$4,500.

1618 (d) For failure to conduct required monitoring or testing;
 1619 failure to conduct required release detection; or failure to
 1620 construct in compliance with a permit, \$3,000.

1621 (e) For failure to maintain required staff to respond to
 1622 emergencies; failure to conduct required training; failure to
 1623 prepare, maintain, or update required contingency plans; failure
 1624 to adequately respond to emergencies to bring an emergency
 1625 situation under control; or failure to submit required
 1626 notification to the department, \$1,500.

1627 (f) Except as provided in subsection (2) with respect to
 1628 public water systems serving a population of more than 10,000,
 1629 for failure to prepare, submit, maintain, or use required
 1630 reports or other required documentation, \$750.

1631 (5) Except as provided in subsection (2) with respect to
 1632 public water systems serving a population of more than 10,000,
 1633 for failure to comply with any other departmental regulatory
 1634 statute or rule requirement not otherwise identified in this
 1635 section, the department may assess a penalty of \$1,000.

1636 (6) For each additional day during which a violation
 1637 occurs, the administrative penalties in subsections (3)-(5) may
 1638 be assessed per day per violation.

1639 (7) The history of noncompliance of the violator for any
 1640 previous violation resulting in an executed consent order, but
 1641 not including a consent order entered into without a finding of
 1642 violation, or resulting in a final order or judgment after the
 1643 effective date of this law involving the imposition of \$3,000 or
 1644 more in penalties shall be taken into consideration in the

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1645 following manner:

1646 (a) One previous such violation within 5 years before the
 1647 filing of the notice of violation will result in a 25-percent
 1648 per day increase in the scheduled administrative penalty.

1649 (b) Two previous such violations within 5 years before the
 1650 filing of the notice of violation will result in a 50-percent
 1651 per day increase in the scheduled administrative penalty.

1652 (c) Three or more previous such violations within 5 years
 1653 before the filing of the notice of violation will result in a
 1654 100-percent per day increase in the scheduled administrative
 1655 penalty.

1656 (8) The direct economic benefit gained by the violator from
 1657 the violation, where consideration of economic benefit is
 1658 provided by Florida law or required by federal law as part of a
 1659 federally delegated or approved program, must be added to the
 1660 scheduled administrative penalty. The total administrative
 1661 penalty, including any economic benefit added to the scheduled
 1662 administrative penalty, may not exceed \$15,000.

1663 (9) The administrative penalties assessed for any
 1664 particular violation may not exceed \$10,000 against any one
 1665 violator, unless the violator has a history of noncompliance,
 1666 the economic benefit of the violation as described in subsection
 1667 (8) exceeds \$10,000, or there are multiday violations. The total
 1668 administrative penalties may not exceed \$50,000 per assessment
 1669 for all violations attributable to a specific person in the
 1670 notice of violation.

1671 (10) The administrative law judge may receive evidence in
 1672 mitigation. The penalties identified in subsections (3)-(5) may
 1673 be reduced up to 50 percent by the administrative law judge for

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mitigating circumstances, including good faith efforts to comply before or after discovery of the violations by the department. Upon an affirmative finding that the violation was caused by circumstances beyond the reasonable control of the respondent and could not have been prevented by respondent's due diligence, the administrative law judge may further reduce the penalty.

(11) Penalties collected pursuant to this section must ~~shall~~ be deposited into the Water Quality Assurance Trust Fund or other trust fund designated by statute and shall be used to fund the restoration of ecosystems, or polluted areas of the state, as defined by the department, to their condition before pollution occurred. The Florida Conflict Resolution Consortium may use a portion of the fund to administer the mediation process provided in paragraph (2)(e) and to contract with private mediators for administrative penalty cases.

(12) The purpose of the administrative penalty schedule and process is to provide a more predictable and efficient manner for individuals and businesses to resolve relatively minor environmental disputes. Subsections (3)-(7) may not be construed as limiting a state court in the assessment of damages. The administrative penalty schedule does not apply to the judicial imposition of civil penalties in state court as provided in this section.

Section 15. Subsection (1) of section 403.0671, Florida Statutes, is amended to read:

403.0671 Basin management action plan wastewater reports.—

(1) By July 1, 2021, the department, in coordination with the county health departments, wastewater treatment facilities, and other governmental entities, shall submit a report to the

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Governor, the President of the Senate, and the Speaker of the House of Representatives evaluating the costs of wastewater projects identified in the basin management action plans developed pursuant to ss. 373.807 and 403.067(7) and the onsite sewage treatment and disposal system remediation plans and other restoration plans developed to meet the total maximum daily loads required under s. 403.067. The report must include all of the following:

(a) Projects to:

1. Replace onsite sewage treatment and disposal systems with enhanced nutrient-reducing onsite sewage treatment and disposal systems.

2. Install or retrofit onsite sewage treatment and disposal systems with enhanced nutrient-reducing technologies.

3. Construct, upgrade, or expand domestic wastewater treatment facilities to meet the domestic wastewater treatment plan required under s. 403.067(7)(a)9.

4. Connect onsite sewage treatment and disposal systems to domestic wastewater treatment facilities.~~+~~

(b) The estimated costs, nutrient load reduction estimates, and other benefits of each project.~~+~~

(c) The estimated implementation timeline for each project.~~+~~

(d) A proposed 5-year funding plan for each project and the source and amount of financial assistance the department, a water management district, or other project partner will make available to fund the project.~~+~~ ~~and~~

(e) The projected costs of installing enhanced nutrient-reducing onsite sewage treatment and disposal systems on

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buildable lots in priority focus areas to comply with s.
373.811.

Section 16. Paragraph (f) of subsection (2) of section
403.0673, Florida Statutes, is amended to read:

403.0673 Water quality improvement grant program.—A grant
program is established within the Department of Environmental
Protection to address wastewater, stormwater, and agricultural
sources of nutrient loading to surface water or groundwater.

(2) The department may provide grants for all of the
following types of projects that reduce the amount of nutrients
entering those waterbodies identified in subsection (1):

(f) Projects identified in a domestic wastewater treatment
plan or an onsite sewage treatment and disposal system
remediation plan developed pursuant to s. 403.067(7)(a)9.a. and
b.

Section 17. For the purpose of incorporating the amendment
made by this act to section 253.04, Florida Statutes, in a
reference thereto, paragraph (x) of subsection (1) of section
327.73, Florida Statutes, is reenacted to read:

327.73 Noncriminal infractions.—

(1) Violations of the following provisions of the vessel
laws of this state are noncriminal infractions:

(x) Section 253.04(3)(a), relating to carelessly causing
seagrass scarring, for which the civil penalty upon conviction
is:

1. For a first offense, \$100.

2. For a second offense occurring within 12 months after a
prior conviction, \$250.

3. For a third offense occurring within 36 months after a

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prior conviction, \$500.

4. For a fourth or subsequent offense occurring within 72
months after a prior conviction, \$1,000.

Any person cited for a violation of this subsection shall be
deemed to be charged with a noncriminal infraction, shall be
cited for such an infraction, and shall be cited to appear
before the county court. The civil penalty for any such
infraction is \$100, except as otherwise provided in this
section. Any person who fails to appear or otherwise properly
respond to a uniform boating citation, in addition to the charge
relating to the violation of the boating laws of this state,
must be charged with the offense of failing to respond to such
citation and, upon conviction, be guilty of a misdemeanor of the
second degree, punishable as provided in s. 775.082 or s.
775.083. A written warning to this effect shall be provided at
the time such uniform boating citation is issued.

Section 18. For the purpose of incorporating the amendment
made by this act to section 381.0061, Florida Statutes, in
references thereto, paragraph (a) of subsection (4) and
paragraph (a) of subsection (6) of section 381.0072, Florida
Statutes, are reenacted to read:

381.0072 Food service protection.—

(4) LICENSES REQUIRED.—

(a) *Licenses; annual renewals.*—Each food service
establishment regulated under this section shall obtain a
license from the department annually. Food service establishment
licenses shall expire annually and are not transferable from one
place or individual to another. However, those facilities

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1790 licensed by the department's Office of Licensure and
 1791 Certification, the Child Care Services Program Office, or the
 1792 Agency for Persons with Disabilities are exempt from this
 1793 subsection. It shall be a misdemeanor of the second degree,
 1794 punishable as provided in s. 381.0061, s. 775.082, or s.
 1795 775.083, for such an establishment to operate without this
 1796 license. The department may refuse a license, or a renewal
 1797 thereof, to any establishment that is not constructed or
 1798 maintained in accordance with law and with the rules of the
 1799 department. Annual application for renewal is not required.

1800 (6) FINES; SUSPENSION OR REVOCATION OF LICENSES;
 1801 PROCEDURE.—

1802 (a) The department may impose fines against the
 1803 establishment or operator regulated under this section for
 1804 violations of sanitary standards, in accordance with s.
 1805 381.0061. All amounts collected shall be deposited to the credit
 1806 of the County Health Department Trust Fund administered by the
 1807 department.

1808 Section 19. For the purpose of incorporating the amendment
 1809 made by this act to section 381.0061, Florida Statutes, in a
 1810 reference thereto, subsection (4) of section 381.0086, Florida
 1811 Statutes, is reenacted to read:

1812 381.0086 Rules; variances; penalties.—

1813 (4) A person who violates any provision of ss. 381.008-
 1814 381.00895 or rules adopted under such sections is subject either
 1815 to the penalties provided in ss. 381.0012 and 381.0061 or to the
 1816 penalties provided in s. 381.0087.

1817 Section 20. For the purpose of incorporating the amendment
 1818 made by this act to section 381.0061, Florida Statutes, in a

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1819 reference thereto, subsection (7) of section 381.0098, Florida
 1820 Statutes, is reenacted to read:

1821 381.0098 Biomedical waste.—

1822 (7) ENFORCEMENT AND PENALTIES.—Any person or public body in
 1823 violation of this section or rules adopted under this section is
 1824 subject to penalties provided in ss. 381.0012 and 381.0061.
 1825 However, an administrative fine not to exceed \$2,500 may be
 1826 imposed for each day such person or public body is in violation
 1827 of this section. The department may deny, suspend, or revoke any
 1828 biomedical waste permit or registration if the permittee
 1829 violates this section, any rule adopted under this section, or
 1830 any lawful order of the department.

1831 Section 21. For the purpose of incorporating the amendment
 1832 made by this act to section 381.0061, Florida Statutes, in a
 1833 reference thereto, subsection (2) of section 513.10, Florida
 1834 Statutes, is reenacted to read:

1835 513.10 Operating without permit; enforcement of chapter;
 1836 penalties.—

1837 (2) This chapter or rules adopted under this chapter may be
 1838 enforced in the manner provided in s. 381.0012 and as provided
 1839 in this chapter. Violations of this chapter and the rules
 1840 adopted under this chapter are subject to the penalties provided
 1841 in this chapter and in s. 381.0061.

1842 Section 22. This act shall take effect July 1, 2024.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Community Affairs, Chair
Appropriations Committee on Education
Education Pre-K 12
Fiscal Policy
Health Policy
Select Committee on Resiliency

SENATOR Alexis Calatayud

38th District

January 19, 2024

Honorable Senator Jason Brodeur
Chair – Appropriations Committee on Agriculture, Environment,
& General Government
Honorable Chair Brodeur,

I respectfully request that **SB- 1386 Department of Environmental Protection** be placed on the next committee agenda.

This bill revises the aquatic preserves within which a person may not operate a vessel outside a lawfully marked channel under certain circumstances; defining the term “Florida Flood Hub”; requiring the Department of Environmental Protection to conduct enforcement activities for violations of certain onsite sewage treatment and disposal system regulations in accordance with specified provisions; requiring certain facilities and systems to include a domestic wastewater treatment plan as part of a basin management action plan for nutrient total maximum daily load.

Sincerely,

Alexis M. Calatayud

Senator Alexis M. Calatayud
Florida Senate, District 38

CC: Giovanni Betta, Staff Director
Julie Brass, Committee Administrative Assistant

The Florida Senate

2/13/2024

APPEARANCE RECORD

1386

Meeting Date

Bill Number or Topic

Appropriations Committee on Agriculture, Environment, and General Government

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

Committee

Amendment Barcode (if applicable)

Name **Elizabeth Alvi (Audubon Florida)**

Phone **850-222-1098**

Address **308 N. Monroe**

Email **Beth.Alvi@Audubon.Org**

Street

Tallahassee

32312

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:

Audubon 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)

2/13/2024

Meeting Date

The Florida Senate
APPEARANCE RECORD

SB 1386

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name

Kate WPSNER

Phone

561-722-3659

Address

159 Catravel Lane Jupiter, FL

Email

kate@floodcoalition.org

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 Flood Coalition Action

☐

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)

02/13/2024

Meeting Date

The Florida Senate
APPEARANCE RECORD

1386

Bill Number or Topic

AEG

Committee

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

Amendment Barcode (if applicable)

Name **Florida TaxWatch**

Phone **8502225052**

Address **106 N. Bronough Street**

Email **jshah@floridataxwatch.org**

Street

Tallahassee

Florida

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. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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

5-001 (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 Appropriations Committee on Agriculture, Environment, and General Government

BILL: SB 1398

INTRODUCER: Senator Collins

SUBJECT: Florida Crop Diversification Commission

DATE: February 12, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Burse	Becker	AG	Favorable
2.	Blizzard	Betta	AEG	Favorable
3.			FP	

I. Summary:

SB 1398 creates the Florida Crop Diversification Commission (commission), adjunct to the Department of Agricultural and Consumer Services (department), and establishes the commission's powers and duties. The commission is directed to evaluate alternative agricultural crops, contract for the design and implementation of the Florida Crop Diversification Initiative, develop best management practices for crops or products recommended by the commission, and assist local economic development councils in encouraging the development of manufacturing and processing facilities for new crops or products recommended by the commission.

The bill also requires the commission to publish their findings on an annual basis. By July 1, 2026, and each July 1 thereafter, the commission shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill has an insignificant, negative fiscal impact to the department, for which the bill provides an appropriation of \$500,000 from the General Revenue Fund. See Section V., Fiscal Impact Statement.

The bill takes effect upon becoming a law.

II. Present Situation:

Florida Agriculture

Florida's 47,500 farms and ranches utilize 9.7 million acres and continue to produce a wide variety of safe and dependable food products.¹ Agricultural land (cropland and ranchland) and

¹ FDACS, Florida Agriculture Overview and Statistics, available at <https://www.fdacs.gov/Agriculture-Industry/Florida-Agriculture-Overview-and-Statistics> (last visited January 17, 2024).

forest land make up nearly two-thirds of the state's land area.² There are over 200-300 commodities produced and some form of agriculture in all 67 counties.³ Florida's agriculture, natural resources, and food industries supported 2.4 million full-time and part-time jobs throughout Florida's economy (14.2 percent of all jobs in the state), contributing \$149.6 billion to gross state product in 2018.⁴

In 2021, Florida ranked first in the United States in total floriculture sales and in the value of production for sweetcorn, foliage plants for indoor use, Valencia oranges, sugarcane, fresh market tomatoes and watermelons. Florida ranked second nationally in the value of production for bell peppers, grapefruit, all oranges, strawberries and non-Valencia oranges. The state ranked fourth in cabbage, cantaloupe and peanuts.⁵ The state also ranked 1st in ornamental fish, 2nd in alligators and 3rd in horses and ponies in the United States.⁶

III. Effect of Proposed Changes:

Section 1 creates s. 570.233, F.S., to establish the Florida Crop Diversification Commission (commission), adjunct to the department. It provides that the commission shall be composed of the following nine members:

- The Commissioner of Agriculture or his or her designee.
- The dean for research of the Institute of Food and Agricultural Sciences of the University of Florida or his or her designee.
- The following members, appointed by the commissioner based upon their knowledge and experience in agricultural production, processing, or manufacturing:
 - Four members who are currently involved in agricultural production or who have been involved in agricultural production within the last three years.
 - One member who has experience in agricultural processing or manufacturing.
 - One member who has experience in the packing or processing of fresh agricultural products.
 - One member who has experience in agricultural marketing analysis and the viability of agricultural products.

The bill directs the commission to:

- Evaluate alternative agricultural crops and determine whether there exists one or more viable crops or products that would provide an economic benefit to growers using current agricultural infrastructure on land that has been taken out of production by diseases or adverse weather conditions.

² IFAS, Florida's Agriculture and Natural Resource Facts, available at <https://ifas.ufl.edu/media/ifasufledu/ifas-dark-blue/docs/pdf/impact/FloridaAgFactsFactsheet.2020.Prt.pdf> (last visited January 17, 2024).

³ IFAS, Florida's Agriculture and Food System Fast Facts 2021, available at <https://sfyl.ifas.ufl.edu/media/sfylifasufledu/orange/ag-nat-res/docs/pdf/Florida-Agriculture-and-Food-Systems-Fast-Facts-2021.pdf> (last visited January 17, 2024).

⁴ IFAS, Florida's Agriculture and Natural Resource Facts, available at <https://ifas.ufl.edu/media/ifasufledu/ifas-dark-blue/docs/pdf/impact/FloridaAgFactsFactsheet.2020.Prt.pdf> (last visited January 17, 2024).

⁵ *Id.*

⁶ *Id.*

- Contract for the design and implementation of the Florida Crop Diversification Initiative (initiative). The initiative must provide direct cash payments to nurseries and agricultural producers in this state in order to rapidly stimulate the adoption of alternative crops, moderate the required economic outlay, and speed the economic recovery of producers, packers, nurseries, processors, and communities. The entity with which the commission contracts for the initiative must be a nonprofit organization that has a history of focusing on alternative crops and has the organizational capacity to manage a statewide initiative and carry out the requirements.
- Develop best management practices for crops or products recommended by the commission.
- Assist local economic development councils in encouraging the development of manufacturing and processing facilities for new crops or products recommended by the commission.
- Publish the findings of the commission on an annual basis after review and approval of the commissioner.

The bill also requires the commission to submit a report by July 1, 2026, and each July 1 thereafter, to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must contain, at minimum, all of the following:

- Information about each crop or product recommended, detailing the environmental impact of each.
- An assessment of each recommended crop's suitability to this state's climate, and the expected economic benefit to growers and communities in this state.
- Recommendations for best practices to sustain and improve the agricultural industry in this state.

Section 2 appropriates \$500,000 from the General Revenue Fund to the department for Fiscal Year 2024-2025 for the purpose of implementing this bill.

Section 3 provides that the bill shall take 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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

For the 2024-2025 fiscal year, the sum of \$500,000 in nonrecurring funds from the General Revenue Fund is appropriated to the department for the purpose of creating the Florida Crop Diversification Commission.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 570.233 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 Collins

14-00593-24

20241398__

A bill to be entitled

An act relating to the Florida Crop Diversification Commission; creating s. 570.233, F.S.; creating the commission adjunct to the Department of Agriculture and Consumer Services; providing the membership and duties of the commission; requiring the commission to submit an annual report to the Governor and the Legislature by a specified date; providing requirements for the report; providing an appropriation; providing an effective date.

WHEREAS, the Legislature finds that agricultural producers in this state are confronted by a continuous stream of deadly diseases and adverse weather conditions, including drought, wind, flooding, and hurricanes, which threaten their crops and their livelihoods, and

WHEREAS, these damaging diseases and weather conditions severely reduce agricultural production and cause a loss of jobs and severe economic losses to communities, families, and individual producers, and

WHEREAS, maintaining agricultural production is vital to this state's rural communities and overall economy, and

WHEREAS, preserving agricultural lands that produce crops, rather than developing them, has many ecological benefits, including maintaining wildlife habitats, absorbing carbon dioxide, recharging the aquifer, reducing greenhouse gases, and reducing erosion, and

WHEREAS, the Legislature finds that the loss of agricultural infrastructure, jobs, economic opportunity, and

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wildlife habitat caused by deadly diseases and adverse weather conditions is not sustainable and has a negative impact on the quality of life for all of the residents of this state, NOW, THEREFORE,

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

Section 1. Section 570.233, Florida Statutes, is created to read:

570.233 Florida Crop Diversification Commission; powers and duties.—

(1) The Florida Crop Diversification Commission, a commission as defined in s. 20.03(4), is created adjunct to the department. The commission shall be composed of the following nine members:

(a) The commissioner or his or her designee.

(b) The dean for research of the Institute of Food and Agricultural Sciences of the University of Florida or his or her designee.

(c) The following members, appointed by the commissioner based upon their knowledge and experience in agricultural production, processing, or manufacturing:

1. Four members who are currently involved in agricultural production or who have been involved in agricultural production within the last 3 years.

2. One member who has experience in agricultural processing or manufacturing.

3. One member who has experience in the packing or processing of fresh agricultural products.

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4. One member who has experience in agricultural marketing analysis and the viability of agricultural products.

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

(a) Evaluate alternative agricultural crops and determine whether there exists one or more viable crops or products that would provide an economic benefit to growers using current agricultural infrastructure on land that has been taken out of production by diseases or adverse weather conditions.

(b) Contract for the design and implementation of the Florida Crop Diversification Initiative. The initiative must provide direct cash payments to nurseries and agricultural producers in this state in order to rapidly stimulate the adoption of alternative crops, moderate the required economic outlay, and speed the economic recovery of producers, packers, nurseries, processors, and communities. The entity with which the commission contracts for the Florida Crop Diversification Initiative must be a nonprofit organization that has a history of focusing on alternative crops and has the organizational capacity to manage a statewide initiative and carry out the requirements of this paragraph.

(c) Develop best management practices for crops or products recommended by the commission.

(d) Assist local economic development councils in encouraging the development of manufacturing and processing facilities for new crops or products recommended by the commission.

(e) Publish the findings of the commission on an annual basis after review and approval by the commissioner.

(3) By July 1, 2026, and each July 1 thereafter, the

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commission shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which includes, at a minimum:

(a) Information about each crop or product recommended, detailing the environmental impact of each.

(b) An assessment of each recommended crop's suitability to this state's climate, and the expected economic benefit to growers and communities in this state.

(c) Recommendations for best practices to sustain and improve the agricultural industry in this state.

Section 2. For the 2024-2025 fiscal year, the sum of \$500,000 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Agriculture and Consumer Services for the purpose of implementing s. 570.233, Florida Statutes, as created by this act.

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



The Florida Senate

Committee Agenda Request

To: Senator Jason Brodeur, Chair
Appropriations Committee on Agriculture, Environment, and General
Government

Subject: Committee Agenda Request

Date: January 17, 2024

I respectfully request that **Senate Bill #1398**, relating to Florida Crop Diversification Commission, be placed on the:

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

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

Senator Jay Collins
Florida Senate, District 14

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 Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/SB 1422

INTRODUCER: Appropriations Committee on Agriculture, Environment, and General Government and Senators Burgess and Rouson

SUBJECT: Food Recovery

DATE: February 15, 2024 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Becker	Becker	AG	Favorable
2.	Blizzard	Betta	AEG	Fav/CS
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1422 directs the Department of Agriculture and Consumer Services (department), subject to legislative appropriation, to implement a program to provide incentives to food producers to sell high-quality fresh food products to food recovery entities at a discounted price. The bill authorizes food recovery entities to negotiate the price for fresh food products and requires the department to reimburse them for each negotiated purchase of fresh food products produced, purchased, and distributed in this state.

The bill directs the department to submit a report on the program to the Governor, President of the Senate, and Speaker of the House of Representatives by January 1, 2025, and to submit an updated report by January 1, 2026. The bill grants the department rulemaking authority for the program.

The bill has an indeterminate fiscal impact on the department. See Section V., Fiscal Impact Statement.

This bill takes effect July 1, 2024.

II. Present Situation:

Section 595.420, F.S., provides legislative intent and powers of the Department of Agriculture and Consumer Services (department) regarding food recovery. The Legislature finds that millions of pounds of surplus and slightly blemished fruits and vegetables are destroyed each year, while many Floridians go without food.¹ The Legislature further finds that the state, through the Commissioner of Agriculture, should assist food recovery programs, when needed, to aid in their establishment and to support their continued and efficient operation.² In helping to coordinate the establishment of food recovery programs, the department may: identify suppliers, volunteers, and nonprofit organizations in the community to ascertain the level of interest in establishing a food recovery program; provide facilities and other resources for initial organizational meetings; and provide direct and indirect support for the fledgling program, upon demonstration of serious interest at the local level.³

Approximately one-fifth of Floridians are food insecure, including over one million children. The department's Food Recovery Program works to recover food by working with farmers (volunteers visit the farms and collect surplus produce in a process called gleaning) and by working with schools (the department provides Florida Schools with guidance on food waste audits, share tables, food donations, and composting).⁴

Food distribution programs are funded by the legislature through the Food Recovery Program within the department. Partnerships for the 2022-2023 fiscal year include:

- Feeding Florida's Farmers Feeding Florida Program, which purchases cosmetically blemished produce from local agricultural producers and provides it to households in need through Feeding Florida's member food banks.
- The Farm Share Program, which provides food free of charge to local community partner agencies as well as directly to families, children, senior citizens, and individuals in need to address food insecurity throughout the state.⁵

III. Effect of Proposed Changes:

CS/SB 1422 creates s. 595.420(8), F.S., and directs the department to implement a program to provide incentives to agricultural companies to sell fresh products to food recovery entities. It creates definitions for "current wholesale market price," "discounted price," "food producer," "food recovery entity," "fresh food products," and "high-quality fresh food products." The bill specifies that a "food recovery entity" must have been in operation for 10 years in this state and received a minimum of 10 million pounds of perishable produce annually within the last three years to qualify for the program.

Subject to appropriation, the bill directs the department to implement a program to incentivize food producers to sell high-quality fresh food products to food recovery entities at a discounted

¹ Section 595.420(1)(a), F.S.

² Section 595.420(1)(c), F.S.

³ Section 595.420(3), F.S.

⁴ Florida Department of Agriculture and Consumer Services Food Recovery Program see <https://www.fdacs.gov/Food-Nutrition/Nutrition-Programs/Food-Recovery-Program> (last visited January 17, 2024).

⁵ *Id.*

price with the goal of reducing human hunger in this state. The bill authorizes food recovery entities to negotiate the price for fresh food products and requires the department to reimburse them for each negotiated purchase of fresh food products produced, purchased, and distributed in this state. To receive a reimbursement, a food entity must:

- Certify in writing to the department that all of the fresh food products on an invoice meet the food recovery entity's food quality standards and that the fresh food products received will not be sold at wholesale, retail, or secondary markets for monetary gain; and
- Submit the invoice and any other documents provided by the food producer to the department. The invoice must include the shipment date; shipment location, by shipper and city; each fresh food product purchased at the discounted price; total number of packages shipped and the price of each product; total price paid for each product; total invoice price paid; and total pounds shipped.

The bill requires the department submit a report on the program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2025, and to submit an updated report by January 1, 2026. The reports must include an itemized list of all of the following:

- Each fresh food product by package size, the total number of packages, and the average price paid per package.
- The total weight in pounds of each fresh food product type, the price paid per pound for each fresh food product type, and the total spent per fresh food product type.
- The total amount spent and the total amount spent per major fresh food product.

The bill grants the department rulemaking authority to implement the bill.

This act shall take 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:

Food producers may benefit from having an additional market for their produce and Floridians may benefit from the increased availability of fresh produce from food recovery entities.

C. Government Sector Impact:

Funding for the food recovery program is contingent upon specific appropriation by the Legislature. The department may incur an indeterminate increase in costs related to workload, depending on the amount of the annual appropriation and number of food recovery entities associated with the program. These costs will need to be funded through the overall appropriation for the program. The bill does not provide funding for the program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 595.420 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 Appropriations Committee on Agriculture, Environment, and General Government on February 14, 2024:**

The committee substitute:

- Provides a definition for “current wholesale market price” and discounted price;”
- Specifies a food recovery entity must have been in operation for 10 years instead of 20 years as required in the original bill;
- Requires an invoice to include each fresh food product purchased at the discounted price; and
- Removes the \$5 million appropriation.

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: RCS	.	
02/13/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (Burgess) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (8) is added to section 595.420,
Florida Statutes, to read:

595.420 Food recovery; legislative intent; department
functions.—

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

1. "Current wholesale market price" means the wholesale



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market price for each fresh food product on an invoice dated at the closest shipping point, as reported by the United States Department of Agriculture's USDA Market News.

2. "Discounted price" means a price for fresh food products sold by each food producer at a price that is at least 50 percent below the current wholesale market price.

3. "Food producer" means an agricultural company that produces fresh food products in this state or the company's associated shipper.

4. "Food recovery entity" means a nonprofit association engaged in food recovery and distribution which has been in operation in this state for at least 10 years and has received a minimum of 10 million pounds of perishable produce annually within the last 3 years.

5. "Fresh food products" includes fresh fruits, vegetables, proteins, poultry, eggs, and dairy that are produced in this state by a food producer.

6. "High-quality fresh food products" means fresh food products that meet United States Department of Agriculture commodity standards and grades upon delivery to their final destination.

(b) Subject to legislative appropriation, the department shall implement a program to provide incentives to food producers to sell high-quality fresh food products to food recovery entities in this state at a discounted price. The goal of the program is to reduce human hunger in this state.

(c) A food recovery entity shall negotiate with a food producer to pay discounted prices for the producer's fresh food products. Any invoice, bill of lading, or other document



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provided by the food producer to the food recovery entity must include the harvest or processing date, the current wholesale market price of each product purchased, and the shipping destination.

(d) A food recovery entity may reject any product that fails to meet the entity's food quality standards.

(e) The department shall reimburse a food recovery entity for each negotiated purchase of fresh food products produced, purchased, and distributed in this state. To receive a reimbursement, a food recovery entity must:

1. Certify in writing to the department that all of the fresh food products on an invoice meet the food recovery entity's food quality standards and that the fresh food products received will not be sold at wholesale, retail, or secondary markets for monetary gain; and

2. Submit the invoice and any other documents provided by the food producer to the department. The invoice must include all of the following information:

a. Shipment date.

b. Shipment location, by shipper and city.

c. Each fresh food product purchased at the discounted price.

d. Total number of packages shipped and the price of each product.

e. Total price paid for each product.

f. Total invoice price paid.

g. Total pounds shipped, as determined by measured weight.

(f) The department shall also reimburse a food recovery entity for delivery and distribution costs in an amount equal to



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2 cents per pound of fresh food products shipped, as indicated
by invoice.

(g) The department shall submit a report on the program to
the Governor, the President of the Senate, and the Speaker of
the House of Representatives by January 1, 2025, and shall
submit an updated report by January 1, 2026. The reports must
include an itemized list of all of the following:

1. Each fresh food product by package size, the total
number of packages, and the average price paid per package.

2. The total weight in pounds of each fresh food product
type, the price paid per pound for each fresh food product type,
and the total spent per fresh food product type.

3. The total amount spent and the total amount spent per
major fresh food product.

(h) The department shall adopt rules to implement this
subsection.

Section 2. This act shall take effect July 1, 2024.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to food recovery; amending s. 595.420,
F.S.; defining terms; directing the Department of
Agriculture and Consumer Services, subject to
legislative appropriation, to implement a program to
provide incentives to food producers to sell high-
quality fresh food products to food recovery entities



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at a discounted price; providing a goal for the
program; requiring food recovery entities to negotiate
with food producers; providing shipping requirements;
requiring the department to reimburse food recovery
entities for certain costs; providing reimbursement
invoice requirements; requiring the department to
submit a report to the Governor and Legislature by
specified dates; providing requirements for the
report; requiring the department to adopt rules;
providing an effective date.

By Senator Burgess

23-01084A-24

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A bill to be entitled

An act relating to food recovery; amending s. 595.420, F.S.; defining terms; directing the Department of Agriculture and Consumer Services, subject to legislative appropriation, to implement a program to provide incentives to food producers to sell high-quality fresh food products to food recovery entities at a discounted price; providing a goal for the program; requiring food recovery entities to negotiate with food producers; providing shipping requirements; requiring the department to reimburse food recovery entities for certain costs; providing reimbursement invoice requirements; requiring the department to submit a report to the Governor and Legislature by specified dates; providing requirements for the report; requiring the department to adopt rules; providing an appropriation; providing an effective date.

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

Section 1. Subsection (8) is added to section 595.420, Florida Statutes, to read:

595.420 Food recovery; legislative intent; department functions.—

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

1. "Food producer" means an agricultural company that produces fresh food products in this state or the company's associated shipper.

Page 1 of 4

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

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2. "Food recovery entity" means a nonprofit association engaged in food recovery and distribution which has been in operation in this state for at least 20 years and has received a minimum of 10 million pounds of perishable produce annually within the last 3 years.

3. "Fresh food products" includes fresh fruits, vegetables, proteins, poultry, eggs, and dairy, produced in this state by a food producer.

4. "High-quality fresh food products" means fresh food products that meet United States Department of Agriculture commodity standards and grades upon delivery to their final destination.

(b) Subject to legislative appropriation, the department shall implement a program to provide incentives to food producers to sell high-quality fresh food products to food recovery entities in this state at a discounted price. The goal of the program is to reduce human hunger in this state.

(c) A food recovery entity shall negotiate with a food producer to pay discounted prices for the producer's fresh food products. An invoice, bill of lading, or other documents provided by the food producer to the food recovery entity must include the harvest or processing date, the current market price of each product purchased, and the shipping destination.

(d) A food recovery entity may reject any product that fails to meet the entity's food quality standards.

(e) The department shall reimburse a food recovery entity for each negotiated purchase of fresh food products produced, purchased, and distributed in this state. To receive a reimbursement, a food recovery entity must:

Page 2 of 4

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

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1. Certify in writing to the department that all of the fresh food products on an invoice meet the food recovery entity's food quality standards and that the fresh food products received will not be sold at wholesale, retail, or secondary markets for monetary gain; and

2. Submit the invoice and any other documents provided by the food producer to the department. The invoice must include all of the following information:

a. Shipment date.

b. Shipment location, by shipper and city.

c. Total number of packages shipped and the price of each product.

d. Total price paid for each product.

e. Total invoice price paid.

f. Total pounds shipped, as determined by measured weight or an estimated weight, for each fresh food product.

(f) The department shall also reimburse a food recovery entity for delivery and distribution costs in an amount equal to 2 cents per pound of fresh food products shipped, as indicated by invoice.

(g) The department shall submit a report on the program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2025, and shall submit an updated report by January 1, 2026. The reports must include an itemized list of all of the following:

1. Each fresh food product by package size, the total number of packages, and the average price paid per package.

2. The total weight in pounds of each fresh food product type, the price paid per pound for each fresh food product type,

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and the total spent per fresh food product type.

3. The total amount spent and the total amount spent per major fresh food product.

(h) The department shall adopt rules to implement this subsection.

Section 2. For the 2024-2025 fiscal year, the sum of \$5 million in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Agriculture and Consumer Services to implement the program created pursuant to s. 595.420(8), Florida Statutes, by this act.

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



The Florida Senate

Committee Agenda Request

To: Senator Jason Brodeur, Chair
Appropriations Committee on Agriculture, Environment, and General
Government

Subject: Committee Agenda Request

Date: January 18, 2024

I respectfully request that **Senate Bill #1422**, relating to Food Recovery, be placed on the:

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

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

Senator Danny Burgess
Florida Senate, District 23

02/13/2024

Meeting Date

Appr. Agricultura, Envirom & GG

Committee

The Florida Senate

APPEARANCE RECORD

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

SB 1422

Bill Number or Topic

Amendment Barcode (if applicable)

Name Edda " Ivonne" Fernandez Phone 954-850-7262

Address 215 S. Monroe Street- Suite 603 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)

S110

02/13/2024 830

Meeting Date

The Florida Senate
APPEARANCE RECORDDeliver both copies of this form to
Senate professional staff conducting the meeting

1422 food

Bill Number or Topic

Approp on Ag...

Committee

Amendment Barcode (if applicable)

Name Karen Mazzola

Phone 407-855-7664

Address 1747 Orlando Central Pkwy

Street

Email vp.educational@floridapta.org

Orlando FL 32809

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 PTA

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)

2/13/24

Meeting Date

AE66 Appors

Committee

The Florida Senate
APPEARANCE RECORD

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

1422

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Robert Holroyd

Phone

954-803-0231

Address

Street

Email

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

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

Palm Beach County Food Bank

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 Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/SB 1436

INTRODUCER: Appropriations Committee on Agriculture, Environment, and General Government and Senator Burton

SUBJECT: Consumer Finance Loans

DATE: February 1, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Knudson	BI	Favorable
2.	Sanders	Betta	AEG	Fav/CS
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1436 revises laws governing consumer finance loans, which are loans of \$25,000 or less for which a lender charges an interest rate greater than 18 percent per annum. The Florida Consumer Finance Act (Act) in ch. 516, F.S., provides an exemption from Florida's prohibition against usurious contracts, under which any interest rate greater than 18 percent per annum is prohibited.

The bill modifies the limits of consumer finance loan interest rates to no more than 36 percent per annum, computed on the first \$10,000 of the principal amount; 30 percent per annum on that part of the principal amount exceeding \$10,000 and up to \$20,000; and 24 percent per annum on that part of the principal amount exceeding \$20,000 and up to \$25,000.

The bill increases the number of days a payment must be in default before a delinquency charge may be imposed from 10 days in default to 12 days in default.

The bill revises the licensure process to allow a single licensure application for the principle place of business and all branches. The bill defines a "branch" as any location, other than a licensee's principal place of business, at which a licensee operates or conducts consumer finance loan business or controls for the purpose of conducting consumer finance loan business.

The bill requires consumer finance lenders, in any county designated in a Federal Emergency Management Agency (FEMA) major disaster declaration, to suspend for 90 days after the initial date of such declaration, the following:

- The application of delinquency charges for payments in default for at least 12 days;
- Repossessions of collateral pledged to a consumer finance loan; and
- The filing of civil actions for the collection of amounts owed under a consumer finance loan.

The bill also requires consumer finance lenders to:

- Provide notice to the Office of Financial Regulation (OFR) of any assistance program offered by the lender to borrowers impacted by a disaster subject to a FEMA major disaster declaration;
- Offer a free credit education program or seminar to borrowers at the time a loan is made; and
- Annually report to the OFR information detailing loans issued by the lender during the previous calendar year.

The OFR estimates the bill will result a recurring reduction of \$5,000 in revenues per fiscal year but the loss is negligible and would not impact operations. *See* Section V. Fiscal Impact Statement.

The effective date of the bill is July 1, 2024.

II. Present Situation:

The OFR's Division of Consumer Finance (Division) licenses and regulates non-depository financial service entities and individuals, and conducts investigations of licensed entities to determine their compliance with Florida law.¹ One such product regulated by the OFR is consumer finance loans.

A consumer finance loan is a loan of money, credit, goods, or interests valued at \$25,000 or less with permitted interest rates between 18 and 30 percent per year.² A consumer finance loan is not a traditional loan made by a bank, credit union, or similar institution. The consumer finance lenders do not accept deposits, and earn their revenue from the fees charged on the loans they make.³

Licensure

Entities that engage in the business of making consumer finance loans must be licensed by the OFR pursuant to the Florida Consumer Finance Act, ch. 516, F.S. ("the Act"). Each location of a

¹ Fla. Office of Fin. Reg., *Division of Consumer Finance: What We Do*, <https://flofr.gov/sitePages/DivisionOfConsumerFinance.htm> (last visited January 24, 2024).

² Sections 516.01(2) and 516.031(1), F.S. *See also*, Fla. Office of Fin. Reg. *Consumer Finance Companies*, <https://flofr.gov/sitePages/ConsumerFinanceCompanies.htm> (last visited January 24, 2024).

³ Naveen Reddy, *What are the Primary Functions of Finance Companies?* (Nov. 9, 2020), <https://smallbusiness.chron.com/primary-functions-finance-companies-40480.html> (last visited January 24, 2024). Also note, payday lenders are separately regulated pursuant to ch. 560, F.S.

consumer finance lender must be separately licensed, even if the separate locations are operated by the same business entity.⁴

A consumer finance lender applicant must submit an application fee of \$625 and an investigation fee of \$200 with its application for licensure.⁵ Consumer finance lender licenses granted under the Act must be renewed every two years, at which time the licensee must pay a \$625 biennial license fee.⁶

The Act does not apply to persons doing business under state or federal laws governing banks, savings banks, trust companies, building and loan associations, credit unions, or industrial loan and investment companies.⁷

Permissible Interest Rates and Fees

Florida's prohibition on usury⁸ generally prohibits⁹ interest rates in excess of 18 percent per annum simple interest on any loan, advance of money, line of credit, or forbearance.¹⁰ Licensed consumer finance lenders, however, may offer interest rates greater than 18 percent per annum simple interest, up to the following limits, which are based on the amount of the loan's principal:¹¹

- 30 percent on the first \$3,000 of the principal amount;
- 24 percent on principal above \$3,000 and up to \$4,000; and
- 18 percent on principal above \$4,000 and up to \$25,000.

The Act prohibits lenders from directly or indirectly charging borrowers additional fees as a condition to the grant of a loan, except for the following:¹²

- Up to \$25 for investigating the credit and character of the borrower;
- A \$25 annual fee on the anniversary date of each line-of-credit account;
- Brokerage fees for certain loans, title insurance, and appraisals of real property offered as security;
- Intangible personal property tax on the loan note or obligation, if secured by a lien on real property;
- Documentary excise tax and lawful fees for filing, recording, or releasing an instrument securing the loan;

⁴ Sections 516.01(6) and 516.05(3), F.S.

⁵ Section 516.03(1), F.S. *See also*, Fla. Office of Fin. Reg., *Form OFR-516-01 Application for Consumer Finance Company License*, <https://flofr.gov/sitePages/documents/OFR-516-01.pdf> (last visited January 24, 2024).

⁶ Sections 516.03(1) and 516.05(1) & (2), F.S.

⁷ Section 516.02(4), F.S.

⁸ Usury is the act of lending money at an interest rate that is considered unreasonably high or that is higher than the rate permitted by law. Julia Kagan, Investopedia, *What is Usury? Definition, How It Works, Legality, and Example* (February 7, 2022), <https://www.investopedia.com/terms/u/usury.asp> (last visited January 23, 2024). *See ss.* 687.02 and 687.03, F.S.

⁹ Various lenders and credits licensed or chartered under the laws of the United States or specified chapters of the Florida Statutes may charge interest at the maximum rate of interest permitted by law for similar loans or extensions of credit. *See s.* 687.12(1), F.S.

¹⁰ Sections 687.02 and 687.12, F.S.

¹¹ Section 516.031(1), F.S.

¹² Section 516.031(3), F.S.

- The premium for any insurance in lieu of perfecting a security interest otherwise required by the licensee in connection with the loan;
- Actual and reasonable attorney fees and court costs;
- Actual and commercially reasonable expenses for repossession, storing, repairing and placing in condition for sale, and selling of any property pledged as security;
- A delinquency charge for each payment in default for at least 10 days, if agreed upon in writing before the charge is imposed, of up to \$15 for payments due monthly, \$7.50 for payments due semimonthly or every two weeks, and five dollars if three payments are due in the same calendar month; and
- A bad check charge of up to \$20.

A consumer finance lender may offer optional credit property, credit life, and disability insurance at the borrower's expense via a deduction from the principal amount of the loan.¹³

Licensees under ch. 516, F.S., are expressly prohibited from charging prepayment penalties on consumer finance loans.¹⁴

Federal Emergency Management Agency

Robert T. Stafford Disaster Relief and Emergency Assistance Act¹⁵ (Stafford Act)

Under the Stafford Act, Public Law No. 100-107, the President of the United States (President) is authorized to declare emergency and major disaster declarations. An emergency declaration can be declared for any occasion or instance the President determines federal assistance is needed. Emergency declarations supplement state and local or Indian tribal emergency service efforts, which include protection of lives, property, public health and safety or lessens the threat of a catastrophe in any part of the United States.¹⁶ Assistance provided under an emergency declaration may not exceed five million dollars. The President can declare a major disaster for any natural event¹⁷ which the President has determined has caused severe damage beyond the combined capabilities of state and local governments to respond.¹⁸ Such declaration of a major disaster provides federal assistance programs to individuals and public infrastructure, including emergency and permanent work.¹⁹

Before such declaration can be determined, the governor of a state or Tribal Chief Executive of the affected Tribe must submit a request, within thirty days of the occurrence, to the President

¹³ Section 516.35(2), F.S.

¹⁴ Section 516.031(6), F.S.

¹⁵ The Stafford Act constitutes the statutory authority for most Federal disaster response activities, especially as related to the FEMA and FEMA programs. PL 100-707 (November 23, 1988); amended the Disaster Relief Act of 1974, PL 93-288. <https://www.fema.gov/disaster/stafford-act> (last visited January 24, 2024).

¹⁶ FEMA, *How a Disaster Gets Declared, Emergency Declarations*, <https://www.fema.gov/disaster/how-declared> (last visited January 24, 2024).

¹⁷ Natural events include hurricanes, tornadoes, storms, high water, wind-driven water, tidal waves, tsunamis, earthquakes, volcanic eruptions, landslides, snowstorms, mudslides, or drought, or regardless of cause, fire, flood or explosion. FEMA, *How a Disaster Gets Declared, Major Disaster Declarations*, <https://www.fema.gov/disaster/how-declared#:~:text=The%20President%20can%20declare%20a,that%20the%20President%20determines%20has> (last visited January 24, 2024).

¹⁸ *Id.*

¹⁹ *Id.*

through a FEMA Regional Administrator. Federal assistance is determined by the Governor's or Tribal Chief's request and the needs identified during preliminary damage assessments.²⁰

III. Effect of Proposed Changes:

This bill revises laws governing consumer finance loans, which are loans of \$25,000 or less for which a lender charges an interest rate greater than 18 percent per annum. The Florida Consumer Finance Act (Act) in ch. 516, F.S., provides an exemption from Florida's prohibition against usurious contracts, under which any interest rate greater than 18 percent per annum is prohibited.

Section 1 amends s. 516.01, F.S., to define the term "branch" to mean any location, other than a licensee's principal place of business, at which a licensee operates or conducts business under this chapter or which the licensee owns or controls for the purpose of conducting consumer finance loan business.

Section 2 amends s. 516.02, F.S., to clarify a person may not engage in the business of making consumer finance loans or operate a branch of such a business unless first authorized to do so.

Section 3 amends s. 516.03, F.S., to revise the licensure process to allow a single licensure application for the principal place of business and all branches. The bill provides applications for a license for the principal place of business to be accompanied by a nonrefundable investigation fee of \$200.

Section 4 amends s. 516.031, F.S., to increase the maximum interest rate that may be charged to no more than 36 percent per annum, computed on the first \$10,000 of the principal amount; 30 percent per annum on that part of the principal amount exceeding \$10,000 and up to \$20,000; and 24 percent per annum on that part of the principal amount exceeding \$20,000 and up to \$25,000.

Section 4 also increases the number of days a payment must be in default before a delinquency charge may be imposed from 10 days in default to 12 days in default.

Section 5 amends s. 516.15, F.S., relating to duties, to require consumer finance licensees to provide written notice to the OFR of any assistance programs offered by the lender to borrowers impacted by a FEMA declared disaster within 10 days of establishment of the program. Assistance programs established by consumer finance licensees may include, but are not limited to, deferments, forbearance, waiver of late fees, payment modification or changing payment due dates.

The bill requires consumer finance licensees, as licensed under s. 516, F.S., to offer borrowers, in writing or electronically, at the time a loan is made, a free credit education program or seminar provided by the licensee or a third party provider. The credit education program may address, but is not limited to the following:

- The importance and methodology of establishing a household budget;
- The impact, value of, and ways to improve a credit score; and

²⁰ *Id.*

- The importance and methodology of establishing household savings; and
- Ways to obtain a free copy of a credit report; dispute an error in a credit report; and, manage and prevent identity theft.

The bill requires the credit education program or seminar must be offered at no cost to the borrower, and the bill specifies a licensee may not require a borrower to participate in a credit education program or seminar as a condition of receiving a loan.

Section 6 creates s. 516.38, F.S., to require consumer finance licensees to annually report, by March 15, 2025, and by each March 15th thereafter, aggregated and anonymized data that does not reference any borrower's nonpublic personal information to the OFR detailing the loans issued by the lender during the previous calendar year. The report must include:

- The number of locations held by the licensee as of December 31;
- The number of loan originations by the licensee under all licenses;
- The total dollar amount of loans and the number of loans outstanding by the licensee as of December 31;
- The total number of loans in which the licensee holds a security interest in collateral as of December 31;
- The total number of unsecured loans as of December 31;
- The total number of loans, separated by principal amount, in the following ranges as of December 31:
 - Up to and including \$5,000;
 - \$5,001 to \$10,000;
 - \$10,001 to \$15,000;
 - \$15,001 to \$20,000; and
 - \$20,001 to \$25,000;
- The total number and amount of loans charged off as of December 31; and
- The total dollar amount of loans and the number of loans with delinquency status listed as:
 - Current or less than 30 days past due;
 - From 30 to 59 days past due;
 - From 60 to 89 days past due; and
 - At least 90 days past due.

Furthermore, licensees claiming any information submitted in the annual report contains a trade secret must submit to the OFR an affidavit and designate the information claimed to be a trade secret in accordance with s. 655.0591, F.S. The OFR may publish a report using the annual report data, provided all data published in the report is anonymized and aggregated from all licensees.

Section 7 creates s. 516.39, F.S., to require consumer finance lenders, in any county designated in a FEMA major disaster declaration, to suspend the following for 90 days after the initial date of such declaration:

- The application of delinquency charges for payments in default for at least 10 days;
- Repossessions of collateral pledged to a consumer finance loan; and
- The filing of civil actions for the collection of amounts owed under a consumer finance loan.

Section 8 reenacts s. 516.19, F.S., relating to penalties, to incorporate amendments made to ss. 516.02 and 516.031, F.S.

Section 9 provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The bill allows the OFR to publish a report of information submitted by consumer finance lenders detailing their lending activities during the prior calendar year, “provided that all data published in the report is anonymized and aggregated from all licensees.” However, the lack of a public records exemption related to the reports submitted by insurers may result in the OFR having to provide the reports of individual lenders to a person making such a public records request. The report in each consumer finance lender’s report to the OFR could receive trade secret protection to the extent the lender, pursuant to s. 655.0591, F.S., claims a trade secret and is successful in obtaining a declaratory judgment from a circuit court that the documents in question constitute protected trade secrets.

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:

The bill revises the licensure process for consumer finance companies to allow a single licensure application for the principle place of business and all branches, thereby potentially reducing application and investigative fees. A fee bill is not anticipated.

B. Private Sector Impact:

The bill may result in more consumer finance loans being issued by Florida-licensed consumer finance lenders to borrowers who cannot currently qualify for loans given the

current interest rate limits. However, such borrowers will be subject to greater interest payments than are allowed under current law.

Applicants for the new branch office license will no longer be required to pay the \$200 background investigation fee for each additional location. This may result in applicants saving up to \$5,000 in reduced fees per fiscal year.²¹

Licensees under ch. 516, F.S., may incur costs to establish the credit education program or seminar required under the bill.

C. Government Sector Impact:

The bill proposes to create a branch license in lieu of a full license for each additional location of a licensee, which will not include the \$200 background investigation fee, resulting in a fee reduction. The OFR estimates a recurring reduction of \$5,000 in revenues but the loss is negligible and would not impact operations. Furthermore, the reduction in staff time reviewing full license applications for each additional location when replaced with a branch office license would likely offset any loss in revenue.²²

The changes proposed within the bill would require the OFR to update its internal licensing system to create a branch license and annual reporting functionality. The cost of such technology changes would be negligible and can be absorbed within existing resources.²³

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill requires consumer finance lender licensees to provide annual reporting information to the OFR by March 15, 2025, and each March 15th thereafter, but does not provide a date for the OFR to aggregate and anonymize such data.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 516.01, 516.02, 516.03, 516.031, and 516.15.

This bill creates the following sections of the Florida Statutes: 516.38 and 516.39.

This bill reenacts section 516.19 of the Florida Statutes.

²¹ Office of Financial Regulation, *2024 Agency Legislative Bill Analysis of SB 1436*, at pg. 5, January 17, 2024 (on file with the Senate Committee on Agriculture, Environment, and General Government).

²² *Id* at pg. 5.

²³ *Id* at pg. 6.

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

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

CS by Appropriations Committee on Agriculture, Environment, and General Government on February 13, 2024:

The committee substitute:

- Provides every licensee under s. 516, F.S., has a duty to offer borrowers at the time a loan is made, a free credit education program or seminar provided by the licensee or a third party provider. The credit education program may address, but is not limited to the following:
 - The importance and methodology of establishing a household budget;
 - The impact, value of, and ways to improve a credit score; and
 - The importance and methodology of establishing household savings; and
 - Ways to obtain a free copy of a credit report; dispute an error in a credit report; and, manage and prevent identity theft; and
- Specifies a licensee may not require a borrower to participate in a credit education program or seminar as a condition of receiving a loan.

B. Amendments:

None.



402814

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (Burton) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 233 and 234
insert:

(6) Offer the borrower at the time a loan is made a credit education program or seminar provided by the licensee or a third-party provider, either in writing or electronically. The credit education program or seminar may address, but need not be limited to, any of the following topics:

(a) The importance and methodology of establishing a



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household budget.

(b) The impact, value of, and ways to improve a credit score.

(c) The importance and methodology of establishing household savings.

(d) Ways to obtain a free copy of a credit report.

(e) Ways to dispute an error in a credit report.

(f) Ways to manage and prevent identity theft.

A credit education program or seminar offered under this subsection must be offered at no cost to the borrower. A licensee may not require a borrower to participate in a credit education program or seminar as a condition of receiving a loan.

=====
And the directory clause is amended as follows:

Delete line 210

and insert:

Section 5. Subsections (5) and (6) are added to section 516.15,

=====
And the title is amended as follows:

Delete line 18

and insert:

timeframe; providing construction; requiring licensees to offer borrowers a certain education program or seminar; specifying the topics that such program or seminar may address; requiring that such program or



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40 seminar be offered at no cost to borrowers;
41 prohibiting licensees from requiring borrowers to
42 participate in such education program or seminar as a
43 condition of a loan; creating s. 516.38,

By Senator Burton

12-01002-24

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1 A bill to be entitled
 2 An act relating to consumer finance loans; reordering
 3 and amending s. 516.01, F.S.; defining the term
 4 "branch"; amending s. 516.02, F.S.; prohibiting a
 5 person from operating a branch of a business making
 6 consumer finance loans before obtaining a license from
 7 the Office of Financial Regulation; amending s.
 8 516.03, F.S.; specifying application fees for branch
 9 licenses; revising the applicability of investigation
 10 fees; making a technical change; amending s. 516.031,
 11 F.S.; revising the maximum interest rate on consumer
 12 finance loans; revising the minimum amount of time
 13 before which a delinquency charge for each payment in
 14 default may be imposed; amending s. 516.15, F.S.;
 15 requiring licensees offering an assistance program to
 16 borrowers after a federally declared disaster to send
 17 a specified notice to the office within a certain
 18 timeframe; providing construction; creating s. 516.38,
 19 F.S.; requiring licensees to file annual reports with
 20 the office; providing for rulemaking by the Financial
 21 Services Commission; specifying requirements for the
 22 reports; providing requirements for a licensee
 23 claiming that submitted information contains a trade
 24 secret; authorizing the office to publish a report in
 25 a certain manner; creating s. 516.39, F.S.; requiring
 26 certain licensees to suspend specified actions for a
 27 certain timeframe after a federally declared disaster;
 28 reenacting s. 516.19, F.S., relating to penalties, to
 29 incorporate the amendments made to ss. 516.02 and

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

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30 516.031, F.S., in references thereto; providing an
 31 effective date.
 32
 33 Be It Enacted by the Legislature of the State of Florida:
 34
 35 Section 1. Section 516.01, Florida Statutes, is reordered
 36 and amended to read:
 37 516.01 Definitions.—As used in this chapter, the term:
 38 (1) "Branch" means any location, other than a licensee's
 39 principal place of business, at which a licensee operates or
 40 conducts business under this chapter or which the licensee owns
 41 or controls for the purpose of conducting business under this
 42 chapter.
 43 (3) "Consumer finance borrower" or "borrower" means a
 44 person who has incurred either direct or contingent liability to
 45 repay a consumer finance loan.
 46 (4)(2) "Consumer finance loan" means a loan of money,
 47 credit, goods, or choses in action, including, except as
 48 otherwise specifically indicated, provision of a line of credit,
 49 in an amount or to a value of \$25,000 or less for which the
 50 lender charges, contracts for, collects, or receives interest at
 51 a rate greater than 18 percent per annum.
 52 (2)(3) "Commission" means the Financial Services
 53 Commission.
 54 (9)(4) "Office" means the Office of Financial Regulation of
 55 the commission.
 56 (6)(5) "Interest" means the cost of obtaining a consumer
 57 finance loan and includes any profit or advantage of any kind
 58 whatsoever that a lender may charge, contract for, collect,

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

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receive, or in anywise obtain, including by means of any collateral sale, purchase, or agreement, as a condition for a consumer finance loan. Charges specifically permitted by this chapter, including commissions received for insurance written as permitted by this chapter, shall not be deemed interest.

~~(7)(6)~~ "License" means a permit issued under this chapter to make and collect loans in accordance with this chapter at a single place of business.

~~(8)(7)~~ "Licensee" means a person to whom a license is issued.

~~(5)(8)~~ "Control person" means 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. A person is presumed to control a company if, with respect to a particular company, that person:

(a) Is a director, general partner, or officer exercising executive responsibility or having similar status or functions;

(b) Directly or indirectly may vote 10 percent or more of a class of a voting security or sell or direct the sale of 10 percent or more of a class of voting securities; or

(c) In the case of a partnership, may receive upon dissolution or has contributed 10 percent or more of the capital.

Section 2. Subsection (1) of section 516.02, Florida Statutes, is amended to read:

516.02 Loans; lines of credit; rate of interest; license.—

(1) A person may ~~must~~ not engage in the business of making consumer finance loans or operate a branch of such business

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unless she or he is authorized to do so under this chapter or other statutes and unless the person first obtains a license from the office.

Section 3. Subsection (1) of section 516.03, Florida Statutes, is amended to read:

516.03 Application for license; fees; etc.—

(1) APPLICATION.—Application for a license to make loans under this chapter shall be in the form prescribed by rule of the commission. The commission may require each applicant to provide any information reasonably necessary to determine the applicant's eligibility for licensure. The applicant shall also provide information that the office requires concerning any officer, director, control person, member, partner, or joint venturer of the applicant or any person having the same or substantially similar status or performing substantially similar functions or concerning any individual who is the ultimate equitable owner of a 10-percent or greater interest in the applicant. The office may require information concerning any such applicant or person, including, but not limited to, his or her full name and any other names by which he or she may have been known, age, social security number, residential history, qualifications, educational and business history, and disciplinary and criminal history. The applicant must provide evidence of liquid assets of at least \$25,000 or documents satisfying the requirements of s. 516.05(10). At the time of making such application, the applicant shall pay to the office a nonrefundable biennial license fee of \$625 for the principal place of business and for each branch application filed. Applications for a license for the principal place of business,

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117 ~~except for applications to renew or reactivate a license,~~ must
 118 also be accompanied by a nonrefundable investigation fee of
 119 \$200. An application is considered received for purposes of s.
 120 120.60 upon receipt of a completed application form as
 121 prescribed by commission rule, a nonrefundable application fee
 122 of \$625, and any other fee prescribed by law. The commission may
 123 adopt rules requiring electronic submission of any form,
 124 document, or fee required by this chapter ~~act~~ if such rules
 125 reasonably accommodate technological or financial hardship. The
 126 commission may prescribe by rule requirements and procedures for
 127 obtaining an exemption due to a technological or financial
 128 hardship.

129 Section 4. Subsection (1) and paragraph (a) of subsection
 130 (3) of section 516.031, Florida Statutes, are amended to read:

131 516.031 Finance charge; maximum rates.—

132 (1) INTEREST RATES.—A licensee may lend any sum of money up
 133 to \$25,000. A licensee may not take a security interest secured
 134 by land on any loan less than \$1,000. The licensee may charge,
 135 contract for, and receive thereon interest charges as provided
 136 and authorized by this section. The maximum interest rate shall
 137 be 36 ~~30~~ percent per annum, computed on the first \$10,000 ~~\$3,000~~
 138 of the principal amount; 30 ~~24~~ percent per annum on that part of
 139 the principal amount exceeding \$10,000 ~~\$3,000~~ and up to \$20,000
 140 \$4,000; and 24 ~~18~~ percent per annum on that part of the
 141 principal amount exceeding \$20,000 ~~\$4,000~~ and up to \$25,000. The
 142 original principal amount as used in this section is the same as
 143 the amount financed as defined by the federal Truth in Lending
 144 Act and Regulation Z of the Board of Governors of the Federal
 145 Reserve System. In determining compliance with the statutory

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146 maximum interest and finance charges set forth herein, the
 147 computations used shall be simple interest and not add-on
 148 interest or any other computations. If two or more interest
 149 rates are applied to the principal amount of a loan, the
 150 licensee may charge, contract for, and receive interest at that
 151 single annual percentage rate which, if applied according to the
 152 actuarial method to each of the scheduled periodic balances of
 153 principal, would produce at maturity the same total amount of
 154 interest as would result from the application of the two or more
 155 rates otherwise permitted, based upon the assumption that all
 156 payments are made as agreed.

157 (3) OTHER CHARGES.—

158 (a) In addition to the interest, delinquency, and insurance
 159 charges provided in this section, further or other charges or
 160 amount for any examination, service, commission, or other thing
 161 or otherwise may not be directly or indirectly charged,
 162 contracted for, or received as a condition to the grant of a
 163 loan, except:

164 1. An amount of up to \$25 to reimburse a portion of the
 165 costs for investigating the character and credit of the person
 166 applying for the loan;

167 2. An annual fee of \$25 on the anniversary date of each
 168 line-of-credit account;

169 3. Charges paid for the brokerage fee on a loan or line of
 170 credit of more than \$10,000, title insurance, and the appraisal
 171 of real property offered as security if paid to a third party
 172 and supported by an actual expenditure;

173 4. Intangible personal property tax on the loan note or
 174 obligation if secured by a lien on real property;

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5. The documentary excise tax and lawful fees, if any, actually and necessarily paid out by the licensee to any public officer for filing, recording, or releasing in any public office any instrument securing the loan, which may be collected when the loan is made or at any time thereafter;

6. The premium payable for any insurance in lieu of perfecting any security interest otherwise required by the licensee in connection with the loan if the premium does not exceed the fees which would otherwise be payable, which may be collected when the loan is made or at any time thereafter;

7. Actual and reasonable attorney fees and court costs as determined by the court in which suit is filed;

8. Actual and commercially reasonable expenses for repossession, storing, repairing and placing in condition for sale, and selling of any property pledged as security; or

9. A delinquency charge for each payment in default for at least 12 ~~10~~ days if the charge is agreed upon, in writing, between the parties before imposing the charge. Delinquency charges may be imposed as follows:

a. For payments due monthly, the delinquency charge for a payment in default may not exceed \$15.

b. For payments due semimonthly, the delinquency charge for a payment in default may not exceed \$7.50.

c. For payments due every 2 weeks, the delinquency charge for a payment in default may not exceed \$7.50 if two payments are due within the same calendar month, and may not exceed \$5 if three payments are due within the same calendar month.

Any charges, including interest, in excess of the combined total

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of all charges authorized and permitted by this chapter constitute a violation of chapter 687 governing interest and usury, and the penalties of that chapter apply. In the event of a bona fide error, the licensee shall refund or credit the borrower with the amount of the overcharge immediately but within 20 days after the discovery of such error.

Section 5. Subsection (5) is added to section 516.15, Florida Statutes, to read:

516.15 Duties of licensee.—Every licensee shall:

(5) In the event of a Federal Emergency Management Agency response to a Presidential Disaster Declaration in the state, if the licensee offers any assistance program to borrowers impacted by the disaster, within 10 days after the licensee's establishment of the program, send written notice to the office in either physical or electronic format and include the following information, subject to change as any additional declarations are issued or declarations are revoked:

(a) The licensed locations affected by the disaster declaration, including physical addresses, if applicable;

(b) The telephone number, e-mail address, or other contact information for the licensee;

(c) A brief description of the assistance program available to borrowers in the affected areas; and

(d) The start date, and end date if known, of the assistance program.

For purposes of this subsection, assistance programs may include, but are not limited to, deferments, forbearance, waiver of late fees, payment modification, or changing payment due

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233 dates.

234 Section 6. Section 516.38, Florida Statutes, is created to

235 read:

236 516.38 Annual reports by licensees.—

237 (1) By March 15, 2025, and each March 15 thereafter, a

238 licensee shall file a report with the office in a form and

239 manner prescribed by commission rule. The report must include

240 each of the items specified in subsection (2) for the preceding

241 calendar year using aggregated and anonymized data and without

242 reference to any borrower's nonpublic personal information.

243 (2) The report must include the following information for

244 the preceding calendar year:

245 (a) The number of locations held by the licensee under this

246 chapter as of December 31 of the preceding calendar year.

247 (b) The number of loan originations by the licensee from

248 all licenses held under this chapter during the preceding

249 calendar year.

250 (c) The total dollar amount of loans and the number of

251 loans outstanding with the licensee from all licenses held under

252 this chapter as of December 31 of the preceding calendar year.

253 (d) The total dollar amount of loans and the number of

254 loans in which the licensee holds a security interest in

255 collateral as of December 31 of the preceding calendar year.

256 (e) The total dollar amount of loans and the number of

257 unsecured loans as of December 31 of the preceding calendar

258 year.

259 (f) The total number of loans, separated by principal

260 amount, in the following ranges as of December 31 of the

261 preceding calendar year:

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262 1. Up to and including \$5,000.

263 2. Five thousand and one dollars to \$10,000.

264 3. Ten thousand and one dollars to \$15,000.

265 4. Fifteen thousand and one dollars to \$20,000.

266 5. Twenty thousand and one dollars to \$25,000.

267 (g) The total dollar amount of loans and the number of

268 loans charged off as of December 31 of the preceding calendar

269 year.

270 (h) The total dollar amount of loans and the number of

271 loans with delinquency status listed as:

272 1. Current or less than 30 days past due.

273 2. From 30 to 59 days past due.

274 3. From 60 to 89 days past due.

275 4. At least 90 days past due.

276 (3) A licensee claiming that any information submitted in

277 the report contains a trade secret must submit to the office an

278 accompanying affidavit in accordance with s. 655.0591 and

279 designate the information claimed to be a trade secret pursuant

280 to s. 655.0591.

281 (4) The office may publish a report of information

282 submitted pursuant to this section, provided that all data

283 published in the report is anonymized and aggregated from all

284 licensees.

285 Section 7. Section 516.39, Florida Statutes, is created to

286 read:

287 516.39 Suspension of penalties and remedial measures after

288 federal disaster declaration.—In the event of a Federal

289 Emergency Management Agency response to a Presidential Disaster

290 Declaration in the state, a licensee operating in a county

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designated in the declaration must suspend for a period of 90
days after the date of the initial declaration the following:

(1) The application of delinquency charges under s.
516.031(3)(a)9.

(2) Repossessions of collateral pledged to loans made under
this chapter.

(3) The filing of civil actions for the collection of
amounts owed for loans made under this chapter.

Section 8. For the purpose of incorporating the amendments
made by this act to sections 516.02 and 516.031, Florida
Statutes, in references thereto, section 516.19, Florida
Statutes, is reenacted to read:

516.19 Penalties.—Any person who violates any of the
provisions of s. 516.02, s. 516.031, s. 516.05(3), s. 516.05(6),
or s. 516.07(1)(e) commits a misdemeanor of the first degree,
punishable as provided in s. 775.082 or s. 775.083.

Section 9. This act shall take effect July 1, 2024.



2024 AGENCY LEGISLATIVE BILL ANALYSIS

Florida Office of Financial Regulation

BILL INFORMATION

BILL NUMBER:	SB 1436
BILL TITLE:	An act relating to consumer finance loans
BILL SPONSOR:	Senator Burton
EFFECTIVE DATE:	July 1, 2024

COMMITTEES OF REFERENCE

1) Banking and Insurance
2) Appropriations Committee on Agriculture, Environment, and General Government
3) Fiscal Policy
4)
5)

CURRENT COMMITTEE

SIMILAR BILLS

BILL NUMBER:	HB 1347
SPONSOR:	Representative Brackett

IDENTICAL BILLS

BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLATION

BILL NUMBER:	SB 580
SPONSOR:	Senator Gruters
YEAR:	2023
LAST ACTION:	Laid on Table

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	January 17, 2024
LEAD AGENCY ANALYST:	Ash Mason, Director of Legislative Affairs (850) 410-9789
ADDITIONAL ANALYST(S):	Gregory C. Oaks, Director, Division of Consumer Finance (850) 410-9601
LEGAL ANALYST:	Tony Cammarata, General Counsel (850) 410-9601
FISCAL ANALYST:	Buckley Vernon, Financial Administrator (850) 410-9673

POLICY ANALYSIS

A. EXECUTIVE SUMMARY

SB 1436 amends the Florida Consumer Finance Act to create a process for licensees to operate branches and simplifies the application process for licensees who wish to operate more than one location. Penalties for violations of the chapter have been accordingly reincorporated. The bill upwardly adjusts current tier levels for maximum interest rates charged and the principal loan amounts subject to each rate. Next, the bill creates several sections of law applicable in the event of a major disaster declaration by FEMA. It creates a notification process whereby a licensee must notify the Office of any assistance plan offered to those affected by the disaster. It also suspends the application of delinquency charges, repossessions of collateral, and filing of civil actions for collection of amounts owed for 90 days after such a declaration. Finally, it requires a licensee to submit an annual report containing information regarding their loans. Such reports are aggregated and anonymized, and may not contain any non-public personal information of borrowers. The Office is permitted to publish a report based upon this information, provided the report is aggregated and anonymized among licensees.

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

B. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The Office of Financial Regulation (Office) is responsible for all activities of the Financial Services Commission relating to the regulation of banks, credit unions, other financial institutions, finance companies, and the securities industry¹. The Office has three divisions: the Division of Consumer Finance, the Division of Financial Institutions, and the Division of Securities. The Office also has a Bureau of Financial Investigations, which functions as a criminal justice agency and has a separate budget.²

The Office's Division of Consumer Finance licenses and regulates various aspects of the non-depository financial services industries, including consumer finance loans, which are governed by chapter 516, Florida Statutes, the "Florida Consumer Finance Act." Loans permitted under the Act are commonly referred to as "consumer finance loans", which are defined as "a loan of money, credit, goods, or choses in action, including, except as otherwise specifically indicated, provision of a line of credit, in an amount or to a value of \$25,000 or less for which the lender charges, contracts for, collects, or receives interest at a rate greater than 18 percent per annum."³ Licensees are issued a license that is a permit to make and collect loans in accordance with the Act at a single place of business.⁴ Consumer finance loans may be secured if over \$1000, or unsecured, but licensees are prohibited from taking a security interest in certain types of collateral, such as an assignment of wages, commissions, or other compensation for services, earned or to be earned.

A licensee may lend any sum of money up to \$25,000.⁵ The maximum interest rates for consumer finance loans are dependent upon the amount of the loan. A maximum interest rate of 30 percent per annum may be charged for the first \$3,000 of the principal amount; 24 percent per annum on that part of the principal amount exceeding \$3,000 and up to \$4,000; and 18 percent per annum on that part of the principal amount exceeding \$4,000 and up to \$25,000.⁶ The original principal amount utilized in the Act is the same as the amount financed as defined by the federal Truth in Lending Act and Regulation Z of the Board of Governors of the Federal Reserve System.⁷

On July 27, 2020, the Office published a Consumer Finance Company Survey Data Report. As of this date, the Office had 167 consumer finance license holders. Of the 167 license holders, only 26% returned a completed survey. The

¹ Section 20.121(3)(a)2., Florida Statutes.

² *Id.*

³ Section 516.01(2), Fla. Stat.

⁴ Section 516.01(6), Fla. Stat.

⁵ Section 516.031(1), Fla. Stat.

⁶ Section 516.031(1), Fla. Stat.

⁷ *Id.*

Data report shows the average number of loans outstanding in 2018 as 7,949 loans, with an average dollar amount of loans outstanding of \$42,042,015.

Trade Secret Information

The Office's Division of Financial Institutions provides general supervision over all state financial institutions, their subsidiaries, and service corporations,⁸ and is charged with the administration of the financial institutions codes, which apply to all state-authorized or state-chartered financial institutions and to the enforcement of all laws relating to state-authorized or state-chartered financial institutions.⁹ The financial institutions codes include chapters 655, 657, 658, 660, 662, 663, 665, and 667, Florida Statutes.¹⁰

Section 655.0591, Florida Statutes, provides a mechanism by which any person required to submit documents or other information to the Office to claim that the materials are trade secret. To make such a claim, a person must notify the Office, mark each section of each document it claims to be a trade secret with the words "trade secret", segregate it from other materials in a sealed envelope marked trade secret, and submit a form affidavit to the Office. Such notice must contain the name and contact information of the person claiming ownership of the trade secret. If the Office receives a public record request for a document that has been duly submitted as trade secret, the Office must promptly notify the person who certified the document as trade secret. To avoid disclosure of the trade secret, the person must file an action in circuit court within 30 days after the date of the notice seeking a declaratory judgment that the document in question contains trade secrets and an order barring public disclosure of the document. Failure to file an action within 30 days constitutes a waiver of any claim of confidentiality, and the Office shall release the document as requested.

2. EFFECT OF THE BILL:

Section 1 renumbers section 516.01, Florida Statutes, and creates a new subsection (1) to define the term "branch." The term is defined as any location, other than a licensee's principal place of business, at which a licensee operates or conducts business under chapter 516 or which the licensee owns or controls for the purpose of conducting business under chapter 516.

Section 2 amends subsection 516.02(1), Florida Statutes, to require authorization under chapter 516 and licensure to operate a branch for the business of making consumer finance loans.

Section 3 amends subsection 516.03(1), Florida Statutes, to specify application fees under a branching model. Whereas current law requires a new application for each location, the bill authorizes licensees to have a principal place of business and one or more branches. The current nonrefundable biennial license fee of \$625 for each application now applies to both the principal place of business and to each branch application filed. The nonrefundable investigation fee of \$200, which currently applies to each application, applies only to applications for a license for a principal place of business. Line 124 makes a technical change.

Section 4 amends subsections 516.031(1) and (3), Florida Statutes. Currently, the maximum interest rate for a loan made under chapter 516 is 30 percent per annum computed on the first \$3,000, 24 percent per annum on that part of the principal amount exceeding \$3,000 and up to \$4,000, and 18 percent per annum on that part of the principal amount exceeding \$4,000 up to \$25,000. The bill increases the maximum interest rate that may be charged to 36 percent per annum computed on the first \$10,000 of the principal amount; 30 percent per annum on the principal amount exceeding \$10,000 and up to \$20,000, and 24 percent per annum on the principal amount exceeding \$20,000 and up to \$25,000. Subsection (3) is amended to extend the period of time that must pass before a licensee can charge a customer a delinquency charge from 10 to 12 days.

Section 5 creates subsection 516.15(5), Florida Statutes, to require a licensee, under certain circumstances, to notify the Office of any assistance program it plans to offer upon a major disaster in this state. In the event that the Federal Emergency Management Agency (FEMA) responds to a Presidential Disaster Declaration in the state of Florida, and if a licensee offers any assistance program to borrowers impacted by the disaster, a licensee may establish an assistance program, but must notify the Office in writing of such program within 10 days of establishment. The following information must be included: licensed locations affected by the disaster; the telephone number, e-mail address, or other contact information for the licensee; a brief description of the assistance program available; and the start date, and the end date of the program if known. Assistance programs include, but are not limited to, deferments, forbearance, waiver of late fees, payment modification, and payment due date changes.

⁸ Section 655.012(1), Fla. Stat.

⁹ Sections 655.001(1) and 655.012(1), Fla. Stat.

¹⁰ Section 655.005(1)(k), Fla. Stat.

Section 6 creates section 516.38, Florida Statutes, to require an annual report by licensees. The report must be filed in a form and manner prescribed by commission rule, which will require rulemaking. The first report is due on March 15, 2025, and March 15th each year thereafter. The report must contain each of the following as of the last day of the proceeding calendar year, using aggregated and anonymized data and without reference to any borrower's nonpublic personal information: the number of locations held by the licensee, the total number of loan originations from all licenses held by licensee, the total dollar amount of loans and the number of loans outstanding, the total dollar amount and number of loans in which the licensee holds a security interest, the total dollar amount and number of unsecured loans, the total number of loans within certain dollar amount ranges, the total dollar amount and the number of loans charged off, the total dollar amount and number of delinquent loans within certain days of delinquency. A licensee submitting the report to the Office must also submit an accompanying affidavit certifying pursuant to s. 655.0591, Florida Statutes, that all information submitted is designated as trade secret. Subsection (4) permits the Office to publish a report of such information, provided that all data published is anonymized and aggregated from all licensees.

Section 7 creates s. 516.39, Florida Statutes, to suspend the application of delinquency charges, repossessions of collateral, and filing of civil actions for collection of amounts owed under certain circumstances. In the event that FEMA responds to a Presidential Disaster Declaration in the state of Florida, a licensee operating in a county designated in the disaster declaration must suspend the application of the above stated remedies for a period of 90 days following the date of the initial declaration.

Section 8 reenacts section 516.19, Florida Statutes, relating to criminal penalties, to incorporate amendments made to sections 516.02 and 516.031, Florida Statutes.

Section 9 provides an effective date of July 1, 2024.

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

If yes, explain:	Lines 237-242 create a new section of statute that will require a licensee to file an annual report with the office "in a form and manner prescribed by commission rule." This section will require rulemaking.
Is the change consistent with the agency's core mission?	Y ☒ N ☐
Rule(s) impacted (provide references to F.A.C., etc.):	Rules 69V-160.111, 69V-160.039, and 69V-160.036.

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

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

3. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

Y ☒ N ☐

If yes, provide a description:	The bill requires licensees to submit to the Office, on a form prescribed by commission rule, an annual report containing certain loan information. The bill does not require, but permits, the Office to publish a report of information contained in the annual reports of licensees, provided that all data published in such report is anonymized and aggregated from all licensees.
Date Due:	Licensees must file the report by March 15, 2025, and by March 15th each year thereafter. There is no due date for the Office's report of information contained in the annual reports of licensee.

Bill Section Number(s):	6

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

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. FISCAL IMPACT TO LOCAL GOVERNMENT

Y ☐ N ☒

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

2. FISCAL IMPACT TO STATE GOVERNMENT

Y ☒ N ☐

Revenues:	The Office estimates its revenues may decrease by as much as \$5000 per fiscal year if it no longer receives the background investigation fee of \$200 required for each additional location once replaced by a branch office license requirement. This is negligible and would not impact the Office's operations. Additionally, the reduction in staff time no longer needed to review a full license application for each additional location when replaced with a branch office license would likely offset any loss in revenues.
Expenditures:	None
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

3. FISCAL IMPACT TO THE PRIVATE SECTOR

Y ☒ N ☐

Revenues:	Unknown
Expenditures:	The industry will no longer be required to pay a \$200 background investigation fee for each additional location with the implementation of a branch office license. This may save the industry up to \$5,000 per fiscal year in reduced fees.
Other:	N/A

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

If yes, explain impact.	The bill proposes to create a branch license in lieu of a full license for each additional location of a consumer finance company. The branch license will not include the \$200 background investigation fee and result in a fee reduction.
Bill Section Number:	Section 3

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	The proposed bill would require the Office to make technology changes to its internal licensing system to create a branch office license and annual reporting functionality. The cost of these changes would be negligible and can be covered within the Office's existing budget.

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

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

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL’S OFFICE REVIEW

Issues/concerns/comments:	OGC has reviewed the agency’s bill analysis concerning SB 1436 and the analysis sufficiently details the possible effects of the bill and the areas of impact. OGC has no additional issues, concerns, or further comments regarding the bill.

2/18/24
Meeting Date

The Florida Senate
APPEARANCE RECORD

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

1436
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Karen Woodall

Phone

Address

579 E Call St

Email

Street

Tallahassee FL 32301

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

FCFEP

☐

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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2/13/24

Meeting Date

Appro for Ag...

Committee

1436

Bill Number or Topic

Amendment Barcode (if applicable)

Name Rev Dr Russell Meyer

Phone 813 435 5335

Address 3838 W Cypress St

Street

Email advocacy@floridachurches.org

TAMPA FL 33607

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 FAITH ADVOCACY OFFICE

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)

Tuesday
February 13th, 2024
Meeting Date

The Florida Senate

APPEARANCE RECORD

1436

Bill Number or Topic

Appropriations Committee
Committee

Deliver both copies of this form to
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Amendment Barcode (if applicable)

Name TAMMY FECCI (PRONOUNCED "FECHY") Phone

Address FLORIDA CATHOLIC Street Email

CITY CONFERENCE OF BISHOPS 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 CATHOLIC
CONFERENCE OF BISHOPS.

☐ 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

2/13/2024

Meeting Date

1436

Bill Number or Topic

Approps Ag, EN, Gen Gov

Committee

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Amendment Barcode (if applicable)

Name

Jessica Kraynak

Phone

850-694-1216

Address

227 S Adams St.

Email

jessica@frf.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 Retail Federation

☐

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)

APPEARANCE RECORD

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2/13/24

Meeting Date

1436

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

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:

Florida Financial
Services 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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S-001 (08/10/2021)

02/13/2024

Meeting Date

Appr. Agricultura, Envirom & GG

Committee

The Florida Senate

APPEARANCE RECORD

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SB 1436

Bill Number or Topic

402814

Amendment Barcode (if applicable)

954-850-7262

Name

Edda " Ivonne" Fernandez

Phone

Address

215 S. Monroe Street- Suite 603

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 \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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2/13/24

Meeting Date

1436

Bill Number or Topic

402814

Amendment Barcode (if applicable)

S. Appropriations Comm. Agt & GG

Committee

Name

Scott Jenkins

Phone

856 661 0829

Address

261 G. Park Ave Ste 200B

Email

scott@edacfl.com

Street

Tallahassee

City

FL

State

32312

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 Financial
Services Association

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/SB 1544

INTRODUCER: Regulated Industries Committee and Senator Hooper

SUBJECT: Department of Business and Professional Regulation

DATE: February 12, 2024

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1544 revises the licensing process and other requirements for several licensees and permittees regulated by the Department of Business and Professional Regulation (DBPR). The bill requires persons and entities to create and maintain an online system account for the purpose of processing license, permit, or registration applications, as applicable, and to function as the primary means of contact between the regulating agency and the licensee, permittee, or registrant. Under the bill, the regulating agency may not process an application for the following licenses, permits, or registrations unless it is submitted through the online system:

- Licenses and permits for persons and entities licensed or permitted by the DBPR's Division of Alcoholic Beverages and Tobacco (DABT) under ch. 210, F.S., relating to the taxation of tobacco products;
- Alcoholic beverage licenses issued by the DABT; and
- Retail tobacco products dealer and a retail nicotine products dealer permits issued by the DABT.

The following persons must create and maintain an online account with the agency as a primary means of contact:

- Certified elevator inspectors, certified elevator technicians, or elevator companies registered with the Division of Hotels and Restaurants; and
- Certified public accountants licensed by the Board of Accountancy;

Regarding the Florida Homeowners' Construction Recovery Fund (recovery fund), the bill doubles the maximum amounts payable to claimants for claims that may be made against contractors from the recovery fund.

Under the bill, beginning January 1, 2025, for Division I and Division II contracts entered into on, or after, July 1, 2024, payment from the recovery fund is subject to a \$100,000 maximum payment for each Division I claim (\$50,000 maximum currently), and a \$30,000 maximum payment for each Division II claim (\$15,000 maximum currently)

The bill also increases the lifetime aggregate limits for claims made against a single licensee. Beginning January 1, 2025, for Division I and Division II contracts entered into on or after July 1, 2024, payment from the recovery fund is subject only to a total lifetime aggregate cap of \$2 million for each Division I claim (\$500,000 maximum currently), and a \$600,000 maximum payment for each Division II claim (\$150,000 maximum currently).

The bill:

- Regarding pilots of navigable waters, repeals the requirement for:
 - Pilots and pilots in port to establish a competency-based mentor program for minority persons as defined in s. 288.703, F.S.;
 - The DBPR to submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing information on the mentor programs; and
 - The DBPR to give consideration to minority and female state applicants when qualifying deputy pilots for certification.
- Eliminates the Board of Employee Leasing Companies and provides for its functions and duties to be performed by an employee leasing companies licensing program created by the bill to be administered by the DBPR.
- Revises the criteria for determining financial responsibility when licensing asbestos abatement consultants and contractors.
- Deletes the provision that, if an applicant for a real estate broker or sale associate license issued by the Florida Real Estate Commission fails to pass the required examination within two years of completing the education course, the applicant's successful course completion is invalid for licensure.
- Regarding barber and cosmetologists, repeals duplicative provisions allowing licensure by endorsement of persons licensed in another state for at least one year.
- Regarding construction contracting, authorizes local jurisdiction enforcement bodies to recommend to the Construction Industry Licensing Board (CILB) a recommended penalty of restitution, in addition to the recommended penalties that a local jurisdiction enforcement body is authorized to recommend to the CILB in current law.
- Provides additional types of work experience to qualify for certification as a designated representative of an entity licensed under the Drug and Cosmetic Act in part I of ch. 499, F.S.

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

The bill takes effect July 1, 2024.

II. Present Situation:

Department of Business and Professional Regulation

Licensure, Generally

The Department of Business and Professional Regulation (DBPR) has 11 divisions that are tasked with the licensure and general regulation of several professions and businesses in Florida.¹ Fifteen boards and programs exist within the Division of Professions,² two boards exist within the Division of Real Estate,³ and one board exists in the Division of Certified Public Accounting.⁴

Sections 455.203 and 455.213, F.S., establish the DBPR's general licensing authority, including its authority to charge license fees and license renewal fees. Each board within the DBPR must determine by rule the amount of license fees for each profession, based on estimates of the required revenue to implement the regulatory laws affecting the profession.⁵ When a person is authorized to engage in a profession or occupation in Florida, the DBPR issues a "permit, registration, certificate, or license" to the licensee.⁶

In Fiscal Year 2022-2023, there were 950,380 active licensees regulated by the DBPR or a board within the department, including 39,336 active licensees in the Division of Certified Public Accounting, 486,178 active licensees in the Division of Professions, and 67,827 active licensees under the Board of Professional Engineers.⁷

Other Relevant Topics

For ease of reference to each of the topics addressed in the bill, the Present Situation for each topic will be described in Section III of this analysis, followed immediately by an associated section detailing the Effect of Proposed Changes.

¹ See s. 20.165, F.S., creating the divisions of Administration; Alcoholic Beverages and Tobacco; Certified Public Accounting; Drugs, Devices, and Cosmetics; Florida Condominiums, Timeshares, and Mobile Homes; Hotels and Restaurants; Pari-mutuel Wagering; Professions; Real Estate; Regulation; Service Operations; and Technology.

² Section 20.165(4)(a), F.S., establishes the following boards and programs which are noted with the implementing statutes: Board of Architecture and Interior Design, part I of ch. 481, F.S.; Florida Board of Auctioneers, part VI of ch. 468, F.S.; Barbers' Board, ch. 476, F.S.; Florida Building Code Administrators and Inspectors Board, part XII of ch. 468, F.S.; Construction Industry Licensing Board, part I of ch. 489, F.S.; Board of Cosmetology, ch. 477, F.S.; Electrical Contractors' Licensing Board, part II of ch. 489, F.S.; Board of Employee Leasing Companies, part XI of ch. 468, F.S.; Board of Landscape Architecture, part II of ch. 481, F.S.; Board of Pilot Commissioners, ch. 310, F.S.; Board of Professional Engineers, ch. 471, F.S.; Board of Professional Geologists, ch. 492, F.S.; Board of Veterinary Medicine, ch. 474, F.S.; Home Inspection Services Licensing Program, part XV of ch. 468, F.S.; and Mold-related Services Licensing Program, part XVI of ch. 468, F.S.

³ See s. 20.165(4)(b), F.S. Florida Real Estate Appraisal Board, created under part II of ch. 475, F.S., and Florida Real Estate Commission, created under part I of ch. 475, F.S.

⁴ See s. 20.165(4)(c), F.S., which establishes the Board of Accountancy, created under ch. 473, F.S.

⁵ Section 455.219(1), F.S.

⁶ Section 455.01(4) and (5), F.S.

⁷ See Department of Business and Professional Regulation, Division of Professions, Division of Certified Public Accounting, Division of Real Estate, and Division of Regulation, *Annual Report, Fiscal Year 2022-2023*, p. 18, available at [Division Annual Report FY 22-23.pdf \(myfloridalicense.com\)](https://myfloridalicense.com/division-annual-report-fy-22-23.pdf) (last visited Jan. 15, 2024).

III. Effect of Proposed Changes:

Taxation of Tobacco products

Present Situation

Part II of ch. 210, F.S., imposes a tax and a surcharge tax on tobacco products other than cigarettes or cigars. Cigarettes are taxed under part I of ch. 210, F.S. Cigars are not subject to a tax.

Section 210.15, F.S., requires every person, firm, or corporation desiring to engage in business as a manufacturer, importer, exporter, distributing agent or wholesale dealer of cigarettes within this state to file with the Division of Alcoholic Beverages and Tobacco (DABT) an application for a cigarette permit for each place of business located within this state or, in the absence of such place of business in this state, for wherever its principal place of business is located. Every application for a cigarette permit must be made on forms furnished by the DABT and set forth the name under which the applicant transacts or intends to transact business, the location of the applicant's place of business within the state, if any, and such other information as the DABT may require.

Distributors of tobacco products other than cigarettes must be licensed by the DABT.⁸ Section 210.40, F.S., provides a \$25 application fee for a license as a distributor of tobacco products other than cigarettes. The license application must be accompanied by a corporate surety bond issued by a surety company authorized to do business in this state, conditioned for the payment when due of all taxes, penalties, and accrued interest that may be due to the state. The required bond must be in the sum of \$1,000 and in a form prescribed by the DABT.⁹ If the DABT determines that the bond given by a licensee is inadequate in amount to fully protect the state, the DABT must require an additional bond in an amount deemed sufficient. A separate application for a license must be made for each place of business at which a distributor proposes to engage in business as a distributor of tobacco products other than cigarettes, but an applicant may provide one bond in an amount determined by the DABT for all applications made by the distributor.

Effect of Proposed Changes

Section 1 revises s. 210.15(1), F.S., relating to the taxation of cigarettes under part I of ch. 210, F.S., and **Section 2** creates s. 210.32, F.S., relating to the taxation of tobacco products other than cigarettes, to require every person or entity licensed or permitted under ch. 210, F.S., to require all persons or entities licensed or permitted by the DABT, or applying for a cigarette, tobacco product, nicotine, or cigar license or permit within Florida, to create and maintain an account with the DABT's online system.

An email address must be supplied by the licensee, permittee, or applicant, and will function as the primary means of contact between the DABT and the licensee, permittee, or applicant. The

⁸ Section 210.35, F.S.

⁹ Wholesale dealers, agents, or distributing agents of cigarettes must file with the division a surety bond, certificate of deposit, or irrevocable letter of credit acceptable to the division in an amount equal to 110 percent of the estimated tax liability for 30 days, but not less than \$2,000. Section 210.08, F.S.

licensee, permittee, and applicant is responsible for maintaining accurate contact information on file with the DABT.

The bill requires all persons or entities seeking a license or permit from the DABT to use forms furnished by the DABT which are filed through the DABT's online system before commencing operations. Under the bill, the DABT may not process an application or a permit unless it is submitted through the online system.

Section 3 revises s. 210.40, F.S., to increase the required tobacco product distributor corporate surety bond to \$25,000 from \$1,000. The bill revises the term "surety bond" to "corporate surety bond." The bill requires the DABT to review the amount of a corporate surety bond on a semiannual basis to ensure that the bond is adequate to protect the state.

Under the bill, the DABT may increase the corporate surety bond amount before renewing a distributor's license or after completing its semiannual review of the bond amount. The DABT may increase the corporate surety bond amount before renewing a distributor's license or after completing its semiannual review of the bond amount. The corporate surety bond amount may be increased to the sum of the distributor's highest month of final audited tax liabilities, penalties, and accrued interest which are due to the state. A corporate surety bond, with the sum determined by the DABT in accordance with the paragraph, is required for the renewal of a distributor's license.

The bill authorizes the DABT to prescribe by rule increases in the corporate surety bond amounts required as a condition of licensure.

The DABT may decrease a corporate security bond upon a distributor's showing of good cause. In determining the amount of the surety bond:

- "Good cause" means a consistent pattern of responsible financial behavior by the distributor over a period of at least the preceding four years, and having the sum of the distributor's final audited tax liabilities, penalties, and interest be less than the amount of the distributor's corporate surety bond for every month for a period of at least the preceding four years.
- "Responsible financial behavior" includes the timely and complete reporting and payment of all tax liabilities, penalties, and accrued interest due to the state for a period of at least the preceding four years.

The bill prohibits the DABT from reducing a corporate surety bond amount when a licensee:

- Is in default of any tax liabilities, penalties, or interest due to the state;
- Is the subject of a pending criminal prosecution in any jurisdiction until such prosecution has been fully resolved;
- Has pending administrative charges brought by an authorized regulatory body or agency which have not been fully resolved in accordance with applicable rules and procedures; or
- Is under investigation by any administrative body or agency for potential criminal violations until any such investigation is completed and the findings of the investigation have been fully resolved in accordance with applicable law.

The bill provides that such a matter is "fully resolved" if the criminal or administrative charges or investigations have been definitively closed or dismissed, have resulted in an acquittal, or

have otherwise ended in such a manner that no further legal or administrative actions relating to charges or investigations are pending against a licensee under applicable laws, rules, or regulations.

The bill requires the DABT to notify a distributor in writing of any change in the distributor's corporate surety bond requirements by the date the distributor's audited tax assessments become final.

The bill states that these provisions governing corporate surety bonds are not subject to s. 120.60, F.S., of the Administrative Procedure Act, which sets forth the administrative process for agency review of license application, including deadlines for the approval and denial of license applications.

The bill allows DABT to adopt rules related to surety bonds.

Pilots of Navigable Waters

Present Situation

Chapter 310, F.S., relates to the regulation of the pilots of vessels utilizing the navigable waters of Florida. The term "pilot" means "a licensed state pilot or a certificated deputy pilot." The term "piloting" means the acts of pilots in conducting vessels through the navigable waters of Florida.

The qualifications for a pilot's license include being at least 21 years of age, being of good physical and mental health, having at least two years of service as a certified deputy pilot, and satisfactorily completing the examination required under s. 310.081, F.S.¹⁰ The qualifications for a deputy pilot certificate include being at least 21 years of age, having specified maritime experience, and satisfactorily completing the examination required under s. 310.081, F.S.¹¹

Section 310.0015(3)(d)2., F.S., requires the pilot or pilots in a port to establish a competency-based mentor program by which minority persons as defined in s. 288.703, F.S., may acquire the skills for the professional preparation and education competency requirements of a licensed state pilot or certificated deputy pilot. The Department of Business and Professional Regulation (DBPR) must provide the Governor, the President of the Senate, and the Speaker of the House of Representatives with a report each year on the number of minority persons who have participated in each mentor program, who are licensed state pilots or certificated deputy pilots, and who have applied for state pilot licensure or deputy pilot certification.

Effect of Proposed Changes

Section 4 revises s. 310.0015, F.S., to delete the requirement that pilot or pilots in port must establish a competency-based mentor program for minority persons as defined in s. 288.703, F.S., and that the DBPR submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing information on the mentor programs.

¹⁰ Section 310.073, F.S.

¹¹ Section 310.071, F.S.

Section 5 revises s. 310.081(2), F.S., to remove the requirement that the DBPR give consideration to minority and female state applicants when qualifying as deputy pilots, in the interest of ensuring diversification within the state piloting profession.

Certified Elevator Inspectors

Present Situation

Chapter 399, F.S., provides for the regulation of elevators in Florida, including the requirements of certified elevator inspectors,¹² certified elevator technicians,¹³ or elevator companies¹⁴ to register with the DBPR's Division of Hotels and Restaurants (DHR).

Effect of Proposed Changes

Section 6 creates s. 399.18, F.S., to require any certified elevator inspector, certified elevator technician, or registered elevator company, and any person applying for such certification or registration, to:

- Create and maintain an online account with the DHR;
- Provide an e-mail address to function as the primary means of contact for all communication from the DHR; and
- Maintain accurate contact information on file with the DHR.

The bill authorizes the DHR to adopt rules to implement the provisions of the bill.

Employee Leasing Companies

Present Situation

Part XI of ch. 468, F.S., provide for the regulation of employee leasing companies. Section 468.521, F.S., creates the Board of Employee Leasing Companies within the DBPR, to regulate the profession of employee leasing, including licensure and discipline, and to adopt rules to implement the provisions of part XI of ch. 468, F.S. The Board of Employee Leasing Companies consists of seven members who are appointed by the Governor and confirmed by the Senate.¹⁵

The controlling person of an employee leasing company must be licensed by the DBPR. Generally, the term "employee leasing" means an arrangement whereby a leasing company assigns its employees to a client and allocates the direction of and control over the leased employees between the leasing company and the client.¹⁶ An employee leasing company may be a sole proprietorship, partnership, corporation, or other form of business entity engaged in employee leasing.¹⁷

¹² Section 399.17, F.S., relating to the registration requirement for certified elevator inspectors.

¹³ Section 399.01(14), F.S.

¹⁴ Section 399.03, F.S.

¹⁵ Section 468.521, F.S.

¹⁶ Section 468.520(4), F.S.

¹⁷ Section 468.520(5), F.S.

Effect of Proposed Changes

Section 7 creates s. 468.519, F.S., to establish the employee leasing companies licensing program to be administered by the DBPR.

Section 8 repeals s. 468.521, F.S., which establishes the Board of Employee Leasing Companies.

Section 21 revises s. 20.165, F.S., which sets forth the boards and programs within the DBPR, to replace the Board of Employee Leasing Companies with the employee leasing companies licensing program.

Section 26 amends s. 468.520, F.S., to make conforming changes.

Asbestos Consultants and Contractors

Present Situation

Chapter 469, F.S., governs the licensing and regulation of asbestos abatement consultants and contractors. The Asbestos Licensing Unit is a program located in the Division of Professions, which processes license applications and responds to consumer complaints and inquiries by monitoring activities and compliance within the asbestos abatement industry.

A person must be a licensed asbestos contractor in order to conduct asbestos abatement work,¹⁸ unless exempted.¹⁹ A person must be a licensed asbestos consultant to conduct an asbestos survey, develop an operation and maintenance plan, monitor and evaluate asbestos abatement, or prepare asbestos abatement specifications.²⁰ Prerequisite qualifications for licensure as an asbestos consultant require that the applicant be actively licensed as an architect, professional engineer, or professional geologist; is a diplomat of the American Board of Industrial Hygiene; or has been designated as a Certified Safety Professional by the Board of Certified Safety Professionals.²¹

In addition, for applicants who wish to engage in consulting or contracting as a partnership, corporation, business trust, or other legal entity, or in any name other than the applicant's legal name, the applicant's legal entity must apply for licensure through a qualifying agent or the individual applicant must apply for licensure under the fictitious name as a business organization.

Applicants for licensure as an asbestos abatement professional or as an asbestos abatement business organization must provide evidence of financial stability.²² Section 469.006(2)(c)2., F.S., requires the DBPR to adopt rules to determine the financial stability of

¹⁸ Section 469.003(3), F.S.

¹⁹ Section 469.002, F.S., provides that in limited circumstances, certain governmental employees with required training may engage in asbestos abatement work solely for maintenance purposes.

²⁰ Section 469.003, F.S.

²¹ Section 469.004(1), F.S.

²² Section 469.006(2)(c)2., F.S.

applicants for a license as an asbestos abatement business organization, which must include, but is not limited to, credit history and the limits of bondability and credit.

Effect of Proposed Changes

Section 9 revises s. 469.006(2)(c)2., F.S., to delete the requirement that criteria for bondability and credit be included in the DBPR's rule for determining an asbestos consultant or contractor applicant's financial responsibility.

Certified Public Accountants

Present Situation

The Board of Accountancy within the DBPR is charged with regulating the practice of public accountancy in Florida.²³ A person wishing to practice accounting²⁴ must be licensed as a Florida certified public accountant (CPA) and apply to the DBPR to take a licensure examination.²⁵ To sit for the license examination, a person must be of good moral character, pass the licensure exam, and have at least 120 semester hours or 180 quarter hours of education, with a focus on accounting and business.²⁶ To be licensed as a CPA, a person must have specified qualifications, including at least 150 hours of education. CPA firms must also be licensed.²⁷

Effect of Proposed Changes

Sections 10 and 11 revise ss. 473.306(2) and 473.308, F.S., to require persons applying to take the CPA licensure examination, applying for a CPA license, and applying for a CPA firm license to:

- Create and maintain an online account with the DBPR;
- Provide an e-mail address to function as the primary means of contact for all communication to the applicant from the DBPR;
- Maintain accurate contact information on file with the DBPR; and
- Submit any change in the applicant's e-mail address or home address within 30 days after any contact information changes. All changes must be submitted through the DBPR's online system.

Real Estate Brokers, Sales Associates, Schools, and Appraisers

Present Situation

Part I of ch. 475, F.S., provides for the regulation of real estate brokers, sales associates, and real estate schools by the Florida Real Estate Commission (FREC).²⁸

²³ Section 473.303, F.S., creating the Board of Accountancy.

²⁴ See s. 473.302(8), F.S., defining the terms "practice of," "practicing public accountancy," or "public accounting."

²⁵ Section 473.306, F.S.

²⁶ Sections 473.308(2)-(5), F.S.

²⁷ *Id.*

²⁸ Section 475.02, F.S., creating the Florida Real Estate Commission, which has seven members who are appointed by the Governor and confirmed by the Senate.

A license issued by the FREC is required to practice as a real estate broker or a sales associate.²⁹ Section 475.181, F.S., requires that the FREC certify for licensure any applicant who meets the requirements for licensure.

The FREC may not certify an applicant who has violated any of the provisions of s. 475.42, F.S., which sets forth prohibited acts, or is subject to discipline under s. 475.25, F.S., which sets forth grounds for discipline. All applications expire after two years if the applicant fails to pass the appropriate examination. Additionally, applicants must satisfy education course approved by the FREC and successfully complete a license examination within two years of completing the required education.³⁰ If the applicant does not pass the licensing examination within two years after the successful course completion date, the applicant's successful course completion is invalid for licensure.³¹

Effect of Proposed Changes

Section 12 amends s. 475.181(2), F.S., to delete the provision that, if an applicant for a real estate broker or sale associate license fails to pass the required examination within two years of completing the required education course, the applicant's successful course completion is invalid for licensure.

Barbering

Present Situation

The Barbers' Board is responsible for licensing and regulating barbers.³²

The term "barbering" in ch. 476, F.S., the Barbers' Act, includes any of the following practices when done for payment by the public: shaving, cutting, trimming, coloring, shampooing, arranging, dressing, curling, or waving the hair or beard or applying oils, creams, lotions, or other preparations to the face, scalp, or neck, either by hand or by mechanical appliances.³³

An applicant for licensure as a barber must pass an examination. To be eligible to take the examination, the applicant must be at least 16 years old, pay the application fee, and either:

- Have held an active valid license in another state for at least one year;
- Complete a minimum of 900 hours of training; or
- Passes the licensure examination after completing a minimum of 600 hours actual hours of school education.³⁴

²⁹ Section 475.181, F.S.

³⁰ See s. 475.161, F.S., relating to licensing of real estate brokers and sales associates, s. 475.17, F.S., relating to qualifications for practice, s. 475.175, F.S., relating to examinations, s. 475.180, F.S., relating to the licensing of persons who are not a resident of Florida and are licensed in another jurisdiction (nonresident licensees), and s. 475.181, F.S., relating to licensure.

³¹ Section 475.181(2), F.S.

³² Section 476.054, F.S., creating the Barber's Board.

³³ See s. 476.034(2), F.S. The term does not include those services when done for the treatment of disease or physical or mental ailments.

³⁴ See s. 476.114(2), F.S.

Additionally, ch. 2020-160, Laws of Fla., amended s. 476.144(5), F.S., relating to the licensing of barbers, to provide licensure by endorsement of persons who hold a current active license to practice barbering in another state for at least one year.

A person may also apply for and receive a “restricted license” to practice barbering, which authorizes the licensee to practice only in areas in which he or she has demonstrated competency pursuant to rules of the Barbers’ Board.³⁵

The Barber’s Board may also license by endorsement barbering practitioners who desire to be licensed in this state who hold a current active license in another country and who have met qualifications that are substantially similar to, equivalent to, or greater than the qualifications required of applicants from this state.³⁶

Effect of Proposed Changes

Section 13 revises s. 476.114, F.S., to delete a conflicting provision for licensure by endorsement, and allows barbers licensed in another jurisdiction to qualify for a license by endorsement regardless of how long the applicant has held the license in another jurisdiction as authorized s. 476.411, F.S.

Cosmetology

Present Situation

Chapter 477, F.S., governs the licensure and regulation of cosmetologists, nail specialists, facial specialists, full specialists, body wrappers and related salons in the state by the Board of Cosmetology, within the DBPR.

Persons may not engage in the practice of cosmetology without a license issued by the Board of Cosmetology.³⁷ Individuals are also prohibited from providing manicures, pedicures, nail painting services, or facials in Florida without a registration with the Board of Cosmetology.³⁸

To qualify for a cosmetologist license, the applicant must be at least 16 years of age or have received a high school diploma, pay nonrefundable application and examination fees, and successfully complete a license examination.

In addition, s. 477.019(2), F.S., provides that an applicant for a cosmetologist license must either:

- Be authorized to practice cosmetology in another state or country for at least one year, and not qualify for licensure by endorsement as provided for in s. 477.019(5), F.S.; or
- Have received a minimum of 1,200 hours of training as established by the Board of Cosmetology.

³⁵ See s. 476.144(6), F.S.

³⁶ Section 476.144(5), F.S.

³⁷ Section 477.014, F.S.

³⁸ See ss. 477.013(6) and 477.0201, F.S.

However, s. 477.019(5), F.S., does not provide for licensure by endorsement. Section 477.019(6), F.S., allows the Board of Cosmetology to certify as qualified for licensure by endorsement as a cosmetologist in this state an applicant who holds a current active license to practice cosmetology in another state.

Effect of Proposed Changes

Section 14 revises s. 477.019(2), F.S., to delete a conflicting provision for licensure by endorsement, and allows cosmetologists licensed in another jurisdiction to qualify for a license by endorsement regardless of how long the applicant has held the license in another jurisdiction as authorized s. 477.019(6), F.S.

Construction Contracting

Present Situation

Contractor Discipline (Penalties, Fines, and Other Penalties)

Section 489.131(7), F.S., relating to compliance with regulatory policies by licensed contractors, authorizes a local jurisdiction enforcement body to enforce its local ordinances and the provisions of part I of ch. 489, F.S., relating to construction contracting, against locally licensed or registered contractors. Fines and other penalties are authorized to ensure compliance with state laws and local jurisdiction ordinances.

The local jurisdiction enforcement body may conduct disciplinary proceedings and may require restitution, impose a suspension or revocation of a local license, or a fine not to exceed \$5,000, or a combination thereof, against the locally licensed or registered contractor, and may assess reasonable investigative and legal costs for the prosecution of the violation.

In addition to any action the local jurisdiction enforcement body may take against the individual's local license, and any fine the local jurisdiction may impose, the local jurisdiction enforcement body must issue a recommended penalty for board action. This recommended penalty may include a recommendation for no further action, or a recommendation for suspension, revocation, or restriction of the registration, or a fine to be levied by the board, or a combination thereof.

The local jurisdiction enforcement body must inform the disciplined contractor and the complainant of the local license penalty imposed, the board penalty recommended, the rights to appeal, and the consequences should an appeal not be taken. The local jurisdiction enforcement body must, upon having reached adjudication or having accepted a plea of nolo contendere, immediately inform the board of its action and the recommended board penalty.

The DBPR, the disciplined contractor, or the complainant may challenge the local jurisdiction enforcement body's recommended penalty for board action to the Construction Industry Licensing Board (CILB). A challenge must be filed within 60 days after the issuance of the recommended penalty to the CILB, and if challenged, there is a presumptive finding of probable cause which allows the case to proceed without the need for a probable cause hearing.

Failure of the DBPR, the disciplined contractor, or the complainant to challenge the local jurisdiction's recommended penalty within the required time period constitutes a waiver of the right to a hearing before the CILB. A waiver of the right to a hearing before the CILB is deemed an admission of the violation, and the penalty recommended to the CILB becomes a final order without further board action, in accordance with procedures developed by CILB rule. The disciplined contractor may appeal this action to the district court.

The DBPR may investigate any complaint made to it, but may not initiate or pursue any complaint against a registered contractor who is not also a certified contractor where a local jurisdiction enforcement body has jurisdiction over the complaint, unless summary procedures are initiated by the secretary pursuant to s. 455.225(8), F.S., or unless the local jurisdiction enforcement body has failed to investigate and prosecute a complaint, or make a finding of no violation, within six months of receiving the complaint. The DBPR must refer the complaint to the local jurisdiction enforcement body for investigation, and if appropriate, prosecution. However, the DBPR may investigate such complaints to the extent necessary to determine whether summary procedures should be initiated.

Upon a recommendation by the DBPR, the CILB may make conditional, suspend, or rescind its determination of the adequacy of the local government enforcement body's disciplinary procedures granted under s. 489.117(2), F.S. However, local jurisdictions may not exercise disciplinary authority over certified contractors.

Florida Homeowners' Construction Recovery Fund

The Florida Homeowners' Construction Recovery Fund (recovery fund) was created by the Legislature in 1993 after Hurricane Andrew.³⁹ The recovery fund is the last resort to compensate homeowners who have suffered a covered financial loss at the hands of state-licensed general, building, and residential contractors. Covered losses include financial mismanagement or misconduct, project abandonment, or fraudulent statement of a contractor or related party.⁴⁰ A homeowner must have engaged a contractor for construction or improvement of the homeowner's Florida residence, and the damage must have been caused by a Division I licensee or a Division II licensee.⁴¹

A claim must involve an act by a contractor under specific statutory provisions relating to mismanagement, abandonment of a project, and actions that give rise to disciplinary actions by the CILB against contractors, as follows:

- Section 489.129(1)(g), F.S., allows disciplinary proceedings for committing mismanagement or misconduct in the practice of contracting that causes financial harm to a customer. Financial mismanagement or misconduct occurs when the contractor fails to remove a valid

³⁹ See ch. 93-166, s. 21, Laws of Fla. and see Department of Business and Professional Regulation, *2024 Agency Legislative Bill Analysis for SB 414* at 2 (Nov. 20, 2023) (on file with the Senate Committee on Regulated Industries).

⁴⁰ See ss. 489.140-489.144, F.S.

⁴¹ Section 489.1402, F.S., defines the term "residence" to mean "a single-family residence, an individual residential condominium or cooperative unit, or a residential building containing not more than two residential units in which the owner contracting for the improvement is residing or will reside 6 months or more each calendar year upon completion of the improvement."

lien after payment; the contractor has abandoned the job and has been paid for more than is completed; and the customer is made to pay more than the contract price.

- Section 489.129(1)(j), F.S., allows disciplinary proceedings for abandoning a construction project, under certain conditions.
- Section 489.129(1)(k), F.S., allows disciplinary proceedings for signing a false statement with respect to a project or contract indicating that the work is bonded, subcontractors have been paid, or workers' compensation and public liability insurance are provided.
- Section 713.35, F.S., provides for criminal penalties for any person who knowingly and intentionally makes an affidavit, a waiver or release of lien, or other document, whether or not under oath, with false information about the payment status of subcontractors, sub-subcontractors, or suppliers.

If a final judgment, CILB-issued restitution order, or arbitration award is not expressly based on s. 489.129(1)(g), (j), or (k), F.S., the claimant must present to the CILB sufficient evidence to show that the contractor engaged in activity described in those subsections.⁴²

The recovery fund is financed by a 1.5 percent surcharge on all building permit fees associated with the enforcement of the Florida Building Code.⁴³ The local government that collects the permit fees retains 10 percent of the surcharge, and the net surcharge proceeds are then allocated equally to the recovery fund and the operations of the Building Code Administrators and Inspectors Board.⁴⁴

Duty of Contractor to Give Notice of Rights under Recovery Fund

Section 489.1425, F.S., creates a duty for a contractor to provide notice to a customer of rights under the recovery fund. Any agreement or contract for repair, restoration, improvement, or construction to residential real property must contain a written statement explaining the consumer's rights under the recovery fund, except where the value of all labor and materials does not exceed \$2,500, and must be substantially in the form required by statute.

Requirements to Make a Claim

The claimant must have obtained a final judgment, arbitration award, or CILB-issued restitution order against the contractor for damages that are a direct result of a compensable violation. The statute of limitations to make a claim is one year after the conclusion of an action or award in arbitration that is based on the misconduct.⁴⁵ Certain persons are not eligible to make a claim against the recovery fund.⁴⁶

⁴² Fla. Admin. Code R. 61G4-21.003.

⁴³ Section 468.631(1), F.S.

⁴⁴ The DBPR has the authority to transfer excess cash to the recovery fund if it determines it is not needed to support the operation of the Building Code Administrators and Inspectors Board; the amount transferred cannot exceed the amount appropriated in the General Appropriations Act or approved by the Legislative Budget Commission for payment of claims from the fund. *Id.*

⁴⁵ Section 489.141(1)(f), F.S.

⁴⁶ Section 489.141(2), F.S., provides certain persons are precluded from making a claim for recovery under the fund, if: (a) The claimant is the spouse of the judgment debtor or licensee or a personal representative of such spouse; (b) The claimant is a licensee who acted as the contractor in the transaction that is the subject of the claim; (c) The claim is based upon a construction contract in which the licensee was acting with respect to the property owned or controlled by the licensee;

Limits

Section 489.143, F.S., relating to payment from the recovery fund, provides that an eligible claimant from the recovery fund will be an amount equal to the judgment, award, or restitution order or \$25,000, whichever is less, or an amount equal to the unsatisfied portion of such person's judgment, award, or restitution order, but only to the extent and amount of actual damages suffered by the claimant, and subject to the maximum per-claim amount and a total lifetime per-licensee maximum.⁴⁷

The maximum amounts payable for recovery fund claims and the total lifetime aggregate limits are set forth in s. 489.143, F.S.,⁴⁸ as follows:

- Beginning January 1, 2005, for each Division I contract entered into after July 1, 2004, recovery fund claims are limited to a \$50,000 maximum payment for each Division I claim, with a total lifetime aggregate limit of \$500,000 for each Division I licensee.
- Beginning January 1, 2017, for each Division II contract entered into on or after July 1, 2016, (the date that claims against Division II licensees were first authorized to be filed), recovery fund claims are limited to a \$15,000 maximum payment for each Division II claim, with a total lifetime aggregate limit of \$150,000 for each Division II licensee.

Claims are paid in the order that they are filed, up to the lifetime aggregate limits for each transaction and licensee, and to the limits of amounts appropriated to pay claims against the recovery fund.⁴⁹ Payments may not exceed the total claim limits or lifetime aggregate limits.⁵⁰

As of July 31, 2023, the overall recovery fund balance was \$23,235,064.00. For fiscal years 2020-2021, 2021-2022, and 2022-2023, the average amount of revenue going into the fund from the surcharge per fiscal year was \$6,188,495.00, and the average amount of claims awarded was \$2,882,184 per fiscal year. However, between FY 2020-21 and FY 2022-23, the number of claims presented and awarded each year more than doubled. In FY 2022-2023, 232 claims were awarded for a total amount of \$4,449,552.00. Of the 232 claims, 125 were against Division I contractors, and 107 were against Division II contractors.⁵¹

Appropriations; Excess Funds; License Suspension

Section 489.143(8), F.S., provides that if the annual appropriation is exhausted with claims pending, the pending claims must be carried over to the next fiscal year. Monies in excess of pending claims must be paid in accordance with s. 468.631, F.S., relating to the Building Code Administrators and Inspectors Fund.

(d) The claim is based upon a construction contract in which the contractor did not hold a valid and current license at the time of the construction contract; or (e) The claimant was associated in a business relationship with the licensee other than the contract at issue.

⁴⁷ Section 489.143(2), F.S.

⁴⁸ For fund claims for contracts entered into before July 1, 2004, see s. 489.143(6), F.S.

⁴⁹ Section 489.143(7), F.S.

⁵⁰ *Id.*

⁵¹ See Department of Business and Professional Regulation, *2024 Agency Legislative Bill Analysis for HB 1335* at 3 (January 8, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment, and General Government).

Section 489.143(9), F.S., provides that, upon payment of any amount from the recovery fund in settlement of a claim in satisfaction of a judgment, award, or restitution order against a licensee, the license of such licensee is automatically suspended, without further administrative action, upon the date of payment from the recovery fund. The license may not be reinstated until the licensee has repaid in full the amount paid from the recovery fund, plus interest.

Effect of Proposed Changes

Section 15 revises s. 489.131, F.S., relating to compliance with regulatory policies by licensed contractors, to authorize a local jurisdiction enforcement body to recommend that the CILB require restitution from the local contractor, in addition to the recommended penalties that a local jurisdiction enforcement body is authorized to recommend to the CILB in current law. The bill also requires that a recommended penalty specify the violations of ch. 489, F.S., relating to contracting, upon which the recommendation is based.

Section 16 revises s. 489.143, F.S., to double the maximum amounts payable to claimants for claims that may be made against contractors from the Florida Homeowners' Construction Recovery Fund (recovery fund).

Under the bill, beginning January 1, 2025, for Division I and Division II contracts entered into on or after July 1, 2024, payment from the recovery fund is subject to a \$100,000 maximum payment for each Division I claim (\$50,000 maximum currently), and a \$30,000 maximum payment for each Division II claim (\$15,000 maximum currently).

The bill also increases the lifetime aggregate limits for claims made against a single licensee. Beginning January 1, 2025, for Division I and Division II contracts entered into on or after July 1, 2024, payment from the recovery fund is subject only to a total lifetime aggregate cap of \$2 million for each Division I claim (\$500,000 maximum currently), and a \$600,000 maximum payment for each Division II claim (\$150,000 maximum currently).

Florida Drug and Cosmetic Act

Present Situation

The Division of Drugs, Devices and Cosmetics safeguards the health, safety, and welfare of the citizens of the state of Florida from injury due to the use of adulterated, contaminated, misbranded drugs, drug ingredients and cosmetics by administering the provisions of the Florida Drug and Cosmetic Act in part I of ch. 499, F.S. A permit is required before a person or establishment may engage in specified activities, including operating as a prescription drug manufacturer, device manufacturer, or cosmetic manufacturer.⁵²

In pertinent part, each establishment that is issued an initial or renewal permit as a prescription drug wholesale distributor or an out-of-state prescription drug wholesale distributor must designate in writing to the DBPR at least one natural person to serve as the designated

⁵² See s. 499.01, F.S.

representative of the wholesale distributor. Such person must have an active certification as a designated representative from the DBPR.

To be certified as a designated representative, a natural person must:

- Submit an application on a form furnished by the DBPR and pay the appropriate fees.
- Be at least 18 years of age.
- Have at least two years of verifiable full-time:
 - Work experience in a pharmacy licensed in this state or another state, where the person's responsibilities included, but were not limited to, recordkeeping for prescription drugs;
 - Managerial experience with a prescription drug wholesale distributor licensed in this state or in another state; or
 - Managerial experience with the United States Armed Forces, where the person's responsibilities included, but were not limited to, recordkeeping, warehousing, distributing, or other logistics services pertaining to prescription drugs.

In addition, the person must receive a passing score of at least 75 percent on an examination given by the DBPR regarding federal laws governing distribution of prescription drugs and part I of ch. 499, F.S., and the rules adopted by the DBPR governing the wholesale distribution of prescription drugs.

Effect of Proposed Changes

Section 17 revises s. 499.012 (15), F.S., relating to the requirements to be a certified designated representative, to provide the following additional types of work experience to qualify for certification:

- Managerial experience with a state or federal organization responsible for regulating or permitting establishments involved in the distribution of prescription drugs, whether in an administrative or a sworn law enforcement capacity; or
- Work experience as a drug inspector or investigator with a state or federal organization, whether in an administrative or a sworn law enforcement capacity, where the person's responsibilities related primarily to compliance with state or federal requirements pertaining to the distribution of prescription drugs.

Alcoholic Beverage Licenses

Present Situation

The DABT within the DBPR administers and enforces the Beverage Law,⁵³ which regulates the manufacture, distribution, and sale of wine, beer, and liquor.

⁵³ Section 561.01(6), F.S., provides that the "Beverage Law" means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

Section 561.14, F.S., requires a license issued by the DABT to be a manufacturer,⁵⁴ distributor,⁵⁵ or vendor⁵⁶ of alcoholic beverages. A license is also required to be a broker or sales agent,⁵⁷ importer,⁵⁸ bottle club,⁵⁹ or exporter.⁶⁰

Section 562.12(1), F.S., prohibits the sale of alcoholic beverages without a license issued by the division. An alcoholic beverage licensee may only sell alcoholic beverages in the manner permitted by her or his license. In addition, a licensee or other person who keeps or possesses alcoholic beverages not permitted to be sold by her or his license, or not permitted to be sold without a license, with intent to sell or dispose of same unlawfully, or who keeps and maintains a place where alcoholic beverages are sold unlawfully, is guilty of a misdemeanor of the second degree.⁶¹

Section 562.12(2), F.S., provides that it is unlawful for any person to operate as an exporter⁶² of alcoholic beverages within the state without registering as an exporter pursuant to s. 561.17, F.S. A person who violates this prohibition is guilty of a misdemeanor of the second degree.⁶³

Section 561.01(4)(a), F.S., defines the term “alcoholic beverages” to mean distilled spirits and all beverages containing one-half of one percent or more alcohol by volume.

Section 561.17, F.S., provides the process for applying with the DABT for a license or registration under the Beverage Law.

Effect of Proposed Changes

Section 18 revises s. 561.17(5), F.S., to require persons or entities licensed or permitted by the DABT, or applying for a license or permit to:

- Create and maintain an online account with the DABT;
- Provide an e-mail address to function as the primary means of contact for all communication to the applicant from the DABT; and
- Apply using forms prepared by DABT and filed through DABT's online system before engaging in any business for which a license or permit is required.

Under the bill, the DABT may not process an application for alcoholic beverage license unless the application is submitted through the DABT's online system.

⁵⁴ Section 561.14(1), F.S., relating to the license classification for “manufacturers.”

⁵⁵ Section 561.14(2), F.S., relating to the license classification for “distributors.”

⁵⁶ Section 561.14(3), F.S., relating to the license classification for “vendors.”

⁵⁷ Section 561.14(4), F.S., relating to the license classification for “brokers or sales agents.”

⁵⁸ Section 561.14(5), F.S., relating to the license classification for “importers.”

⁵⁹ Section 561.01(15), F.S., defining the term “bottle club,” and s. 561.14(6), F.S., relating to the license classification for “bottle clubs.”

⁶⁰ Section 561.14(7), F.S., relating to the license classification for “exporters.”

⁶¹ Section 775.082, F.S., provides that a misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days. Section 775.083, F.S., provides that a misdemeanor of the second degree is punishable by a fine not to exceed \$500.

⁶² Section 561.01(16), F.S., defines an “exporter” as “any person that sells alcoholic beverages to persons for use outside the state and includes a ship's chandler and a duty-free shop.”

⁶³ Section 561.17(4), F.S., requires persons to register with the division before engaging in the business of exporting alcoholic beverages.

Regulation of Tobacco Products and Nicotine Dispensing Devices

Present Situation

The DABT within the DBPR is the state agency responsible for the regulation and enforcement of tobacco products under part I of ch. 569, F.S., and nicotine products under part II of ch. 569, F.S.

A person must obtain a retail tobacco products dealer permit from the division for each place of business where tobacco products are sold, including sales made through a vending machine.⁶⁴ The fee for an annual permit is established by the division in rule at an amount to cover the regulatory costs of the program, not to exceed \$50. The fees are deposited into the Alcoholic Beverage and Tobacco Trust Fund within the DBPR.⁶⁵

A retail nicotine products dealer permit from the division is required for each place of business where nicotine products are sold, including sales made through a vending machine.⁶⁶ There is no fee for the permit. A person must be 21 years of age to qualify for a retail nicotine products dealer permit.⁶⁷

Effect of Proposed Changes

Sections 19 and 20 create ss. 569.00256 and 569.3156, F.S., relating to application for a retail tobacco products dealer permit and a retail nicotine products dealer permit, respectively, to require applicants for these permits to:

- Create and maintain an online account with the DABT;
- Provide an e-mail address to function as the primary means of contact for all communication to the applicant from the DABT; and
- Apply using forms prepared by DABT and filed through DABT's online system before engaging in any business for which a license or permit is required.

Each applicant is responsible for maintaining accurate contact information. Under the bill, the DABT may not process an application for alcoholic beverage license unless the application is submitted through the DABT's online system.

Conforming Changes

Sections 21 through 39 amend ss. 20.165(4), 210.16(2), 212.08(7), 440.02(19), 448.26, 468.520(2), 468.522, 468.524(2) and (4), 468.5245, 468.525(2) and (3), 468.526(3) and (5), 468.527(1), 468.5275(2), 468.529(2), (4), and (5), 468.530(3) and (4), 468.531(1), 468.532(1), (2), and (4), 476.144(6), and 627.192(2), F.S., respectively, to conform cross-references.

⁶⁴ Section 569.003, F.S.

⁶⁵ Section 569.003(1)(c), F.S.

⁶⁶ Section 569.32, F.S.

⁶⁷ Section 569.32(2)(a), F.S.

Effective Date

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 authorizes the Division of Alcoholic Beverages and Tobacco (DABT) to increase the corporate surety bond amount before renewing a license for a distributor or tobacco products other than cigarettes or after completing its semiannual review of the bond amount.

Regarding asbestos removal contractors, the removal of the bond/credit requirement will reduce the cost to license applicants, which the Department of Business and Professional Regulation (DBPR) estimates to be \$100 per applicant.⁶⁸

Regarding the Florida Homeowners' Construction Recovery Fund (recovery fund), the bill doubles the maximum amounts payable to claimants for claims that may be made against contractors from the recovery fund.

⁶⁸ See Department of Business and Professional Regulation, *2024 Agency Legislative Bill Analysis for SB 1544* (Jan. 12, 2024) (on file with the Senate Regulated Industries Committee).

C. Government Sector Impact:

Regarding the recovery fund, the DBPR states that there is an indeterminate fiscal impact due to the increase of the aggregate cap lifetime per licensee and per-claim cap for each contract. It anticipates an increase in the number of claimants who receive compensation from the recovery fund.⁶⁹

Since recovery fund claims under the recovery fund are required to be based on contracts for eligible work, and must be based on either a final order, judgment, or decree, any fiscal impact from the increase in the caps will likely not occur for at least a year, July 2025, at the earliest.⁷⁰

Eliminating the Board of Employee Leasing Companies will result in a reduction of expenditures pertaining to board travel, costs, etc. However, according to the DBPR, the reduction in expenditures will be offset by the need for a consultant to review employee leasing licensure applications.⁷¹

Modifications to DBPR's licensing system, Versa: Regulation (VR), and online system, Versa: Online (VO), related to creating and maintaining online accounts and changes to licensure processes, are required. The DBPR states these changes can be made using existing resources.⁷²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.165, 210.15, 210.16, 210.40, 212.08, 310.0015, 310.081, 440.02, 448.26, 468.520, 468.522, 468.524, 468.5245, 468.525, 468.526, 468.527, 468.5275, 468.529, 468.530, 468.531, 468.532, 469.006, 473.306, 473.308, 475.181, 476.114, 476.144, 477.019, 489.131, 489.143, 499.012, 561.17, and 627.192.

This bill creates the following sections of the Florida Statutes: 210.32, 399.18, 468.519, 569.00256, and 569.3156.

This bill repeals section 468.521 of the Florida Statutes.

⁶⁹ *Id.*

⁷⁰ See Department of Business and Professional Regulation, *2024 Agency Legislative Bill Analysis for HB 1335* at 3 (January 8, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment, and General Government).

⁷¹ *Id.*

⁷² *Id.*

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

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

CS by Regulated Industries Committee on February 5, 2024:

The committee substitute removes from the bill:

- The repeal of s. 723.0611, F.S., which established the Florida Mobile Home Relocation Corporation (corporation);
- The revisions to ss. 723.061, 723.06115, 723.06116, and 723.0612, F.S., providing for the Division of Condominiums, Timeshares, and Mobile Homes to administer the duties and functions of the corporation.
- The reenacting of ss. 48.184(1), 723.031, 723.004(5), 723.004(5), 723.032(1), 723.085(2), 723.085(2), 723.08015(1), F.S., to incorporate into those provisions the revisions in the bill related to the repeal of s. 723.0611, F.S.

B. Amendments:

None.



349802

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/12/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (Boyd) recommended the following:

Senate Amendment (with title amendment)

Delete lines 304 - 316.

Delete lines 696 - 731.

Delete lines 739 - 1167.

Delete lines 1191 - 1197

and insert:

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

And the title is amended as follows:



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11 Delete lines 43 - 105
12 and insert:
13 amending s. 469.006, F.S.; revising requirements for
14 department rules governing evidence of financial
15 responsibility of applicants seeking licensure as a
16 business organization under ch. 469, F.S.; amending s.
17 473.306, F.S.; requiring applicants for the
18 accountancy licensure examination to create and
19 maintain an online account with the department and
20 provide an e-mail address; requiring applicants to
21 maintain the accuracy of their contact information;
22 requiring that address changes be submitted through
23 the department's online system within a specified
24 timeframe; conforming cross-references; amending s.
25 473.308, F.S.; requiring a person seeking licensure as
26 a Florida certified public accountant, or a firm
27 seeking to engage in public accountancy, to create and
28 maintain an online account with the department and
29 provide an e-mail address; requiring certified public
30 accountants and accounting firms to maintain the
31 accuracy of their contact information; requiring that
32 address changes be submitted through the department's
33 online system within a specified timeframe; amending
34 s. 475.181, F.S.; revising conditions regarding
35 issuance of a licensure under part I of ch. 475, F.S.;
36 amending s. 476.114, F.S.; revising eligibility
37 requirements for licensure as a barber; making
38 technical changes; amending s. 477.019, F.S.; revising
39 eligibility requirements for licensure by examination



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to practice cosmetology; amending s. 489.131, F.S.;
revising the types of penalties that may be
recommended by a local jurisdiction enforcement body
against a contractor; specifying requirements for any
such recommended penalties; amending s. 489.143, F.S.;
revising payment limitations for payments made from
the department's Florida Homeowners' Construction
Recovery Fund; amending s. 499.012, F.S.; revising
requirements for certification as a designated
representative of a prescription drug wholesale
distributor; amending s. 561.17, F.S.; requiring
persons or entities licensed or permitted by the
Division of Alcoholic Beverages and Tobacco, or
applying for such license or permit, to create and
maintain an account with the division's online system;
specifying application requirements; prohibiting the
division from processing applications not submitted
through the online system; creating ss. 569.00256 and
569.3156, F.S.; requiring certain persons or entities
licensed or permitted by the division, or applying for
such a license or permit, to create and maintain an
account with the division's online system; requiring
licensees, permittees, and applicants to provide the
division with an e-mail address and maintain accurate
contact information; specifying application
requirements; prohibiting the division from processing
applications not submitted through the online system;
amending ss. 210.16 and 476.144, F.S.; conforming
cross-references and

By the Committee on Regulated Industries; and Senator Hooper

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1 A bill to be entitled
 2 An act relating to the Department of Business and
 3 Professional Regulation; amending s. 210.15 and
 4 creating s. 210.32, F.S.; requiring persons or
 5 entities licensed or permitted by the department's
 6 Division of Alcoholic Beverages and Tobacco, or
 7 applying for such license or permit, to create and
 8 maintain an account with the division's online system
 9 and provide an e-mail address to the division;
 10 specifying application requirements; prohibiting the
 11 division from processing applications not submitted
 12 through the online system; amending s. 210.40, F.S.;
 13 revising the amount of an initial corporate surety
 14 bond required as a condition of licensure as a tobacco
 15 product distributor; requiring the division to review
 16 corporate surety bond amounts on a specified basis;
 17 authorizing the division to increase a bond amount,
 18 subject to specified conditions; authorizing the
 19 division to adjust bond amounts by rule; authorizing
 20 the division to reduce a bond amount upon a showing of
 21 good cause; defining terms; requiring the division to
 22 notify distributors in writing if their corporate
 23 surety bond requirements change; providing
 24 applicability; prohibiting the division from reducing
 25 a bond amount under specified circumstances;
 26 authorizing the division to adopt rules; amending s.
 27 310.0015, F.S.; deleting a provision requiring a
 28 competency-based mentor program at ports; deleting a
 29 requirement that the department submit an annual

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

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30 report on the mentor program; amending s. 310.081,
 31 F.S.; deleting a requirement that the department
 32 consider certain characteristics for applicants for
 33 certification as a deputy pilot; making technical
 34 changes; creating s. 399.18, F.S.; requiring certain
 35 persons or entities certified or registered under the
 36 Elevator Safety Act, or applying for such
 37 certifications or registrations, to create and
 38 maintain an online account with the department's
 39 Division of Hotels and Restaurants and provide an e-
 40 mail address to the division; requiring such persons
 41 and entities to maintain the accuracy of their contact
 42 information; requiring the division to adopt rules;
 43 creating s. 468.519, F.S.; creating the employee
 44 leasing companies licensing program under the
 45 department; providing legislative intent; repealing s.
 46 468.521, F.S., relating to the department's Board of
 47 Employee Leasing Companies; amending s. 469.006, F.S.;
 48 revising requirements for department rules governing
 49 evidence of financial responsibility of applicants
 50 seeking licensure as a business organization under ch.
 51 469, F.S.; amending s. 473.306, F.S.; requiring
 52 applicants for the accountancy licensure examination
 53 to create and maintain an online account with the
 54 department and provide an e-mail address; requiring
 55 applicants to maintain the accuracy of their contact
 56 information; requiring that address changes be
 57 submitted through the department's online system
 58 within a specified timeframe; conforming cross-

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

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59 references; amending s. 473.308, F.S.; requiring a
 60 person seeking licensure as a Florida certified public
 61 accountant, or a firm seeking to engage in public
 62 accountancy, to create and maintain an online account
 63 with the department and provide an e-mail address;
 64 requiring certified public accountants and accounting
 65 firms to maintain the accuracy of their contact
 66 information; requiring that address changes be
 67 submitted through the department's online system
 68 within a specified timeframe; amending s. 475.181,
 69 F.S.; revising conditions regarding issuance of a
 70 licensure under part I of ch. 475, F.S.; amending s.
 71 476.114, F.S.; revising eligibility requirements for
 72 licensure as a barber; making technical changes;
 73 amending s. 477.019, F.S.; revising eligibility
 74 requirements for licensure by examination to practice
 75 cosmetology; amending s. 489.131, F.S.; revising the
 76 types of penalties that may be recommended by a local
 77 jurisdiction enforcement body against a contractor;
 78 specifying requirements for any such recommended
 79 penalties; amending s. 489.143, F.S.; revising payment
 80 limitations for payments made from the department's
 81 Florida Homeowners' Construction Recovery Fund;
 82 amending s. 499.012, F.S.; revising requirements for
 83 certification as a designated representative of a
 84 prescription drug wholesale distributor; amending s.
 85 561.17, F.S.; requiring persons or entities licensed
 86 or permitted by the Division of Alcoholic Beverages
 87 and Tobacco, or applying for such license or permit,

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88 to create and maintain an account with the division's
 89 online system; specifying application requirements;
 90 prohibiting the division from processing applications
 91 not submitted through the online system; creating ss.
 92 569.00256 and 569.3156, F.S.; requiring certain
 93 persons or entities licensed or permitted by the
 94 division, or applying for such a license or permit, to
 95 create and maintain an account with the division's
 96 online system; requiring licensees, permittees, and
 97 applicants to provide the division with an e-mail
 98 address and maintain accurate contact information;
 99 specifying application requirements; prohibiting the
 100 division from processing applications not submitted
 101 through the online system; amending ss. 20.165,
 102 210.16, 212.08, 440.02, 448.26, 468.520, 468.522,
 103 468.524, 468.5245, 468.525, 468.526, 468.527,
 104 468.5275, 468.529, 468.530, 468.531, 468.532, 476.144,
 105 and 627.192, F.S.; conforming cross-references and
 106 provisions to changes made by the act; providing an
 107 effective date.

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

110
 111 Section 1. Present paragraphs (a) through (h) of subsection
 112 (1) of section 210.15, Florida Statutes, are redesignated as
 113 paragraphs (b) through (i), respectively, and a new paragraph
 114 (a) is added to that subsection, to read:
 115 210.15 Permits.—
 116 (1)

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(a) A person or an entity licensed or permitted by the division, or applying for a license or a permit, must create and maintain an account with the division's online system and provide an e-mail address to the division to function as the primary means of contact for all communication by the division to the licensee, permittee, or applicant. Licensees, permittees, and applicants are responsible for maintaining accurate contact information on file with the division. A person or an entity seeking a license or permit under this part must apply using forms furnished by the division which are filed through the division's online system before commencing operations. The division may not process an application for a license or permit issued by the division under this part unless the application is submitted through the division's online system.

Section 2. Section 210.32, Florida Statutes, is created to read:

210.32 Account; online system.—A person or an entity licensed or permitted by the division, or applying for a license or a permit, must create and maintain an account with the division's online system and provide an e-mail address to the division to function as the primary means of contact for all communication by the division to the licensee, permittee, or applicant. Licensees, permittees, and applicants are responsible for maintaining accurate contact information on file with the division. A person or an entity seeking a license or a permit under this part must apply using forms furnished by the division which are filed through the division's online system before commencing operations. The division may not process an application for a license or permit issued by the division under

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this part unless the application is submitted through the division's online system.

Section 3. Section 210.40, Florida Statutes, is amended to read:

210.40 License fees; surety bond; application for each place of business.—

(1) Each application for a distributor's license must ~~shall~~ be accompanied by a fee of \$25. The application must ~~shall~~ also be accompanied by a corporate surety bond issued by a surety company authorized to do business in this state, conditioned for the payment when due of all taxes, penalties, and accrued interest which may be due the state. The initial corporate surety bond shall be in the sum of \$25,000 ~~\$1,000~~ and in a form prescribed by the division.

(a) The division shall review the amount of a corporate surety bond on a semiannual basis to ensure that the bond amount is adequate to protect the state.

(b) The division may increase the corporate surety bond amount before renewing a distributor's license or after completing its semiannual review of the bond amount.

(c) The corporate surety bond amount may be increased to the sum of the distributor's highest month of final audited tax liabilities, penalties, and accrued interest which are due to the state.

(2) A corporate surety bond, with the sum determined by the division in accordance with paragraph (1)(c), is required for renewal of a distributor's license.

(3) The division may prescribe by rule increases in the corporate surety bond amounts required as a condition of

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175 licensure.

176 (4) (a) The division may reduce the amount of a corporate
 177 surety bond upon a distributor's showing of good cause. For
 178 purposes of this subsection, the term:

179 1. "Fully resolved" means that criminal or administrative
 180 charges or investigations have been definitively closed or
 181 dismissed, have resulted in an acquittal, or have otherwise
 182 ended in such a manner that no further legal or administrative
 183 actions relating to charges or investigations are pending
 184 against a licensee under applicable laws, rules, or regulations.

185 2. "Good cause" means a consistent pattern of responsible
 186 financial behavior by the distributor over a period of at least
 187 the preceding 4 years, and having the sum of the distributor's
 188 final audited tax liabilities, penalties, and interest be less
 189 than the amount of the distributor's corporate surety bond for
 190 every month for a period of at least the preceding 4 years.

191 3. "Responsible financial behavior" includes the timely and
 192 complete reporting and payment of all tax liabilities,
 193 penalties, and accrued interest due to the state for a period of
 194 at least the preceding 4 years.

195 (b) The division may not reduce a corporate surety bond
 196 amount when a licensee:

197 1. Is in default of any tax liabilities, penalties, or
 198 interest due to the state;

199 2. Is the subject of a pending criminal prosecution in any
 200 jurisdiction until such prosecution has been fully resolved;

201 3. Has pending administrative charges brought by an
 202 authorized regulatory body or agency which have not been fully
 203 resolved in accordance with applicable rules and procedures; or

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204 4. Is under investigation by any administrative body or
 205 agency for potential criminal violations until any such
 206 investigation is completed and the findings of the investigation
 207 have been fully resolved in accordance with applicable law.

208 (5) The division shall notify a distributor in writing of
 209 any change in the distributor's corporate surety bond
 210 requirements by the date on which the distributor's audited tax
 211 assessments become final.

212 (6) The provisions of this section governing corporate
 213 surety bonds are not subject to s. 120.60 ~~Whenever it is the~~
 214 opinion of the division that the bond given by a licensee is
 215 inadequate in amount to fully protect the state, the division
 216 shall require an additional bond in such amount as is deemed
 217 sufficient.

218 (7) A separate application for a license ~~shall~~ must be made
 219 for each place of business at which a distributor proposes to
 220 engage in business as a distributor under this part, but an
 221 applicant may provide one corporate surety bond in an amount
 222 determined by the division for all applications made by the
 223 distributor consistent with the requirements of this section.

224 (8) The division may adopt rules to administer this
 225 section.

226 Section 4. Paragraph (d) of subsection (3) of section
 227 310.0015, Florida Statutes, is amended to read:

228 310.0015 Piloting regulation; general provisions.—

229 (3) The rate-setting process, the issuance of licenses only
 230 in numbers deemed necessary or prudent by the board, and other
 231 aspects of the economic regulation of piloting established in
 232 this chapter are intended to protect the public from the adverse

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effects of unrestricted competition which would result from an unlimited number of licensed pilots being allowed to market their services on the basis of lower prices rather than safety concerns. This system of regulation benefits and protects the public interest by maximizing safety, avoiding uneconomic duplication of capital expenses and facilities, and enhancing state regulatory oversight. The system seeks to provide pilots with reasonable revenues, taking into consideration the normal uncertainties of vessel traffic and port usage, sufficient to maintain reliable, stable piloting operations. Pilots have certain restrictions and obligations under this system, including, but not limited to, the following:

(d) ~~1-~~ The pilot or pilots in a port shall train and compensate all member deputy pilots in that port. Failure to train or compensate such deputy pilots constitutes ~~shall constitute~~ a ground for disciplinary action under s. 310.101. Nothing in this subsection may ~~shall~~ be deemed to create an agency or employment relationship between a pilot or deputy pilot and the pilot or pilots in a port.

~~2. The pilot or pilots in a port shall establish a competency-based mentor program by which minority persons as defined in s. 288.703 may acquire the skills for the professional preparation and education competency requirements of a licensed state pilot or certificated deputy pilot. The department shall provide the Governor, the President of the Senate, and the Speaker of the House of Representatives with a report each year on the number of minority persons as defined in s. 288.703 who have participated in each mentor program, who are licensed state pilots or certificated deputy pilots, and who~~

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~~have applied for state pilot licensure or deputy pilot certification.~~

Section 5. Subsection (2) of section 310.081, Florida Statutes, is amended to read:

310.081 Department to examine and license state pilots and certificate deputy pilots; vacancies.—

(2) The department shall similarly examine persons who file applications for certificate as deputy pilot, and, if upon examination to determine proficiency the department finds them qualified, the department must ~~shall~~ certify as qualified all applicants who pass the examination, provided that not more than five persons who passed the examination are certified for each declared opening. If more than five applicants per opening pass the examination, the persons having the highest scores must ~~shall~~ be certified as qualified up to the number of openings times five. ~~The department shall give consideration to the minority and female status of applicants when qualifying deputy pilots, in the interest of ensuring diversification within the state piloting profession.~~ The department shall appoint and certificate such number of deputy pilots from those applicants deemed qualified as in the discretion of the board are required in the respective ports of the state. A deputy pilot shall be authorized by the department to pilot vessels within the limits and specifications established by the licensed state pilots at the port where the deputy is appointed to serve.

Section 6. Section 399.18, Florida Statutes, is created to read:

399.18 Online services account.—

(1) A certified elevator inspector, certified elevator

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291 technician, or registered elevator company; a person or entity
 292 seeking to become certified or registered as such; a person who
 293 has been issued an elevator certificate of competency; a person
 294 who is seeking such certificate; a person or entity who has been
 295 issued an elevator certificate of operation; and a person or
 296 entity who is seeking such a certificate must create and
 297 maintain an online account with the division and provide an e-
 298 mail address to the division to function as the primary means of
 299 contact for all communication from the division. Each person or
 300 entity is responsible for maintaining accurate contact
 301 information on file with the division.

302 (2) The division shall adopt rules to implement this
 303 section.

304 Section 7. Section 468.519, Florida Statutes, is created,
 305 and incorporated into part XI of chapter 468, Florida Statutes,
 306 to read:

307 468.519 Employee leasing companies licensing program;
 308 purpose.—

309 (1) There is created within the department the employee
 310 leasing companies licensing program.

311 (2) The Legislature finds it necessary in the interest of
 312 the public safety and welfare to ensure that consumers of
 313 employee leasing companies can rely on the competence and
 314 integrity of such companies through the licensing requirements
 315 of this part.

316 Section 8. Section 468.521, Florida Statutes, is repealed.

317 Section 9. Paragraph (c) of subsection (2) of section
 318 469.006, Florida Statutes, is amended to read:

319 469.006 Licensure of business organizations; qualifying

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320 agents.—

321 (2)

322 (c) As a prerequisite to the issuance of a license under
 323 this section, the applicant shall submit the following:

324 1. An affidavit on a form provided by the department
 325 attesting that the applicant has obtained workers' compensation
 326 insurance as required by chapter 440, public liability
 327 insurance, and property damage insurance, in amounts determined
 328 by department rule. The department shall establish by rule a
 329 procedure to verify the accuracy of such affidavits based upon a
 330 random sample method.

331 2. Evidence of financial responsibility. The department
 332 shall adopt rules to determine financial responsibility which
 333 must ~~shall~~ specify grounds on which the department may deny
 334 licensure. Such criteria must ~~shall~~ include, but is not ~~be~~
 335 limited to, credit history ~~and limits of bondability and credit.~~

336 Section 10. Section 473.306, Florida Statutes, is amended
 337 to read:

338 473.306 Examinations.—

339 (1) A person desiring to be licensed as a Florida certified
 340 public accountant shall apply to the department to take the
 341 licensure examination.

342 (2) A person applying to the department to take the
 343 licensure examination must create and maintain an online account
 344 with the department and provide an e-mail address to function as
 345 the primary means of contact for all communication to the
 346 applicant from the department. Each applicant is responsible for
 347 maintaining accurate contact information on file with the
 348 department and must submit any change in the applicant's e-mail

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address or home address within 30 days after the change. All changes must be submitted through the department's online system.

(3) An applicant is entitled to take the licensure examination to practice in this state as a certified public accountant if:

(a) The applicant has completed 120 semester hours or 180 quarter hours from an accredited college or university with a concentration in accounting and business courses as specified by the board by rule; and

(b) The applicant shows that she or he has good moral character. For purposes of this paragraph, the term "good moral character" has the same meaning as provided in s. 473.308(7)(a) ~~s. 473.308(6)(a)~~. The board may refuse to allow an applicant to take the licensure examination for failure to satisfy this requirement if:

1. The board finds a reasonable relationship between the lack of good moral character of the applicant and the professional responsibilities of a certified public accountant; and

2. The finding by the board of lack of good moral character is supported by competent substantial evidence.

If an applicant is found pursuant to this paragraph to be unqualified to take the licensure examination because of a lack of good moral character, the board shall furnish to the applicant a statement containing the findings of the board, a complete record of the evidence upon which the determination was based, and a notice of the rights of the applicant to a

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rehearing and appeal.

~~(4)(3)~~ The board shall have the authority to establish the standards for determining and shall determine:

(a) What constitutes a passing grade for each subject or part of the licensure examination;

(b) Which educational institutions, in addition to the universities in the State University System of Florida, shall be deemed to be accredited colleges or universities;

(c) What courses and number of hours constitute a major in accounting; and

(d) What courses and number of hours constitute additional accounting courses acceptable under s. 473.308(4) ~~s. 473.308(3)~~.

~~(5)(4)~~ The board may adopt an alternative licensure examination for persons who have been licensed to practice public accountancy or its equivalent in a foreign country so long as the International Qualifications Appraisal Board of the National Association of State Boards of Accountancy has ratified an agreement with that country for reciprocal licensure.

~~(6)(5)~~ For the purposes of maintaining the proper educational qualifications for licensure under this chapter, the board may appoint an Educational Advisory Committee, which shall be composed of one member of the board, two persons in public practice who are licensed under this chapter, and four academicians on faculties of universities in this state.

Section 11. Present subsections (3) through (9) of section 473.308, Florida Statutes, are redesignated as subsections (4) through (10), respectively, a new subsection (3) is added to that section, and subsection (2), paragraph (b) of present subsection (4), and present subsection (8) of that section are

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amended, to read:

473.308 Licensure.—

(2) The board shall certify for licensure any applicant who successfully passes the licensure examination and satisfies the requirements of subsections (4), (5), and (6) ~~(3), (4), and (5)~~, and shall certify for licensure any firm that satisfies the requirements of ss. 473.309 and 473.3101. The board may refuse to certify any applicant or firm that has violated any of the provisions of s. 473.322.

(3) A person desiring to be licensed as a Florida certified public accountant or a firm desiring to engage in the practice of public accounting must create and maintain an online account with the department and provide an e-mail address to function as the primary means of contact for all communication from the department. Certified public accountants and firms are responsible for maintaining accurate contact information on file with the department and must submit any change in an e-mail address or street address within 30 days after the change. All changes must be submitted through the department's online system.

(5) ~~(4)~~

(b) However, an applicant who completed the requirements of subsection (4) ~~(3)~~ on or before December 31, 2008, and who passes the licensure examination on or before June 30, 2010, is exempt from the requirements of this subsection.

(9) ~~(8)~~ If the applicant has at least 5 years of experience in the practice of public accountancy in the United States or in the practice of public accountancy or its equivalent in a foreign country that the International Qualifications Appraisal

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Board of the National Association of State Boards of Accountancy has determined has licensure standards that are substantially equivalent to those in the United States, or has at least 5 years of work experience that meets the requirements of subsection (5) ~~(4)~~, the board ~~must~~ shall waive the requirements of subsection (4) ~~(3)~~ which are in excess of a baccalaureate degree. All experience that is used as a basis for waiving the requirements of subsection (4) ~~(3)~~ must be while licensed as a certified public accountant by another state or territory of the United States or while licensed in the practice of public accountancy or its equivalent in a foreign country that the International Qualifications Appraisal Board of the National Association of State Boards of Accountancy has determined has licensure standards that are substantially equivalent to those in the United States. The board shall have the authority to establish the standards for experience that meet this requirement.

Section 12. Subsection (2) of section 475.181, Florida Statutes, is amended to read:

475.181 Licensure.—

(2) The commission shall certify for licensure any applicant who satisfies the requirements of ss. 475.17, 475.175, and 475.180. The commission may refuse to certify any applicant who has violated any of the provisions of s. 475.42 or who is subject to discipline under s. 475.25. The application shall expire 2 years after the date received if the applicant does not pass the appropriate examination. ~~Additionally, if an applicant does not pass the licensing examination within 2 years after the successful course completion date, the applicant's successful~~

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~~course completion is invalid for licensure.~~

Section 13. Subsections (2) and (3) of section 476.114, Florida Statutes, are amended to read:

476.114 Examination; prerequisites.—

(2) An applicant ~~is shall be~~ eligible for licensure by examination to practice barbering if the applicant:

(a) Is at least 16 years of age;

(b) Pays the required application fee; and

(c) ~~1. Holds an active valid license to practice barbering in another state, has held the license for at least 1 year, and does not qualify for licensure by endorsement as provided for in s. 476.144(5); or~~

~~2.~~ Has received a minimum of 900 hours of training in sanitation, safety, and laws and rules, as established by the board, which must ~~shall~~ include, but is ~~shall~~ not ~~be~~ limited to, the equivalent of completion of services directly related to the practice of barbering at one of the following:

~~1.a.~~ A school of barbering licensed pursuant to chapter 1005;

~~2.b.~~ A barbering program within the public school system; or

~~3.c.~~ A government-operated barbering program in this state.

The board shall establish by rule procedures whereby the school or program may certify that a person is qualified to take the required examination after the completion of a minimum of 600 actual school hours. If the person passes the examination, she or he has ~~shall have~~ satisfied this requirement; but if the person fails the examination, she or he may ~~shall~~ not be

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qualified to take the examination again until the completion of the full requirements provided by this section.

(3) An applicant who meets the requirements set forth in ~~paragraph (2)(c), subparagraphs (2)(c)1. and 2.~~ who fails to pass the examination may take subsequent examinations as many times as necessary to pass, except that the board may specify by rule reasonable timeframes for rescheduling the examination and additional training requirements for applicants who, after the third attempt, fail to pass the examination. Prior to reexamination, the applicant must file the appropriate form and pay the reexamination fee as required by rule.

Section 14. Subsection (2) of section 477.019, Florida Statutes, is amended to read:

477.019 Cosmetologists; qualifications; licensure; supervised practice; license renewal; endorsement; continuing education.—

(2) An applicant is ~~shall be~~ eligible for licensure by examination to practice cosmetology if the applicant:

(a) Is at least 16 years of age or has received a high school diploma;

(b) Pays the required application fee, which is not refundable, and the required examination fee, which is refundable if the applicant is determined to not be eligible for licensure for any reason other than failure to successfully complete the licensure examination; and

~~(c) 1. Is authorized to practice cosmetology in another state or country, has been so authorized for at least 1 year, and does not qualify for licensure by endorsement as provided for in subsection (5); or~~

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~~2.~~ Has received a minimum of 1,200 hours of training as established by the board, which ~~must shall~~ include, but is shall not ~~be~~ limited to, the equivalent of completion of services directly related to the practice of cosmetology at one of the following:

~~1.a.~~ A school of cosmetology licensed pursuant to chapter 1005.

~~2.b.~~ A cosmetology program within the public school system.

~~3.c.~~ The Cosmetology Division of the Florida School for the Deaf and the Blind, provided the division meets the standards of this chapter.

~~4.d.~~ A government-operated cosmetology program in this state.

The board shall establish by rule procedures whereby the school or program may certify that a person is qualified to take the required examination after the completion of a minimum of 1,000 actual school hours. If the person then passes the examination, he or she has shall have satisfied this requirement; but if the person fails the examination, he or she may shall not be qualified to take the examination again until the completion of the full requirements provided by this section.

Section 15. Paragraph (c) of subsection (7) of section 489.131, Florida Statutes, is amended to read:

489.131 Applicability.—

(7)

(c) In addition to any action the local jurisdiction enforcement body may take against the individual's local license, and any fine the local jurisdiction may impose, the

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local jurisdiction enforcement body shall issue a recommended penalty for board action. This recommended penalty may include a recommendation for no further action, or a recommendation for suspension, restitution, revocation, or restriction of the registration, or a fine to be levied by the board, or a combination thereof. The recommended penalty must specify the violations of this chapter upon which the recommendation is based. The local jurisdiction enforcement body shall inform the disciplined contractor and the complainant of the local license penalty imposed, the board penalty recommended, his or her rights to appeal, and the consequences should he or she decide not to appeal. The local jurisdiction enforcement body shall, upon having reached adjudication or having accepted a plea of nolo contendere, immediately inform the board of its action and the recommended board penalty.

Section 16. Subsections (3) and (6) of section 489.143, Florida Statutes, are amended to read:

489.143 Payment from the fund.—

(3) Beginning January 1, 2005, for each Division I contract entered into after July 1, 2004, payment from the recovery fund is subject to a \$50,000 maximum payment for each Division I claim. Beginning January 1, 2017, for each Division II contract entered into on or after July 1, 2016, payment from the recovery fund is subject to a \$15,000 maximum payment for each Division II claim. Beginning January 1, 2025, for Division I and Division II contracts entered into on or after July 1, 2024, payment from the recovery fund is subject to a \$100,000 maximum payment for each Division I claim and a \$30,000 maximum payment for each Division II claim.

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581 (6) For contracts entered into before July 1, 2004,
 582 payments for claims against any one licensee may not exceed, in
 583 the aggregate, \$100,000 annually, up to a total aggregate of
 584 \$250,000. For any claim approved by the board which is in excess
 585 of the annual cap, the amount in excess of \$100,000 up to the
 586 total aggregate cap of \$250,000 is eligible for payment in the
 587 next and succeeding fiscal years, but only after all claims for
 588 the then-current calendar year have been paid. Payments may not
 589 exceed the aggregate annual or per claimant limits under law.
 590 Beginning January 1, 2005, for each Division I contract entered
 591 into after July 1, 2004, payment from the recovery fund is
 592 subject only to a total aggregate cap of \$500,000 for each
 593 Division I licensee. Beginning January 1, 2017, for each
 594 Division II contract entered into on or after July 1, 2016,
 595 payment from the recovery fund is subject only to a total
 596 aggregate cap of \$150,000 for each Division II licensee.
 597 Beginning January 1, 2025, for Division I and Division II
 598 contracts entered into on or after July 1, 2024, payment from
 599 the recovery fund is subject only to a total aggregate cap of \$2
 600 million for each Division I licensee and \$600,000 for each
 601 Division II licensee.

602 Section 17. Paragraph (b) of subsection (15) of section
 603 499.012, Florida Statutes, is amended to read:

604 499.012 Permit application requirements.—

605 (15)

606 (b) To be certified as a designated representative, a
 607 natural person must:

608 1. Submit an application on a form furnished by the
 609 department and pay the appropriate fees.

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610 2. Be at least 18 years of age.
 611 3. Have at least 2 years of verifiable full-time:
 612 a. Work experience in a pharmacy licensed in this state or
 613 another state, where the person's responsibilities included, but
 614 were not limited to, recordkeeping for prescription drugs;
 615 b. Managerial experience with a prescription drug wholesale
 616 distributor licensed in this state or in another state; ~~or~~
 617 c. Managerial experience with the United States Armed
 618 Forces, where the person's responsibilities included, but were
 619 not limited to, recordkeeping, warehousing, distributing, or
 620 other logistics services pertaining to prescription drugs;
 621 d. Managerial experience with a state or federal
 622 organization responsible for regulating or permitting
 623 establishments involved in the distribution of prescription
 624 drugs, whether in an administrative or a sworn law enforcement
 625 capacity; or
 626 e. Work experience as a drug inspector or investigator with
 627 a state or federal organization, whether in an administrative or
 628 a sworn law enforcement capacity, where the person's
 629 responsibilities related primarily to compliance with state or
 630 federal requirements pertaining to the distribution of
 631 prescription drugs.
 632 4. Receive a passing score of at least 75 percent on an
 633 examination given by the department regarding federal laws
 634 governing distribution of prescription drugs and this part and
 635 the rules adopted by the department governing the wholesale
 636 distribution of prescription drugs. This requirement shall be
 637 effective 1 year after the results of the initial examination
 638 are mailed to the persons that took the examination. The

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department shall offer such examinations at least four times each calendar year.

5. Provide the department with a personal information statement and fingerprints pursuant to subsection (9).

Section 18. Subsection (5) of section 561.17, Florida Statutes, is amended to read:

561.17 License and registration applications; approved person.—

(5) Any person or entity licensed or permitted by the division, or applying for a license or permit, must create and maintain an account with the division's online system and provide an e-mail ~~electronic mail~~ address to the division to function as the primary means of contact for all communication by the division to the licensee, ~~or~~ permittee, or applicant. Licensees, ~~and~~ permittees, and applicants are responsible for maintaining accurate contact information on file with the division. A person or an entity seeking a license or permit from the division must apply using forms prepared by the division and filed through the division's online system before engaging in any business for which a license or permit is required. The division may not process an application for an alcoholic beverage license unless the application is submitted through the division's online system.

Section 19. Section 569.00256, Florida Statutes, is created to read:

569.00256 Account; online system.—A person or an entity licensed or permitted by the division under this part, or applying for a license or a permit, must create and maintain an account with the division's online system and provide an e-mail

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address to the division to function as the primary means of contact for all communication by the division to the licensee, permittee, or applicant. Licensees, permittees, and applicants are responsible for maintaining accurate contact information with the division. A person or an entity seeking a license or permit from the division must apply using forms prepared by the division and filed through the division's online system before engaging in any business for which a license or permit is required. The division may not process an application to deal, at retail, in tobacco products unless the application is submitted through the division's online system.

Section 20. Section 569.3156, Florida Statutes, is created to read:

569.3156 Account; online system.—A person or an entity licensed or permitted by the division under this part, or applying for a license or a permit, must create and maintain an account with the division's online system and provide an e-mail address to the division to function as the primary means of contact for all communication by the division to the licensee, permittee, or applicant. Licensees, permittees, and applicants are responsible for maintaining accurate contact information with the division. A person or an entity seeking a license or permit from the division must apply using forms prepared by the division and filed through the division's online system before engaging in any business for which a license or permit is required. The division may not process an application to deal, at retail, in nicotine products unless the application is submitted through the division's online system.

Section 21. Paragraph (a) of subsection (4) of section

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697 20.165, Florida Statutes, is amended to read:
 698 20.165 Department of Business and Professional Regulation.—
 699 There is created a Department of Business and Professional
 700 Regulation.
 701 (4) (a) The following boards and programs are established
 702 within the Division of Professions:
 703 1. Board of Architecture and Interior Design, created under
 704 part I of chapter 481.
 705 2. Florida Board of Auctioneers, created under part VI of
 706 chapter 468.
 707 3. Barbers' Board, created under chapter 476.
 708 4. Florida Building Code Administrators and Inspectors
 709 Board, created under part XII of chapter 468.
 710 5. Construction Industry Licensing Board, created under
 711 part I of chapter 489.
 712 6. Board of Cosmetology, created under chapter 477.
 713 7. Electrical Contractors' Licensing Board, created under
 714 part II of chapter 489.
 715 8. Employee leasing companies licensing program ~~Board of~~
 716 ~~Employee Leasing Companies~~, created under part XI of chapter
 717 468.
 718 9. Board of Landscape Architecture, created under part II
 719 of chapter 481.
 720 10. Board of Pilot Commissioners, created under chapter
 721 310.
 722 11. Board of Professional Engineers, created under chapter
 723 471.
 724 12. Board of Professional Geologists, created under chapter
 725 492.

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726 13. Board of Veterinary Medicine, created under chapter
 727 474.
 728 14. Home inspection services licensing program, created
 729 under part XV of chapter 468.
 730 15. Mold-related services licensing program, created under
 731 part XVI of chapter 468.
 732 Section 22. Subsection (2) of section 210.16, Florida
 733 Statutes, is amended to read:
 734 210.16 Revocation or suspension of permit.—
 735 (2) The division shall revoke the permit or permits of any
 736 person who would be ineligible to obtain a new license or renew
 737 a license by reason of any of the conditions for permitting
 738 provided in s. 210.15(1)(d)1.-6. ~~s. 210.15(1)(e)1.-6.~~
 739 Section 23. Paragraph (uuu) of subsection (7) of section
 740 212.08, Florida Statutes, is amended to read:
 741 212.08 Sales, rental, use, consumption, distribution, and
 742 storage tax; specified exemptions.—The sale at retail, the
 743 rental, the use, the consumption, the distribution, and the
 744 storage to be used or consumed in this state of the following
 745 are hereby specifically exempt from the tax imposed by this
 746 chapter.
 747 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
 748 entity by this chapter do not inure to any transaction that is
 749 otherwise taxable under this chapter when payment is made by a
 750 representative or employee of the entity by any means,
 751 including, but not limited to, cash, check, or credit card, even
 752 when that representative or employee is subsequently reimbursed
 753 by the entity. In addition, exemptions provided to any entity by
 754 this subsection do not inure to any transaction that is

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otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(uuu) *Small private investigative agencies.*—

1. As used in this paragraph, the term:

a. "Private investigation services" has the same meaning as "private investigation," as defined in s. 493.6101(17).

b. "Small private investigative agency" means a private investigator licensed under s. 493.6201 which:

(I) Employs three or fewer full-time or part-time employees, including those performing services pursuant to an employee leasing arrangement as defined in s. 468.520(3) ~~s. 468.520(4)~~, in total; and

(II) During the previous calendar year, performed private investigation services otherwise taxable under this chapter in which the charges for the services performed were less than \$150,000 for all its businesses related through common ownership.

2. The sale of private investigation services by a small private investigative agency to a client is exempt from the tax imposed by this chapter.

3. The exemption provided by this paragraph may not apply

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in the first calendar year a small private investigative agency conducts sales of private investigation services taxable under this chapter.

Section 24. Paragraph (a) of subsection (19) of section 440.02, Florida Statutes, is amended to read:

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(19)(a) "Employer" means the state and all political subdivisions thereof, all public and quasi-public corporations therein, every person carrying on any employment, and the legal representative of a deceased person or the receiver or trustees of any person. The term also includes employee leasing companies, as defined in s. 468.520(4) ~~s. 468.520(5)~~, and employment agencies that provide their own employees to other persons. If the employer is a corporation, parties in actual control of the corporation, including, but not limited to, the president, officers who exercise broad corporate powers, directors, and all shareholders who directly or indirectly own a controlling interest in the corporation, are considered the employer for the purposes of ss. 440.105, 440.106, and 440.107.

Section 25. Section 448.26, Florida Statutes, is amended to read:

448.26 Application.—Nothing in this part shall exempt any client of any labor pool or temporary help arrangement entity as defined in s. 468.520(3)(a) ~~s. 468.520(4)(a)~~ or any assigned employee from any other license requirements of state, local, or federal law. Any employee assigned to a client who is licensed, registered, or certified pursuant to law shall be deemed an

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employee of the client for such licensure purposes but shall remain an employee of the labor pool or temporary help arrangement entity for purposes of chapters 440 and 443.

Section 26. Subsection (2) of section 468.520, Florida Statutes, is amended to read:

468.520 Definitions.—As used in this part:

~~(2) "Board" means the Board of Employee Leasing Companies.~~

Section 27. Section 468.522, Florida Statutes, is amended to read:

468.522 Rules of the board.—The department may ~~board has authority to~~ adopt rules pursuant to ss. 120.536(1) and 120.54 to implement ~~the provisions of~~ this part. Every licensee shall be governed and controlled by this part and the rules adopted by the department ~~board~~.

Section 28. Subsections (2) and (4) of section 468.524, Florida Statutes, are amended to read:

468.524 Application for license.—

(2) The department ~~board~~ may require information and certifications necessary to determine that the applicant is of good moral character and meets other licensure requirements of this part.

(4) An applicant or licensee is ineligible to reapply for a license for a period of 1 year following final agency action on the denial or revocation of a license applied for or issued under this part. This time restriction does not apply to administrative denials or revocations entered because:

(a) The applicant or licensee has made an inadvertent error or omission on the application;

(b) The experience documented to the department ~~board~~ was

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insufficient at the time of the previous application;

(c) The department is unable to complete the criminal background investigation because of insufficient information from the Florida Department of Law Enforcement, the Federal Bureau of Investigation, or any other applicable law enforcement agency;

(d) The applicant or licensee has failed to submit required fees; or

(e) An applicant or licensed employee leasing company has been deemed ineligible for a license because of the lack of good moral character of an individual or individuals when such individual or individuals are no longer employed in a capacity that would require their licensing under this part.

Section 29. Section 468.5245, Florida Statutes, is amended to read:

468.5245 Change of ownership.—

(1) A license or registration issued to any entity under this part may not be transferred or assigned. The department ~~board~~ shall adopt rules to provide for a licensee's or registrant's change of name or location.

(2) A person or entity that seeks to purchase or acquire control of an employee leasing company or group licensed or registered under this part must first apply to the department ~~board~~ for a certificate of approval for the proposed change of ownership. However, prior approval is not required if, at the time the purchase or acquisition occurs, a controlling person of the employee leasing company or group maintains a controlling person license under this part. Notification must be provided to the department ~~board~~ within 30 days after the purchase or

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871 acquisition of such company in the manner prescribed by the
872 department board.

873 (3) Any application that is submitted to the department
874 ~~board~~ under this section ~~is shall be~~ deemed approved if the
875 department board has not approved the application or rejected
876 the application, and provided the applicant with the basis for a
877 rejection, within 90 days after the receipt of the completed
878 application.

879 (4) The department board ~~shall~~ establish filing fees for a
880 change-of-ownership application in accordance with s.
881 468.524(1).

882 Section 30. Subsections (2) and (3) of section 468.525,
883 Florida Statutes, are amended to read:

884 468.525 License requirements.—

885 (2)(a) As used in this part, "good moral character" means a
886 personal history of honesty, trustworthiness, fairness, a good
887 reputation for fair dealings, and respect for the rights of
888 others and for the laws of this state and nation. A thorough
889 background investigation of the individual's good moral
890 character shall be instituted by the department. Such
891 investigation shall require:

892 1. The submission of fingerprints, for processing through
893 appropriate law enforcement agencies, by the applicant and the
894 examination of police records by the department board.

895 2. Such other investigation of the individual as the
896 department board may deem necessary.

897 (b) The department board may deny an application for
898 licensure or renewal citing lack of good moral character.
899 Conviction of a crime within the last 7 years does shall not

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900 automatically bar any applicant or licensee from obtaining a
901 license or continuing as a licensee. The department board shall
902 consider the type of crime committed, the crime's relevancy to
903 the employee leasing industry, the length of time since the
904 conviction and any other factors deemed relevant by the
905 department board.

906 (3) Each employee leasing company licensed by the
907 department shall have a registered agent for service of process
908 in this state and at least one licensed controlling person. In
909 addition, each licensed employee leasing company shall comply
910 with the following requirements:

911 (a) The employment relationship with workers provided by
912 the employee leasing company to a client company shall be
913 established by written agreement between the leasing company and
914 the client, and written notice of that relationship shall be
915 given by the employee leasing company to each worker who is
916 assigned to perform services at the client company's worksite.

917 (b) An applicant for an initial employee leasing company
918 license shall have a tangible accounting net worth of not less
919 than \$50,000.

920 (c) An applicant for initial or renewal license of an
921 employee leasing company license or employee leasing company
922 group shall have an accounting net worth or shall have
923 guaranties, letters of credit, or other security acceptable to
924 the department board in sufficient amounts to offset any
925 deficiency. A guaranty will not be acceptable to satisfy this
926 requirement unless the applicant submits sufficient evidence to
927 satisfy the department board that the guarantor has adequate
928 resources to satisfy the obligation of the guaranty.

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929 (d) Each employee leasing company shall maintain an
 930 accounting net worth and positive working capital, as determined
 931 in accordance with generally accepted accounting principles, or
 932 shall have guaranties, letters of credit, or other security
 933 acceptable to the department board in sufficient amounts to
 934 offset any deficiency. A guaranty will not be acceptable to
 935 satisfy this requirement unless the licensee submits sufficient
 936 evidence, as defined by rule, that the guarantor has adequate
 937 resources to satisfy the obligation of the guaranty. In
 938 determining the amount of working capital, a licensee shall
 939 include adequate reserves for all taxes and insurance, including
 940 plans of self-insurance or partial self-insurance for claims
 941 incurred but not paid and for claims incurred but not reported.
 942 Compliance with the requirements of this paragraph is subject to
 943 verification by department ~~or board~~ audit.

944 (e) Each employee leasing company or employee leasing
 945 company group shall submit annual financial statements audited
 946 by an independent certified public accountant, with the
 947 application and within 120 days after the end of each fiscal
 948 year, in a manner and time prescribed by the department board,
 949 provided however, that any employee leasing company or employee
 950 leasing company group with gross Florida payroll of less than
 951 \$2.5 million during any fiscal year may submit financial
 952 statements reviewed by an independent certified public
 953 accountant for that year.

954 (f) The licensee shall notify the department ~~or board~~ in
 955 writing within 30 days after any change in the application or
 956 status of the license.

957 (g) Each employee leasing company or employee leasing

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958 company group shall maintain accounting and employment records
 959 relating to all employee leasing activities for a minimum of 3
 960 calendar years.

961 Section 31. Subsections (3) and (5) of section 468.526,
 962 Florida Statutes, are amended to read:

963 468.526 License required; fees.—

964 (3) Each employee leasing company and employee leasing
 965 company group licensee shall pay to the department upon the
 966 initial issuance of a license and upon each renewal thereafter a
 967 license fee not to exceed \$2,500 to be established by the
 968 department board. In addition to the license fee, the department
 969 ~~board~~ shall establish an annual assessment for each employee
 970 leasing company and each employee leasing company group
 971 sufficient to cover all costs for regulation of the profession
 972 pursuant to this chapter, chapter 455, and any other applicable
 973 provisions of law. The annual assessment shall:

974 (a) Be due and payable upon initial licensure and
 975 subsequent renewals thereof and 1 year before the expiration of
 976 any licensure period; and

977 (b) Be based on a fixed percentage, variable classes, or a
 978 combination of both, as determined by the department board, of
 979 gross Florida payroll for employees leased to clients by the
 980 applicant or licensee during the period beginning five quarters
 981 before and ending one quarter before each assessment. It is the
 982 intent of the Legislature that the greater weight of total fees
 983 for licensure and assessments should be on larger companies and
 984 groups.

985 (5) Each controlling person licensee shall pay to the
 986 department upon the initial issuance of a license and upon each

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renewal thereafter a license fee to be established by the
~~department board~~ in an amount not to exceed \$2,000.

Section 32. Subsection (1) of section 468.527, Florida
 Statutes, is amended to read:

468.527 Licensure and license renewal.—

(1) The department shall license any applicant who the
~~department board~~ certifies is qualified to practice employee
 leasing as an employee leasing company, employee leasing company
 group, or controlling person.

Section 33. Subsection (2) of section 468.5275, Florida
 Statutes, is amended to read:

468.5275 Registration and exemption of de minimis
 operations.—

(2) A registration is valid for 1 year. Each registrant
 shall pay to the department upon initial registration, and upon
 each renewal thereafter, a registration fee to be established by
 the ~~department board~~ in an amount not to exceed:

(a) Two hundred and fifty dollars for an employee leasing
 company.

(b) Five hundred dollars for an employee leasing company
 group.

Section 34. Subsections (2), (4), and (5) of section
 468.529, Florida Statutes, are amended to read:

468.529 Licensee's insurance; employment tax; benefit
 plans.—

(2) An initial or renewal license may not be issued to any
 employee leasing company unless the employee leasing company
 first files with the ~~department board~~ evidence of workers'
 compensation coverage for all leased employees in this state.

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Each employee leasing company shall maintain and make available
 to its workers' compensation carrier the following information:

(a) The correct name and federal identification number of
 each client company.

(b) A listing of all covered employees provided to each
 client company, by classification code.

(c) The total eligible wages by classification code and the
 premiums due to the carrier for the employees provided to each
 client company.

(4) An initial or renewal license may not be issued to any
 employee leasing company unless the employee leasing company
 first provides evidence to the ~~department board~~, as required by
~~department board~~ rule, that the employee leasing company has
 paid all of the employee leasing company's obligations for
 payroll, payroll-related taxes, workers' compensation insurance,
 and employee benefits. All disputed amounts must be disclosed in
 the application.

(5) The provisions of this section are subject to
 verification by department ~~or board~~ audit.

Section 35. Subsections (3) and (4) of section 468.530,
 Florida Statutes, are amended to read:

468.530 License, contents; posting.—

(3) No license shall be valid for any person or entity who
 engages in the business under any name other than that specified
 in the license. A license issued under this part is ~~shall~~ not be
 assignable, and no licensee may conduct a business under a
 fictitious name without prior written authorization of the
~~department board~~ to do so. The ~~department board~~ may not
 authorize the use of a name which is so similar to that of a

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public officer or agency, or of that used by another licensee, that the public may be confused or misled thereby. No licensee shall be permitted to conduct business under more than one name unless it has obtained a separate license. A licensee desiring to change its licensed name at any time except upon license renewal shall notify the department ~~board~~ and pay a fee not to exceed \$50 for each authorized change of name.

(4) Each employee leasing company or employee leasing company group licensed under this part shall be properly identified in all advertisements, which must include the license number, licensed business name, and other appropriate information in accordance with department rules ~~established by the board~~.

Section 36. Subsection (1) of section 468.531, Florida Statutes, is amended to read:

468.531 Prohibitions; penalties.—

(1) No person or entity shall:

(a) Practice or offer to practice as an employee leasing company, an employee leasing company group, or a controlling person unless such person or entity is licensed pursuant to this part;

(b) Practice or offer to practice as an employee leasing company or employee leasing company group unless all controlling persons thereof are licensed pursuant to this part;

(c) Use the name or title "licensed employee leasing company," "employee leasing company," "employee leasing company group," "professional employer," "professional employer organization," "controlling person," or words that would tend to lead one to believe that such person or entity is registered

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pursuant to this part, when such person or entity has not registered pursuant to this part;

(d) Present as his or her own or his or her entity's own the license of another;

(e) Knowingly give false or forged evidence to the department ~~board or a member thereof~~; or

(f) Use or attempt to use a license that has been suspended or revoked.

Section 37. Subsections (1), (2), and (4) of section 468.532, Florida Statutes, are amended to read:

468.532 Discipline.—

(1) The following constitute grounds for which disciplinary action against a licensee may be taken by the department ~~board~~:

(a) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, bribery, fraud, or willful misrepresentation in obtaining, attempting to obtain, or renewing a license.

(b) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the operation of an employee leasing business or the ability to engage in business as an employee leasing company.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, fraud, deceit, or misconduct in the classification of employees pursuant to chapter 440.

(d) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, fraud, deceit, or misconduct in the establishment or maintenance of

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1103 self-insurance, be it health insurance or workers' compensation
 1104 insurance.
 1105 (e) Being convicted or found guilty of, or entering a plea
 1106 of nolo contendere to, regardless of adjudication, fraud,
 1107 deceit, or misconduct in the operation of an employee leasing
 1108 company.
 1109 (f) Conducting business without an active license.
 1110 (g) Failing to maintain workers' compensation insurance as
 1111 required in s. 468.529.
 1112 (h) Transferring or attempting to transfer a license issued
 1113 pursuant to this part.
 1114 (i) Violating any provision of this part or any lawful
 1115 order or rule issued under the provisions of this part or
 1116 chapter 455.
 1117 (j) Failing to notify the department board, in writing, of
 1118 any change of the primary business address or the addresses of
 1119 any of the licensee's offices in the state.
 1120 (k) Having been confined in any county jail,
 1121 postadjudication, or being confined in any state or federal
 1122 prison or mental institution, or when through mental disease or
 1123 deterioration, the licensee can no longer safely be entrusted to
 1124 deal with the public or in a confidential capacity.
 1125 (l) Having been found guilty for a second time of any
 1126 misconduct that warrants suspension or being found guilty of a
 1127 course of conduct or practices which shows that the licensee is
 1128 so incompetent, negligent, dishonest, or untruthful that the
 1129 money, property, transactions, and rights of investors, or those
 1130 with whom the licensee may sustain a confidential relationship,
 1131 may not safely be entrusted to the licensee.

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1132 (m) Failing to inform the department board in writing
 1133 within 30 days after being convicted or found guilty of, or
 1134 entering a plea of nolo contendere to, any felony, regardless of
 1135 adjudication.
 1136 (n) Failing to conform to any lawful order of the
 1137 department board.
 1138 (o) Being determined liable for civil fraud by a court in
 1139 any jurisdiction.
 1140 (p) Having adverse material final action taken by any state
 1141 or federal regulatory agency for violations within the scope of
 1142 control of the licensee.
 1143 (q) Failing to inform the department board in writing
 1144 within 30 days after any adverse material final action by a
 1145 state or federal regulatory agency.
 1146 (r) Failing to meet or maintain the requirements for
 1147 licensure as an employee leasing company or controlling person.
 1148 (s) Engaging as a controlling person any person who is not
 1149 licensed as a controlling person by the department board.
 1150 (t) Attempting to obtain, obtaining, or renewing a license
 1151 to practice employee leasing by bribery, misrepresentation, or
 1152 fraud.
 1153 (2) When the department board finds any violation of
 1154 subsection (1), it may do one or more of the following:
 1155 (a) Deny an application for licensure.
 1156 (b) Permanently revoke, suspend, restrict, or not renew a
 1157 license.
 1158 (c) Impose an administrative fine not to exceed \$5,000 for
 1159 every count or separate offense.
 1160 (d) Issue a reprimand.

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1161 (e) Place the licensee on probation for a period of time
 1162 and subject to such conditions as the department board may
 1163 specify.

1164 (f) Assess costs associated with investigation and
 1165 prosecution.

1166 (4) The department board shall specify the penalties for
 1167 any violation of this part.

1168 Section 38. Paragraph (a) of subsection (6) of section
 1169 476.144, Florida Statutes, is amended to read:

1170 476.144 Licensure.—

1171 (6) A person may apply for a restricted license to practice
 1172 barbering. The board shall adopt rules specifying procedures for
 1173 an applicant to obtain a restricted license if the applicant:

1174 (a)1. Has successfully completed a restricted barber
 1175 course, as established by rule of the board, at a school of
 1176 barbering licensed pursuant to chapter 1005, a barbering program
 1177 within the public school system, or a government-operated
 1178 barbering program in this state; or

1179 2.a. Holds or has within the previous 5 years held an
 1180 active valid license to practice barbering in another state or
 1181 country or has held a Florida barbering license which has been
 1182 declared null and void for failure to renew the license, and the
 1183 applicant fulfilled the requirements of s. 476.114(2)(c) ~~or~~
 1184 ~~476.114(2)(c)2.~~ for initial licensure; and

1185 b. Has not been disciplined relating to the practice of
 1186 barbering in the previous 5 years; and

1187
 1188 The restricted license shall limit the licensee's practice to
 1189 those specific areas in which the applicant has demonstrated

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1190 competence pursuant to rules adopted by the board.

1191 Section 39. Paragraph (a) of subsection (2) of section
 1192 627.192, Florida Statutes, is amended to read:

1193 627.192 Workers' compensation insurance; employee leasing
 1194 arrangements.—

1195 (2) For purposes of the Florida Insurance Code:

1196 (a) "Employee leasing" shall have the same meaning as set
 1197 forth in s. 468.520(3) ~~s. 468.520(4)~~.

1198 Section 40. This act shall take effect July 1, 2024.



The Florida Senate

Committee Agenda Request

To: Senator Jason Brodeur, Chair
Appropriations Committee on Agriculture, Environment, and General
Government

Subject: Committee Agenda Request

Date: February 7, 2024

I respectfully request that **Senate Bill #1544**, relating to Department of Business and Professional Regulation, be placed on the:

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

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

Senator Ed Hooper
Florida Senate, District 21

The Florida Senate

APPEARANCE RECORD

2-13-24

Meeting Date

1544

Bill Number or Topic

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

Appropriations Committee on Agriculture
& General Government

Committee

Amendment Barcode (if applicable)

Name Derek Miller

Phone 850-487-4827

Address 2601 Blair Stone Road
Street

Email Derek.Miller@myfloridailicense.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: DBPR

☐ 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 Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/SB 1624

INTRODUCER: Regulated Industries Committee and Senator Collins

SUBJECT: Energy Resources

DATE: February 12, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Scharader	Imhof	RI	Fav/CS
2.	Davis	Betta	AEG	Pre-meeting
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1624 amends several sections of Florida law and creates new statutory provisions relating to energy resources. In summary, the bill:

- Creates limitations on local government regulation of natural gas resiliency and reliability infrastructure.
- Revises energy guidelines for public businesses, deleting requirements relating to the Florida Climate-Friendly Preferred Products List, and state vehicle fuel efficiency.
- Requires the Department of Management Services (DMS) to develop the Florida Humane Preferred Products List to identify certain products that appear to be largely made free from forced labor.
- Prohibits the Florida Department of Transportation (FDOT) from assigning or transferring its permitting rights across any transportation right-of-way operated by the FDOT to a third party or governmental entity that does not operate the transportation right-of-way without prior approval of the Legislature.
- Prohibits the FDOT and local government entities from requiring a utility within a public road operated by the authority to be relocated on behalf of any other third-party or governmental agency project related to a separate public or private road or transportation corridor.
- Adds “development districts” to a provision that prohibits a municipality, county, special district, or other political subdivision of the state from enacting or enforcing a resolution, ordinance, rule, code, or policy or taking any action that restricts or prohibits or has the effect of restricting or prohibiting the types or fuel sources of energy production which may be

used, delivered, converted, or supplied by utilities, gas districts, natural gas transmission companies, and certain liquefied petroleum gas dealers, dispensers, and cylinder exchange operators.

- Adds “development districts” to a provision that prohibits a municipality, county, special district, or other political subdivision of the state from restricting or prohibiting the use of an appliance using the fuels or energy types supplied by the entities above.
- Requires the Public Service Commission (PSC) to create targeted storm reserve amounts for public utilities.
- Authorizes the PSC to establish an experimental mechanism to facilitate energy infrastructure investment.
- Permits the PSC to approve voluntary public utility programs for residential, customer-specific electric vehicle (EV) charging if the PSC determines that the rates and rate structure of a proposed program would not adversely impact the public utility’s general body of ratepayers.
- Requires the PSC to conduct an annual proceeding to determine prudently incurred natural gas facilities relocation costs for cost recovery by natural gas public utilities through a charge separate from the utility’s base rates.
- Substantially revises legislative intent as it pertains to part II, of ch. 377, F.S., which provides energy resource planning and development policies for Florida. The revisions also provide updated energy policy goals and state policies as they relate to energy resource planning and development.
- Eliminates a requirement that the Department of Agriculture and Consumer Services (DACS), when analyzing the energy data collected and preparing long-range forecasts of energy supply and demand, forecasts contain plans for the development of renewable energy resources and reduction in dependence on depletable energy resources, particularly oil and natural gas. Instead, such forecasts must contain an analysis of the extent to which domestic energy resources, including renewable energy sources, are being utilized in the state. It also revises certain related considerations and assessments.
- Repeals the Florida Energy and Climate Protection Act (Renewable Energy and Energy-Efficient Technologies Grants Program), Florida Green Government Grants Act, Energy Economic Zone Pilot Program, and Qualified Energy Conservation Bonds provisions.
- Provides procedures for handling existing applications and contracts relating to the above repealed programs.
- Increases the minimum length of an intrastate natural gas pipeline that requires certification under the Natural Gas Transmission Pipeline Siting Act from 15 miles to 100 miles.
- Directs the Florida Department of Commerce (FDC) to expand eligibility for the Low-Income Energy Assistance Program (LIHEAP) to persons in certain federal disability programs.
- Directs the FDC to develop a process for automated LIHEAP payments to home energy suppliers.
- Prohibits homeowners associations from disallowing certain types or fuel sources of energy production and appliances that use such fuels in their governing documents.
- Directs the PSC to conduct an assessment of the security and resiliency of the state’s electric grid and natural gas facilities against both physical threats and cyber threats. The provision also requires the PSC to submit a report to the Legislature.

- Directs the PSC to study and evaluate the technical and economic feasibility of using advanced nuclear power technologies, including small modular reactors (SMRs), to meet the state's electrical power needs, and research means to encourage and foster the installation and use of such technologies at military installations in the state. The provision also requires the PSC to submit a report to the Governor, President of the Senate, and Speaker of the House of Representatives.
- Directs the FDOT, in consultation with the Office of Energy within the DACS, to study and evaluate the potential development of hydrogen fueling infrastructure, including fueling stations, to support hydrogen-powered vehicles that use the state highway system. The provision also requires the FDOT to the Governor, President of the Senate, and Speaker of the House of Representatives.
- Makes conforming changes.

The bill may have a significant negative fiscal impact on state expenditures. See Section V., Fiscal Impact Statement.

Except as expressly otherwise provided, the bill takes effect July 1, 2024.

II. Present Situation:

The Florida Department of Transportation (FDOT) acquires land throughout the state to utilize for transportation facilities¹ and secure rights-of-way through purchase, lease, exchange, donation, or other types of acquisition.² The FDOT is authorized to convey acquired property it determines not to be needed for the construction, operation, and maintenance of a transportation facility.³

Generally, the FDOT may dispose of the property through negotiations, sealed competitive bids, auctions, or any other means the FDOT deems to be in its best interest.⁴ A sale of unneeded property may not occur at a price less than the FDOT's current estimate of value except that:

- If the property has been donated to the state for transportation purposes and a transportation facility has not been constructed for at least five years, plans have not been prepared for the construction of such facility, and the property is not located in a transportation corridor, the governmental entity may authorize reconveyance of the donated property for no consideration to the original donor or the donor's heirs, successors, assigns, or representatives.⁵
- If the property is to be used for a public purpose, including, but not limited to, affordable housing as provided in ss. 125.379 and 166.0451, F.S., the property may be conveyed without consideration to a governmental entity.⁶

¹ "Transportation facility" means any means for the transportation of people or property from place to place which is constructed, operated, or maintained in whole or in part from public funds. The term includes the property or property rights, both real and personal, which have been or may be established by public bodies for the transportation of people or property from place to place. See s. 334.03(30), F.S.

² Section 337.25(1), F.S.

³ Section 337.25(4), F.S.

⁴ *Id.*

⁵ Section 337.25(4)(a), F.S.

⁶ Section 337.25(4)(b), F.S.

- If the property was originally acquired specifically to provide replacement housing for persons displaced by transportation projects, the FDOT may negotiate for the sale of such property as replacement housing.⁷
- If the FDOT determines the property requires significant costs to be incurred or that continued ownership of the property exposes the FDOT to significant liability risks, the FDOT may use the projected maintenance costs over the next 10 years to offset the property's value in establishing a value for disposal of the property, even if that value is zero.⁸
- If, at the discretion of the FDOT, a sale to a person other than an abutting property owner would be inequitable, the property may be sold to the abutting owner for the FDOT's current estimate of value.

Payment for Moving or Removing Utilities and Exceptions

Section 337.403(1), F.S., requires utility owners to bear the cost of relocating utility facilities placed upon, under, over, or within the right-of-way limits of any public road or publicly owned rail corridor which is found by the authority⁹ to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road or publicly owned rail corridor. Utility owners, upon 30 days' notice, must eliminate the unreasonable interference within a reasonable time or an agreed time, at their own expense. Numerous exceptions are provided to this provision, and are located in ss. 337.403(1)(a)-(j), F.S. The requirements of s. 337.403(1), F.S., apply even if the utility facility is within a public utility easement and the utility has a franchise agreement with the authority, absent some other agreement to the contrary regarding costs of relocation.¹⁰

Renewable Energy

Section 366.91, F.S., establishes a number of renewable policies for the state. The purpose of these policies, as established in statute, states that it is in the public interest to promote the development of renewable energy resources in this state.¹¹ Further, the statute is intended to encourage fuel diversification to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourages investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies.¹²

The section defines "renewable energy" to mean:

[E]lectrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced or resulting from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat,

⁷ Section 337.25(4)(c), F.S.

⁸ Section 337.25(4)(d), F.S.

⁹ As used in ss. 337.401-337.404, F.S., "the authority" means the FDOT and local government entities. Section 337.401(1)(a), F.S.

¹⁰ *Lee County Electric Coop., Inc. v. City of Cape Coral*, 159 So. 3d 126, 130 (Fla. 2d DCA 2014).

¹¹ Section 366.91(1), F.S.

¹² *Id.*

from sulfuric acid manufacturing operations and electrical energy produced using pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration.¹³

The section defines “biogas” as “a mixture of gases produced by the biological decomposition of organic materials which is largely comprised of carbon dioxide, hydrocarbons, and methane gas,”¹⁴ and “biomass” as “a power source that is comprised of, but not limited to, combustible residues or gases from forest products manufacturing, waste, byproducts, or products from agricultural and orchard crops, waste or coproducts from livestock and poultry operations, waste or byproducts from food processing, urban wood waste, municipal solid waste, municipal liquid waste treatment operations, and landfill gas.”¹⁵

Biofuels

Unlike other renewable energy sources, biomass can be converted directly into a liquid fuel. These fuels, called “biofuels” can be used for transportation fuel and other energy uses. The most common types of biofuels currently in use are ethanol and biodiesel.¹⁶

Ethanol is made from various plant material and is an alcohol blending agent mixed with traditional gasoline to reduce emissions. The most common type is E10 (10 percent ethanol and 90 percent gasoline) and it is approved for use in most conventional gasoline powered engines. Some vehicles, called flexible fuel vehicles, are designed to run on E15 (15 percent ethanol and 85 percent gasoline). Approximately 97 percent of gasoline sold in the United States has some amount of ethanol in it. The most common method of producing ethanol is through fermentation, where microorganisms metabolize plant sugars to produce ethanol.¹⁷

Biodiesel differs from ethanol in that it is meant as a cleaner-burning replacement for conventional (i.e. petroleum-based) diesel fuel. It is derived, generally, from new and used vegetable oils and animal fats. Biodiesel is produced by combining alcohol with fats.¹⁸ Biodiesel is generally blended with petroleum-based diesel for consumption as a vehicle fuel.¹⁹

Renewable diesel fuel is a growing industry. The fuel, chemically similar to petroleum-based diesel fuel, can be used as a “drop-in” replacement for petroleum-based diesel fuel and can be seamlessly blended, transported, and even co-processed with petroleum-based diesel.²⁰ The production method for renewable diesel fuel is more complex than biodiesel and most is

¹³ Section 366.91(2)(e), F.S.

¹⁴ Section 366.91(2)(a), F.S.

¹⁵ Section 366.91(2)(b), F.S.

¹⁶ United States Department of Energy, *Biofuel Basics*, <https://www.energy.gov/eere/bioenergy/biofuel-basics#:~:text=The%20two%20most%20common%20types,first%20generation%20of%20biofuel%20technology> (last visited Feb. 1, 2024).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ United States Energy Information Administration, *Biofuels explained*, Jul. 19, 2022, <https://www.eia.gov/energyexplained/biofuels/> (last visited Feb. 1, 2024).

²⁰ United States Energy Information Administration. *Biofuels explained: Biodiesel, renewable diesel, and other biofuels*, Jul. 29, 2022, <https://www.eia.gov/energyexplained/biofuels/biodiesel-rd-other-basics.php>, (last visited Feb. 1, 2024).

produced by hydrogenation of triglycerides, a similar process to that used for desulfurization of petroleum diesel. Other methods can also be used for renewable diesel production, including gasification and pyrolysis.²¹

Other biofuels, including renewable heating oil, renewable jet fuel (sustainable aviation fuel, alternative jet fuel, biojet), renewable naphtha, and renewable gasoline are also currently in various stages of development and commercial implementation.²²

Natural Gas and Renewable Natural Gas

Natural gas is a fossil energy source which forms beneath the earth's surface. Natural gas contains many different compounds, the largest of which is methane.²³ Conventional natural gas is primarily extracted from subsurface porous rock reservoirs via gas and oil well drilling and hydraulic fracturing, commonly referred to as "fracking." The term renewable natural gas (RNG) refers to biogas that has been upgraded to use in place of fossil fuel natural gas (i.e. conventional natural gas).²⁴

Section 366.91, F.S., identifies sources for producing RNG as a potential source of renewable energy.²⁵ The section specifically defines renewable natural gas as anaerobically generated biogas, landfill gas, or wastewater treatment gas refined to a methane content of 90 percent or greater. Under the definition, such gas may be used as a transportation fuel or for electric generation, or is of a quality capable of being injected into a natural gas pipeline.

Biogas used to produce RNG comes from various sources, including municipal solid waste landfills, digesters at water resource recovery facilities, livestock farms, food production facilities, and organic waste management operations.²⁶ Raw biogas has a methane content between 45 and 65 percent.²⁷ Once biogas is captured, it is treated in a process called conditioning or upgrading, which involves the removal of water, carbon dioxide, hydrogen sulfide, and other trace elements. After this process, the nitrogen and oxygen content is reduced and the RNG has a methane content comparable to natural gas and is thus a suitable energy source in applications that require pipeline-quality gas, such as vehicle applications.²⁸

²¹ *Id.*

²² United States Energy Information Administration, *Biofuels explained*, *supra* note 19.

²³ United States Energy Information Administration, *Natural gas explained*, Dec. 27, 2022, <https://www.eia.gov/energyexplained/natural-gas/> (last visited Feb. 1, 2024).

²⁴ Environmental Protection Agency, *Landfill Methane Outreach Program (LMOP): Renewable Natural Gas*, <https://www.epa.gov/lmop/renewable-natural-gas> (last visited Feb. 1, 2024).

²⁵ Section 366.91(2)(e), F.S., defines "renewable energy, in part, as energy produced from biomass. Section 366.91(2)(b), F.S., defines "biomass" in part, as "a power source that is comprised of, but not limited to, combustible residues or gases from... waste, byproducts, or products from agricultural and orchard crops, waste or coproducts from livestock and poultry operations, waste or byproducts from food processing, urban wood waste, municipal solid waste, municipal liquid waste treatment operations, and landfill gas." RNG would be such a combustible gas.

²⁶ Environmental Protection Agency, *supra* note 24.

²⁷ *Id.*

²⁸ United States Department of Energy, *Renewable Natural Gas Production*, https://afdc.energy.gov/fuels/natural_gas_renewable.html (last visited Feb. 1, 2024).

RNG meeting certain standards, qualifies as an advanced biofuel under the Federal Renewable Fuel Standard Program.²⁹ This program was enacted by Congress in order to reduce greenhouse gas emissions by reducing reliance on imported oil and expanding the nation's renewable fuels sector.³⁰

Hydrogen Fuel

The production of hydrogen involves the separation of the element from other elements in which it occurs. While there are many different sources of hydrogen and methods for producing it as a fuel, the most common methods used currently are steam-methane reforming and electrolysis.³¹ Through either method, hydrogen is not an energy source, per se, since it is produced using other energy sources. Rather, produced hydrogen is an energy carrier.³²

Steam-Methane Reforming

The most-widely used method for hydrogen production, which accounts for nearly all commercially-produced hydrogen in the United States, is steam-methane reforming. With steam-methane reforming, hydrogen atoms are separated from carbon atoms in methane using high temperature (1,300-1,800 degrees Fahrenheit) under 3-25 bar pressure³³ in the presence of a catalyst. The end-result of this process is the production of hydrogen, carbon-monoxide, and a small amount of carbon dioxide.³⁴

For industrial facilities and petroleum refineries, natural gas is the typical base material from which to produce hydrogen by steam-methane reforming. Biogas and landfill gas is also a base material to produce hydrogen used by several fuel cell power plants in the United States.

Electrolysis

Electrolysis, in the sense of hydrogen production, means a process where hydrogen is split from water using an electric current. On a large, commercial scale, the process may be referred to as power-to-gas, where power is electricity and gas is hydrogen.³⁵ This hydrogen is then captured

²⁹ United States Department of Energy, *Renewable Fuel Standard*, [\(https://afdc.energy.gov/laws/RFS#:~:text=The%20Renewable%20Fuel%20Standard%20\(RFS,Act%20of%202007%20\(EIS A\)](https://afdc.energy.gov/laws/RFS#:~:text=The%20Renewable%20Fuel%20Standard%20(RFS,Act%20of%202007%20(EIS A)) (last visited: Feb. 1, 2024).

³⁰ Environmental Protection Agency, *Renewable Fuel Standard Program*, <https://www.epa.gov/renewable-fuel-standard-program> (last visited Feb. 1, 2024).

³¹ United States Energy Information Administration, *Hydrogen Explained: Production of Hydrogen*, Jan. 21, 2022, [https://www.eia.gov/energyexplained/hydrogen/production-of-hydrogen.php#:~:text=The%20two%20most%20common%20methods,electrolysis%20\(splitting%20water%20with%20electricity.\(last](https://www.eia.gov/energyexplained/hydrogen/production-of-hydrogen.php#:~:text=The%20two%20most%20common%20methods,electrolysis%20(splitting%20water%20with%20electricity.(last) (last visited Feb. 1, 2024).

³² International Renewable Energy Agency, *Hydrogen*, available at <https://www.irena.org/Energy-Transition/Technology/Hydrogen> (last visited Feb. 1, 2024).

³³ One bar equals 14.5 pounds per square inch of pressure. For comparison, at sea level, the average air pressure on Earth is 1.0132 bars. National Oceanic and Atmospheric Administration, *Air Pressure*, <https://www.noaa.gov/jetstream/atmosphere/air-pressure#:~:text=The%20standard%20pressure%20at%20sea,the%20atmosphere%20decreases%20with%20height> (last visited Feb. 1, 2024).

³⁴ United States Energy Information Administration, *Hydrogen Explained: Production of Hydrogen*, *supra* note 31.

³⁵ *Id.*

and used or sold as an end product or as a fuel to generate electricity.³⁶ The electrolysis process itself is emission-free and has no by-products other than hydrogen and oxygen. However, the energy source used to power the electrolysis (which could be from renewables, nuclear, or fossil fuels) may or may not be emission-free or have other byproducts.

Hydrogen Categories

Recently, to distinguish between the energy sources used to power hydrogen production, hydrogen producers, marketers, government agencies, and others have used a color-coded system. The nine commonly used color categories are detailed below:

- Green: Hydrogen produced by water electrolysis and employing renewable electricity as the fuel source. It is so called because the process itself does not produce emissions.
- Blue: Hydrogen produced from fossil fuels, but the carbon dioxide produced by the process is sequestered underground. Thus, the process is considered carbon neutral.
- Gray: Hydrogen produced by steam-methane reforming and the emissions produced from the burning of fossil fuels in the method are released into the atmosphere.
- Black or Brown: Hydrogen produced from the burning of coal, “black” being from the burning of bituminous coal and “brown” being from the burning of lignite coal. A comparatively large amount of carbon dioxide and carbon monoxide is released into the atmosphere with this type of production.
- Turquoise: This now experimental method of hydrogen production involves the thermal splitting of methane through pyrolysis. Though carbon is formed in this process, it is in a solid state that can be stored and not a carbon dioxide gas.
- Purple: Hydrogen made using nuclear power and heat through the combined chemo thermal electrolysis splitting of water.
- Pink: This is the production of hydrogen through electrolysis where the energy source is electricity from a nuclear power plant.
- Red: Hydrogen produced through high-temperature catalytic splitting of water using nuclear power thermal energy as an energy source.
- White: Naturally-occurring hydrogen.³⁷

Transmission and Use of Hydrogen Fuel

Due to hydrogen’s low volumetric energy density, transportation, storage, and final delivery to the point of use, it can have a significant impact on the cost of using hydrogen as a fuel carrier. These factors can lead to inefficiencies that increase the farther hydrogen must be transported before reaching its end use.³⁸ Thus, currently, most hydrogen is produced in close proximity to its end use.³⁹ However, technology is in development that may bring these costs down and allow for easier transport and transmission of hydrogen.⁴⁰

³⁶ Florida Public Service Commission, *Bill Analysis for SB 1162* (Mar. 14, 2023) (on file with the Senate Regulated Industries Committee).

³⁷ Bulletin H2, *Hydrogen Colours Codes*, available at <https://www.h2bulletin.com/knowledge/hydrogen-colours-codes/> (last visited: Jan. 25, 2024).

³⁸ United States Office of Energy Efficiency and Renewable Energy, *Hydrogen Delivery*, available at <https://www.energy.gov/eere/fuelcells/hydrogen-delivery> (last visited: Feb. 1, 2024).

³⁹ Florida Public Service Commission, *Bill Analysis for SB 1162*, *supra* note 36.

⁴⁰ See Florida Public Service Commission, *Bill Analysis for SB 1162*, *supra* note 36, which describes potential new technologies that can overcome the transportation and transmission cost hurdle for hydrogen.

The two typical methods for transporting hydrogen fuel currently are via pipeline or by truck through the use of cryogenic liquid tanker trucks or gaseous tube trailers. Pipelines are most popular in areas where demand is high and expected to remain stable or grow. Trucking of hydrogen is used in areas with less demand.⁴¹

Potential uses for hydrogen are in:⁴²

- Industrial uses such as powering oil refineries and powering ammonia, methanol, and steel production. Currently, this is the largest use, by far, for hydrogen.
- Transportation, powering hydrogen-fueled vehicles.
- Buildings where hydrogen can be blended into existing natural gas networks. It is possible currently to blend small amounts of hydrogen in existing natural gas transmission systems with little to no changes to infrastructure, equipment, and appliances.
- Power generation where emerging technology is available to use hydrogen as a medium to store renewable energy, such as solar and wind. Hydrogen and ammonia can be used in gas turbines to increase power system flexibility, and ammonia can be used to reduce emissions from coal-fired power plants.

Florida Public Service Commission

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.⁴³ The role of the PSC is to ensure Florida's consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe, affordable, and reliable manner.⁴⁴ In order to do so, the PSC exercises authority over public utilities in one or more of the following areas: rate base or economic regulation; competitive market oversight; and monitoring of safety, reliability, and service issues.⁴⁵

Electric and Gas Utilities

The PSC monitors the safety and reliability of the electric power grid⁴⁶ and may order the addition or repair of infrastructure as necessary.⁴⁷ The PSC has broad jurisdiction over the rates and service of investor-owned electric and gas utilities⁴⁸ (called "public utilities" under ch. 366, F.S.).⁴⁹ However, the PSC does not fully regulate municipal electric utilities (utilities owned or operated on behalf of a municipality) or rural electric cooperatives. The PSC does have jurisdiction over these types of utilities with regard to rate structure, territorial boundaries, bulk power supply operations, and planning.⁵⁰ Municipally-owned utility rates and revenues are

⁴¹ United States Office of Energy Efficiency and Renewable Energy, *supra* note 38.

⁴² International Renewable Energy Agency, *supra* note 32.

⁴³ Section 350.001, F.S.

⁴⁴ See Florida Public Service Commission, *Florida Public Service Commission Homepage*, <http://www.psc.state.fl.us> (last visited Feb. 1, 2024).

⁴⁵ Florida Public Service Commission, *About the PSC*, <https://www.psc.state.fl.us/about> (last visited Feb. 1, 2024).

⁴⁶ Section 366.04(5) and (6), F.S.

⁴⁷ Section 366.05(1) and (8), F.S.

⁴⁸ Section 366.05, F.S.

⁴⁹ Section 366.02(8), F.S.

⁵⁰ Florida Public Service Commission, *About the PSC*, *supra* note 45.

regulated by their respective local governments or local utility boards. Rates and revenues for a cooperative utility are regulated by its governing body elected by the cooperative's membership.

Municipal Electric and Gas Utilities, and Special Gas Districts, in Florida

A municipal electric or gas utility is an electric or gas utility owned and operated by a municipality. Chapter 366, F.S., provides the majority of electric and gas utility regulations for Florida. While ch. 366, F.S., does not provide a definition, per se, for a “municipal utility,” variations of this terminology and the concept of these types of utilities appear throughout the chapter. Currently, Florida has 33 municipal electric utilities that serve over 14 percent of the state's electric utility customers.⁵¹ Florida also has 27 municipally-owned gas utilities and four special gas districts.⁵²

Rural Electric Cooperatives in Florida

At present, Florida has 18 rural electric cooperatives, with 16 of these cooperatives being distribution cooperatives and two being generation and transmission cooperatives.⁵³ These cooperatives operate in 57 of Florida's 67 counties and have more than 2.7 million customers.⁵⁴ Florida rural electric cooperatives serve a large percentage of area, but have a low customer density. Specifically, Florida cooperatives serve approximately 10 percent of Florida's total electric utility customers, but their service territory covers 60 percent of Florida's total land mass. Each cooperative is governed by a board of cooperative members elected by the cooperative's membership.⁵⁵

Public Electric and Gas Utilities in Florida

There are four investor-owned electric utility companies (electric IOUs) in Florida: Florida Power & Light Company (FPL), Duke Energy Florida (Duke), Tampa Electric Company (TECO), and Florida Public Utilities Corporation (FPUC).⁵⁶ In addition, there are eight investor-owned natural gas utility companies (gas IOUs) in Florida: Florida City Gas, Florida Division of Chesapeake Utilities, FPUC, FPUC-Fort Meade Division, FPUC-Indiantown Division, Peoples Gas System, Sebring Gas System, and St. Joe Natural Gas Company. Of these eight gas IOUs, five engage in the merchant function servicing residential, commercial, and industrial customers: Florida City Gas, FPUC, FPUC-Fort Meade Division, Peoples Gas System, and St. Joe Natural Gas Company. Florida Division of Chesapeake Utilities, FPUC-Indiantown Division, and Sebring Gas System are only engaged in firm transportation service.⁵⁷

⁵¹ Florida Municipal Electric Association, *About Us*, <https://www.flpublicpower.com/about-us> (last visited Feb. 1, 2024).

⁵² Florida Public Service Commission, *2023 Facts and Figures of the Florida Utility Industry*, pg. 13, Apr. 2023 (available at: <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202023.pdf>). A “special gas district” is a dependent or independent special district, setup pursuant to ch. 189, F.S., to provide natural gas service. Section 189.012(6), F.S., defines a “special district” as “a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.”

⁵³ Florida Electric Cooperative Association, *Members*, <https://feca.com/members/> (last visited Feb 1, 2024).

⁵⁴ Florida Electric Cooperative Association, *Our History*, <https://feca.com/our-history/> (last visited Feb. 1, 2024).

⁵⁵ *Id.*

⁵⁶ Florida Public Service Commission, *2023 Facts and Figures of the Florida Utility Industry*, *supra* note 52, at 5.

⁵⁷ *Id.* at 14. Firm transportation service is offered to customers under schedules or contracts which anticipate no interruption under almost all operating conditions. See Firm transportation service, 18 CFR s. 284.7.

Electric IOU and Gas IOU rates and revenues are regulated by the PSC and the utilities must file periodic earnings reports, which allow the PSC to monitor earnings levels on an ongoing basis and adjust customer rates quickly if a company appears to be overearning.⁵⁸

Section 366.041(2), F.S., requires public utilities to provide adequate service to customers. As compensation for fulfilling that obligation, s. 366.06, F.S., requires the PSC to allow the IOUs to recover honestly and prudently invested costs of providing service, including investments in infrastructure and operating expenses used to provide electric service.⁵⁹

Natural Gas Transmission

Natural gas transmission companies are regulated by the PSC under ch. 368, F.S. The term “natural gas transmission company,” as defined in s. 368.103, F.S., “means any person owning or operating for compensation facilities located wholly within this state for the transmission or delivery for sale of natural gas.” The term does not include “any person that owns or operates facilities primarily for the local distribution of natural gas or that is subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. ss. 717 et seq., or any municipalities or any agency thereof, or a special district created by special act to distribute natural gas.” Section 364.104, F.S., authorizes the PSC to “fix and regulate rates and services of natural gas transmission companies, including, without limitation, rules and regulations for:”

- Determining customers and services classifications;
- Determining rate applicability; and
- “Ensuring that the provision (including access to transmission) or abandonment of service by a natural gas transmission company is not unreasonably preferential, prejudicial, or unduly discriminatory.”

Section 368.105, F.S., provides the procedures for the PSC to set rates and services requirements for natural gas transmission companies in Florida.

Under chapter 368, F.S., the PSC is authorized to inspect intrastate natural gas systems to ensure compliance with rules and regulations regarding safety standards.⁶⁰ Currently, Florida has three major pipelines: Florida Gas Transmission Company, Gulfstream Natural Gas System, and Sabal Trail Interstate Pipeline. The state also has two minor pipelines: Gulf South Pipeline Company and Southern Natural Gas.⁶¹

Experimental and Transitional Rates

Section 366.075, F.S., authorizes the PSC to approve experimental or transitional rates for the purpose of encouraging energy conservation or efficiency. This provision is used by the PSC to

⁵⁸ PSC, 2022 Annual Report, p. 6, (available at: <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/AnnualReports/2022.pdf>) (last visited Feb. 1, 2024).

⁵⁹ *Id.*

⁶⁰ Florida Public Service Commission, 2023 *Facts and Figures of the Florida Utility Industry*, *supra* note 52, at 13.

⁶¹ *Id.*

allow electric and natural gas utilities under its rate-regulatory jurisdiction to conduct limited scope pilot programs.

Such rates must be limited in geographic area and be for a limited period of time. The PSC may approve the area used in testing experimental rates and must specify in the order setting those rates the area that will be affected by those rates. The PSC can extend this time period “if it determines that further testing is necessary to fully evaluate the effectiveness of such experimental rates.”

Preemption over Utility Service Restrictions

Section 366.032, F.S., provides that “a municipality, county, special district, or other political subdivision of the state may not enact or enforce a resolution, ordinance, rule, code, or policy or take any action that restricts or prohibits or has the effect of restricting or prohibiting the types or fuel sources of energy production which may be used, delivered, converted, or supplied” by the following:⁶²

- Investor-owned electric utilities;
- Municipal electric utilities;
- Rural electric cooperatives;
- Entities formed by interlocal agreement to generate, sell, and transmit electrical energy;
- Investor-owned gas utilities;
- Gas districts;
- Municipal natural gas utilities;
- Natural gas transmission companies; and
- Category I liquefied petroleum gas dealers, category II liquefied petroleum gas dispensers, or category III liquefied petroleum gas cylinder exchange operator as defined in s. 527.01, F.S.

Section 366.032(2), F.S., also prohibits (except to enforce the Florida Building Code and Florida Fire Prevention Code) a municipality, county, special district, or other political subdivision of the state from restricting or prohibiting the use of an appliance using the fuels or energy types used, delivered, converted, or supplied by the entities above.

The section also provides that it acts retroactively to any provision that existed before its enactment in 2021.

Electric Vehicles

The U.S. Department of Energy’s Alternative Fuels Data Center (AFDC) uses the term, “electric-drive vehicles,” as referring collectively to hybrid electric vehicles (HEV), plug-in hybrid electric vehicles (PHEV), and all-electric vehicles (EV).⁶³ According to the AFDC:

- HEVs are primarily powered by an internal combustion engine that runs on conventional or alternative fuel and an electric motor using energy stored in a battery. The battery is charged

⁶² To the extent of serving the customers they are authorized to serve.

⁶³ U.S. Dept. Energy, AFDC, *Hybrid and Plug-In Electric Vehicles*, <https://afdc.energy.gov/vehicles/electric.html> (last visited Feb. 1, 2024).

through regenerative braking and the internal combustion engine, not by plugging in to charge.

- PHEVs are powered by an internal combustion engine and an electric motor using energy stored in a battery. They can operate in all-electric mode through a larger battery, which can be plugged in to an electric power source to charge. Most can travel between 20 and 40 miles on electricity alone, and then will operate solely on gasoline, similar to a conventional hybrid.

EVs use a battery to store the electric energy that is charged by plugging the vehicle into charging equipment. EVs always operate in all-electric mode and have typical driving ranges from 150 to 400 miles.⁶⁴

The primary difference between an EV and a traditional internal combustion engine (ICE) vehicle lies in their drive trains. The main components of an EV power train are its battery, a motor, and ancillary systems. The main components of an ICE power train are its liquid fuel storage, combustion chambers and related cooling system, transmission, and an exhaust system.⁶⁵

For purposes of vehicle registration, Florida law currently defines the term “electric vehicle” to mean “a motor vehicle that is powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current.”⁶⁶

Increased interest in EVs has been driven by higher gas prices and greenhouse gas emission concerns.⁶⁷ However, limited EV range (and the related range anxiety⁶⁸), limitations in charging infrastructure, charging speed as it relates to time to refuel a traditional gasoline vehicle, and EV cost are some of the factors negatively impacting EV adoption.⁶⁹

Electric Vehicle Charging Stations

EVs need access to charging stations. For most EV users, charging starts at home or at fleet facilities. Charging stations at other commonly-visited locations, however, such as work, public destinations, and along roadways, can offer more flexible fueling charging opportunities. The growth of charging stations has made longer distance travel with EVs more feasible and has helped grow the market for EVs.⁷⁰

There are three general types of chargers:

⁶⁴ *Id.*

⁶⁵ Brandon S. Tracy, Cong. Research Serv., R47227, *Critical Minerals in Electric Vehicle Batteries*, (2022) (available at <https://crsreports.congress.gov/product/pdf/R/R47227>).

⁶⁶ Section 320.01(36), F.S.

⁶⁷ *Id.*

⁶⁸ Range anxiety is the feeling an EV driver has when the battery charge is low, and the usual sources of electricity are unavailable, striking a fear of being stranded. J.D. Power, *What is Range Anxiety with Electric Vehicles?*, Nov. 3, 2020, <https://www.jdpower.com/cars/shopping-guides/what-is-range-anxiety-with-electric-vehicles> (last visited Feb. 1, 2024).

⁶⁹ EV Connect, *10 Factors That Affect Widespread EV Adoption*, <https://www.evconnect.com/blog/10-factors-affecting-ev-adoption> (last visited Feb. 1, 2024).

⁷⁰ U.S. Dept. of Energy, *Developing Infrastructure to Charge Electric Vehicles*, https://afdc.energy.gov/fuels/electricity_infrastructure.html (Feb. 1, 2024).

- Level 1: Level 1 chargers use a standard 120-volt home outlet (i.e. a standard wall socket). Often EV automakers will include with the vehicle a charging cord that can plug directly into a 120-volt outlet. These are the slowest types of chargers and, on average, provide about five miles of driving distance per hour of charging.
- Level 2: Level 2 chargers use a 240-volt outlet. Such outlets are often used for larger home appliances with greater power needs, such as electric ovens and clothes dryers. To use such chargers at home, homeowners may need a professional to install a 240-volt outlet in a vehicle-accessible location and additional equipment installation may be necessary. Level 2 chargers can also be found in some public charging stations. Level two chargers, on average, provide about 25 miles of driving distance per hour of charging.
- Direct Charge Fast Chargers (DCFC): DCFC are the fastest types of chargers. These are not typically not found in homes, but are available at public charging stations and along roadways and highway routes. These types of chargers provide approximately 100 to 300 miles of driving for a 30-minute charge; some DCFC can charge even faster than this.⁷¹

EV Charging in Florida

Since the current regulatory structure of electric utilities in Florida includes exclusive service territories, the sale of electricity to retail, or end-use customers by a third party is not permitted.⁷² The Florida Legislature created an exemption for electric vehicle charging in 2012, under s. 366.94(4), F.S., declaring that the provision of electric vehicle charging to the public by a non-utility is not considered a retail sale of electricity under ch. 366, F.S. The rates, terms, and conditions of EV charging by a non-utility are not subject to PSC regulation.⁷³

Statistics provided by the U.S. Department of Energy show that Florida has the third largest EV charging infrastructure in the country, behind California and New York.⁷⁴ As of January 14, 2022, Florida has the following numbers of charging infrastructure:

- Station locations – 3,260.
- EV supply equipment ports – 9,072.
- Level 1 chargers – 24.
- Level 2 chargers – 6,843.
- DCFC – 2,205.

Natural Gas Transmission Pipeline Siting Act

Part VIII of ch. 403, F.S., is the Natural Gas Transmission Pipeline Siting Act (NGTPSA), and is Florida's process for licensing the construction and operation of natural gas pipelines in the state. The Federal Energy Regulatory Commission regulates interstate natural gas transmission and reviews proposals to build interstate natural gas pipelines. The Florida Department of Environmental Protection's (DEP's) role regarding pipelines is to handle in-state environmental regulatory matters for wetlands crossings, discharge of hydrostatic test waters and other

⁷¹ Environmental Protection Agency, *Plug-in Electric Vehicle Charging: The Basics*, <https://www.epa.gov/greenvehicles/plug-electric-vehicle-charging-basics> (Feb. 1, 2024).

⁷² FDOT, *EV Infrastructure Master Plan* (July 2021), p. 16, <https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/fto/fdotevmp.pdf> (last visited Feb 1, 2024).

⁷³ Section 366.94(1), F.S.

⁷⁴ United States Department of Energy, *Alternative Fuels Data Center*, <https://afdc.energy.gov/> (last visited Feb. 1, 2024).

applicable areas.⁷⁵ Under s. 403.9422, F.S., the PSC also has the responsibility to determine the need for a proposed natural gas pipeline regulated by NGTPSA and issue certificates of need as appropriate.

Section 403.9405(2), F.S., provides that the NGTPSA does not apply to:

- Natural gas transmission pipelines which are less than 15 miles in length or which do not cross a county line, unless the applicant has elected to apply for certification of that pipeline;
- Natural gas transmission pipelines for which a certificate of public convenience and necessity has been issued under s. 7(c) of the Natural Gas Act, 15 U.S.C. s. 717f, or a natural gas transmission pipeline certified as an associated facility to an electrical power plant pursuant to the Florida Electrical Power Plant Siting Act, ss. 403.501-403.518, F.S., unless the applicant elects to apply for certification of that pipeline; and
- Natural gas transmission pipelines that are owned or operated by a municipality or any agency thereof, by any person primarily for the local distribution of natural gas, or by a special district created by special act to distribute natural gas, unless the applicant elects to apply for certification of that pipeline.

Storm Reserves for Public Utilities

Storm reserves are a form of self-insurance used by utilities to “collect in advance” (from ratepayers) for costs incurred to recover from storms. Such reserves are an accounting technique allowing utilities to reduce the immediate impact of storms on ratepayers and spread them over time.⁷⁶

In Florida, the PSC allows utilities to establish storm reserve accounts and fund them according to rule and orders of the PSC. Many storm restoration cost orders at the PSC include provisions for impacted utilities to replenish their storm reserve accounts.⁷⁷

Until 2004, the self-insurance programs of the state’s electric IOUs were adequate to cover the costs incurred for storm restoration. However, the combined effects of Hurricanes Charley, Frances, Ivan and Jeanne during 2004 far exceeded the amounts held by the state’s electric IOUs.⁷⁸ After a number of proceedings regarding storm reserves and recovery, in 2007, PSC staff “recommended rule amendments to establish a single, consistent, and uniform methodology for determining which storm damage restoration costs can appropriately be charged to the property damage reserve by each of the Florida IOUs.” The result were amendments to Fla. Admin. Code R. 25-7.0143. The amendments required:

⁷⁵ Florida Department of Environmental Protection, *Natural Gas Pipeline Siting Act*, <https://floridadep.gov/water/siting-coordination-office/content/natural-gas-pipeline-siting-act> (last visited Feb. 1, 2024).

⁷⁶ Energy South, *Enabling Energy Resiliency Through a Storm Reserve Fund*, <https://medium.com/@EnergySouth/enabling-energy-resiliency-through-a-storm-reserve-fund-add806aa0b59>, Aug. 19, 2015 (last visited Feb 1, 2024).

⁷⁷ See, for example, *In Re: Petition for Ltd. Proceeding for Recovery of Incremental Storm Restoration Costs Related to Hurricane Idalia*, by Duke Energy Florida, LLC, in *Re: Petition for Ltd. Proceeding for Recovery of Incremental Storm Restoration Costs Related to Hurricanes Elsa, Eta, Isaias, Ian, Nicole, & Tropical Storm Fred*, by Duke Energy Florida, LLC., 2023 WL 8879275 (Dec. 19, 2023); *In Re: Petition for Recovery of Costs Associated with Named Tropical Sys. During the 2018-2022 Hurricane Seasons & Replenishment of Storm Reserve*, by Tampa Elec. Co., 2023 WL 8119138 (Nov. 20, 2023); and *In Re: Petition for Rate Increase by Florida City Gas.*, 2023 WL 3966515 (June 9, 2023).

⁷⁸ Florida Public Service Commission, *Bill Analysis for SB 1548* (Jan. 30, 2024) (on file with the Senate Regulated Industries Committee).

The establishment of a separate subaccount for storm related damage expenses and accruals, the “storm damage subaccount.” The rule amendments also require use of the Incremental Cost and Capitalization Approach (ICCA) methodology and delineate types of expenses that are expressly allowed or prohibited from being charged to the storm damage subaccount. The ICCA methodology is designed to prevent double recovery. Under the ICCA, a utility only charges to the storm damage subaccount those storm restoration costs that are not already being recovered through base rates (“incremental” costs). For example, a utility would not be able to charge the normal base salaries of employees working on storm restoration, but would be able to charge overtime costs related to storm restoration activities to the storm damage subaccount.⁷⁹

Under PSC rule, the types of storm-related costs that can be charged to a storm reserve include:

- Additional contract labor hired for storm restoration activities incurred in any month in which storm damage restoration activities are conducted, that are greater than the actual monthly average of contract labor costs charged to operation and maintenance expense for the same month in the three previous calendar years;
- Logistics for providing meals, lodging, and linens for tents and other staging areas;
- Transportation of crews and other personnel for storm restoration;
- Vehicles specifically rented for storm restoration activities;
- Waste management costs specifically related to storm restoration activities;
- Rental equipment specifically related to storm restoration activities;
- Materials and supplies used to repair and restore service and facilities to pre-storm condition, excluding those costs that normally would be charged to non-cost recovery clause operating expenses in the absence of a storm;
- Payroll and payroll-related costs for utility personnel included in storm restoration activities incurred in any month in which storm damage restoration activities are conducted, that are greater than the actual monthly average of payroll and payroll-related costs charged to operation and maintenance expense for the same month in the three previous calendar years;
- Fuel company and contractor vehicles used in storm restoration activities incurred in any month in which storm damage restoration activities are conducted, that are greater than the actual monthly average of fuel costs charged to operation and maintenance expense for the same month in the three previous calendar years;
- Public service announcements regarding key storm-related issues, such as safety and service restoration estimates;
- Vegetation management expenses specifically related to storm restoration activities incurred in any month in which storm damage restoration activities are conducted, that are greater than the actual monthly average of vegetation management costs charged to operation and maintenance expense for the same month in the previous three calendar years; and
- Other costs or expenses not specifically identified above that are directly and solely attributable to a storm restoration event.⁸⁰

The current storm reserves held by the state’s four electric IOUs are:⁸¹

⁷⁹ *Id.*

⁸⁰ Fla. Admin. Code R. 25-7.0143(1)(e).

⁸¹ Florida Public Service Commission, *Bill Analysis for SB 1548*, *supra* note 78.

Utility	Most recent storm reserve amount (\$ million)
FPL	220
DEF	132
TECO	56
FPUC	1.5

Nuclear Power

Nuclear power plants work, in a way, similarly to any other turbine-based power plant. In turbine-based power plants a moving fluid—water, steam, combustion gases, or even air—pushes blades mounted on a rotor. The force of the moving liquid spins the shaft of a generator. That generator then converts the kinetic energy of the spinning rotor to electrical energy. Types of turbines include steam, combustion (i.e. gas), hydroelectric, and wind.⁸²

Nuclear power plants work the same way, in that steam is used to spin a turbine to produce electricity. The unique part of a nuclear power plant is how that steam is produced. In a nuclear power plant, heat is used to make steam, and this heat is produced by a controlled fission nuclear reaction.⁸³

In a traditional nuclear power plant, uranium, which has been processed into small ceramic pellets and stacked together in a sealed metal tube (called a fuel rod), is the fuel source. Fuel rods are bundled together (typically in bundles of more than 200 rods) to form a fuel assembly. Reactor cores are generally made up of around 200 assemblies, depending on power level. In the reactor, fuel rods are immersed in water, which acts as a coolant and moderator. Control rods are then inserted into the reactor core to reduce the nuclear reaction or removed to increase the nuclear reaction. This reaction creates heat to turn water into the steam that fuels the turbine.

There are over 400 commercial reactors worldwide, including 93 in the United States.

Advanced Small Modular Reactors

Advanced small modular reactors (SMRs) are currently under development in the United States. SMRs differ from traditional large nuclear power plants—which can take over a decade to build between planning, regulatory approval, and construction—⁸⁴in that they are made in factories and transported to sites ready to “plug and play” upon arrival. This reduces both capital costs and construction times. The smaller size of these reactors also makes them ideal for smaller electric grids and other locations where a large nuclear power plant is not feasible.⁸⁵

⁸² United States Energy Information Administration, *Electricity Explained*, <https://www.eia.gov/energyexplained/electricity/how-electricity-is-generated.php> (last visited Feb. 1, 2024).

⁸³ United States Department of Energy, *NUCLEAR 101: How Does a Nuclear Reactor Work?*, <https://www.energy.gov/ne/articles/nuclear-101-how-does-nuclear-reactor-work> (last visited Feb. 1, 2024).

⁸⁴ United States Energy Information Administration, *Nuclear explained*, <https://www.eia.gov/energyexplained/nuclear/us-nuclear-industry.php> (last visited Feb. 1, 2024).

⁸⁵ United States Department of Energy, Office of Nuclear Energy, *Nuclear Reactor Technologies*, <https://www.energy.gov/ne/nuclear-reactor-technologies> (last visited Feb. 1, 2024).

Advanced Reactor Technologies

The Office of Nuclear Energy's Office of Advanced of Advanced Reactor Technologies (ART) sponsors research, development, and deployment of emerging nuclear reactor technologies.

While the technologies are varied, ART's main areas of focus currently are:

- Developing assessment methods for evaluating advanced SMR technologies and characteristics;
- Developing and testing of materials, fuels and fabrication techniques;
- Resolving key regulatory issues identified by Nuclear Regulatory Commission and the nuclear industry; and
- Developing advanced instrumentation and controls and human-machine interfaces.⁸⁶

Customer-Owned Renewable Generation

Section 366.91(2)(c), F.S., defines "customer-owned renewable generation" as "an electric generating system located on a customer's premises that is primarily intended to offset part or all of the customer's electricity requirements with renewable energy." Under the traditional utility model, an electric utility would produce (or purchase at wholesale) energy which it, in turn, would provide to customers to power their homes and businesses through its energy grid. However, with the advent of technologies like electric vehicles, rooftop solar systems, battery storage systems, and smart appliances, customers are now able to provide services to support grid operations.⁸⁷

Customer-owned generation, such as rooftop solar and other small-scale distributed energy resources (DERs), offer a number of benefits to both customers and utilities, including:

- Reduction in reliance on the centralized grid which can increase energy resilience in times of power-interruption in times such as extreme weather events;
- Supplying affordable electricity to customers; and
- Supporting decarbonization efforts.⁸⁸

Despite its benefits, DERs can present challenges for electric utilities. Many of the electric grids today were designed, originally, for the 20th century where distributed energy generation was comparatively small or non-existent.⁸⁹ The grid was traditionally designed for centralized power generation and, primarily, a one-way power flow.⁹⁰ Greater system flexibility is needed where inputs of power may not be as predicable or controllable by the utilities themselves. The challenges for many grids include:

⁸⁶ United States Department of Energy, Office of Nuclear Energy, *Advanced Reactor Technology*, <https://www.energy.gov/ne/advanced-reactor-technologies> (last visited Feb. 1, 2024).

⁸⁷ Utility Dive, *Consumers as partners: The evolving utility business model*, Jan. 17, 2023, <https://www.utilitydive.com/spons/consumers-as-partners-the-evolving-utility-business-model/640195/> (last visited Feb. 1, 2024).

⁸⁸ International Energy Agency, *Executive summary: Unlocking the Potential of Distributed Energy Resources*, <https://www.iea.org/reports/unlocking-the-potential-of-distributed-energy-resources/executive-summary> (last visited Feb. 1, 2024).

⁸⁹ *Id.*

⁹⁰ Dynamic Ratings, *What are Distributed Energy Resources*, <https://www.dynamicratings.com/solutions/smart-infrastructure-solutions/distributed-energy-resources/> (Feb 1, 2024).

- The complexity of integrating a wide variety of highly-distributed energy sources.
- Variability of power production as wind and solar are not “always on” type of energy production methods, as this can present challenges in effective energy storage and management, reliability, and resilience.
- DERs can significantly influence electricity demand patterns, sometimes unpredictably. This can create issues with demand response and electricity load management.
- The wide deployment of DERs and smart technology has raised data privacy and security concerns as these devices integrate with the grid.⁹¹

Smart demand response programs and load management strategies can help mitigate or reduce these issues.⁹²

Climate Friendly Public Business

Section 286.29, F.S., requires state agencies to follow certain procedures to reduce greenhouse gas emissions in conducting public business. The section requires that state agencies:

- Consult with the “Florida Climate-Friendly Preferred Products List” produced by the Department of Management Services (DMS),⁹³ in procuring products from state term contracts.⁹⁴ If the price is comparable, they must procure such products.⁹⁵
- Contract only with hotels or conference facilities for meetings and conferences as recognized by the Green Lodging Program.^{96,97}
- Ensure vehicles meet minimum maintenance schedules shown to reduce fuel consumption and report such compliance to the DMS.⁹⁸
- When state agencies, state universities, community colleges, and local governments that purchase vehicles under a state purchasing plan that such vehicles are selected for greatest fuel efficiency available for a given use class when fuel economy data is available.⁹⁹
- Use ethanol and biodiesel blended fuels when available.¹⁰⁰
- Procure biofuels for fleet, to the greatest extent practicable, if the agency administers central fueling operations.¹⁰¹

⁹¹ *Id.*

⁹² *Id.*

⁹³ The DMS keeps a Florida Climate-Friendly Preferred Products List at https://www.dms.myflorida.com/business_operations/state_purchasing/state_contracts_and_agreements/florida_climate_friendly_preferred_products_list, (last visited Feb. 1, 2024).

⁹⁴ Section 286.29(1), F.S.

⁹⁵ *Id.*

⁹⁶ The Florida Department of Environmental Protection designates and recognizes lodging facilities that make a commitment to conserve and protect Florida's natural resources through the Florida Green Lodging Program. To become designated, facilities must conduct a thorough property assessment and implement a specified number of environmental practices in five areas of sustainable operations: (1) communication and education with customers, employees, and the public; (2) waste reduction, reuse and recycling; (3) water conservation; (4) energy efficiency; and (5) indoor air quality. Florida Department of Environmental Protection, *Green Lodging*, <https://floridadep.gov/osi/green-lodging/content/about-florida-green-lodging-program> (Last visited Feb. 1, 2024).

⁹⁷ Section 286.29(2), F.S.

⁹⁸ Section 286.29(3), F.S.

⁹⁹ Section 286.29(4), F.S.

¹⁰⁰ Section 286.29(5), F.S.

¹⁰¹ *Id.*

Department of Agriculture and Consumer Services

The Department of Agriculture and Consumer Services (DACS) is a state agency created by s. 20.14, F.S., and is headed by an elected Commissioner of Agriculture—who is also designated by the Florida Constitution as one of the three members of the Florida cabinet.¹⁰² The DACS’s responsibilities are wide-ranging, however, in general, they are to:

- Support and promote Florida agriculture;
- Protect the environment;
- Safeguard consumers; and
- Ensure the safety and wholesomeness of food.¹⁰³

Energy Planning and Development

Section 377.601, F.S., provides the legislative intent in regards to part II, of ch. 377, F.S., which provides energy resource planning and development policies for Florida. The section states that the legislature finds that:

[T]he state’s energy security can be increased by lessening dependence on foreign oil; that the impacts of global climate change can be reduced through the reduction of greenhouse gas emissions; and that the implementation of alternative energy technologies can be a source of new jobs and employment opportunities for many Floridians. The Legislature further finds that the state is positioned at the front line against potential impacts of global climate change. Human and economic costs of those impacts can be averted by global actions and, where necessary, adapted to by a concerted effort to make Florida’s communities more resilient and less vulnerable to these impacts. In focusing the government’s policy and efforts to benefit and protect our state, its citizens, and its resources, the Legislature believes that a single government entity with a specific focus on energy and climate change is both desirable and advantageous. Further, the Legislature finds that energy infrastructure provides the foundation for secure and reliable access to the energy supplies and services on which Florida depends. Therefore, there is significant value to Florida consumers that comes from investment in Florida’s energy infrastructure that increases system reliability, enhances energy independence and diversification, stabilizes energy costs, and reduces greenhouse gas emissions.

Relatedly, s. 377.601(2), F.S., provides that it is the policy of the state to:

- Develop and promote the effective use of energy, discourage all forms of energy waste, and recognize and address the potential of global climate change wherever possible;
- Play a leading role in developing and instituting energy management programs aimed at promoting energy conservation, energy security, and the reduction of greenhouse gas emissions;
- Include energy considerations in all state, regional, and local planning;
- Utilize and manage effectively energy resources used within state agencies;
- Encourage local governments to include energy considerations in all planning and to support their work in promoting energy management programs;

¹⁰² FLA. CONST. art. IV, s. 4.

¹⁰³ Florida Department of Agriculture and Consumer Services, *About Us*, <https://www.fdacs.gov/About-Us> (last visited Feb. 1, 2024).

- Include the full participation of citizens in the development and implementation of energy programs;
- Consider in its decisions the energy needs of each economic sector, including residential, industrial, commercial, agricultural, and governmental uses, and reduce those needs whenever possible;
- Promote energy education and the public dissemination of information on energy and its environmental, economic, and social impact;
- Encourage the research, development, demonstration, and application of alternative energy resources, particularly renewable energy resources;
- Consider in its decision-making, the social, economic, and environmental impacts of energy-related activities, including the whole-life-cycle impacts of any potential energy use choices, so that detrimental effects of these activities are understood and minimized; and
- Develop and maintain energy emergency preparedness plans to minimize the effects of an energy shortage within Florida.

Section 377.6015, F.S.,¹⁰⁴ provides the role of the DACS in the state's energy resource planning and development. The section provides that the DACS may employ staff and counsel as needed in the performance of its duties, prosecute and defend legal actions in its own name, and form advisory groups consisting of members of the public to provide information on specific issues.

The section also requires the DACS to:

- Administer the Florida Renewable Energy and Energy-Efficient Technologies Grants Program under s. 377.804, F.S.;
- Develop policy for requiring grantees to provide royalty-sharing or licensing agreements with state government for commercialized products developed under a state grant;
- Administer the Florida Green Government Grants Act pursuant to s. 377.808, F.S., and set annual priorities for grants;
- Administer the information gathering and reporting functions pursuant to ss. 377.601-377.608, F.S.;
- Administer the provisions of the Florida Energy and Climate Protection Act pursuant to ss. 377.801-377.804, F.S.;
- Advocate for energy and climate change issues and provide educational outreach and technical assistance in cooperation with the state's academic institutions;
- Be a party in the proceedings to adopt goals and submit comments to the PSC pursuant to s. 366.82, F.S., which requires the PSC to adopt appropriate goals for increasing the efficiency of energy consumption and increasing the development of demand-side renewable energy systems; and
- Adopt rules pursuant to ch. 120, F.S., in order to implement all powers and duties described in the section.

Florida Renewable Energy and Green Government Programs

Part III of ch. 377, F.S., provides the state's renewable energy and green government programs, including the Florida Energy and Climate Protection Act in ss. 377.801-377.804, F.S.

¹⁰⁴ Section 377.703, F.S., also provides an extensive list of the DACS functions regarding energy supply and demand.

The purpose of the Florida Energy and Climate Protection Act is to “provide incentives for Florida’s citizens, businesses, school districts, and local governments to take action to diversify the state’s energy supplies, reduce dependence on foreign oil, and mitigate the effects of climate change by providing funding for activities designed to achieve these goals.” The act’s grant programs “are intended to stimulate capital investment in and enhance the market for renewable energy technologies and technologies intended to diversify Florida’s energy supplies, reduce dependence on foreign oil, and combat or limit climate change impacts.”¹⁰⁵

The grants provided under the act, as part of the Renewable Energy and Energy-Efficient Technologies Grants Program administered by the DACS, “provide renewable energy matching grants for demonstration, commercialization, research, and development projects relating to renewable energy technologies and innovative technologies that significantly increase energy efficiency for vehicles and commercial buildings”¹⁰⁶ Grants under the program may be provided to municipalities and county governments, established for-profit companies licensed to do business in Florida, universities and colleges in the state, utilities located and operating within the state, not-for-profit organizations, and other qualified persons as determined by the DACS.

Part III of ch. 377, F.S., also includes additional programs not under the Florida Energy and Climate Protection Act:

- The energy and conservation clearinghouse which develops a clearinghouse of information regarding cost savings associated with various energy efficiency and conservation measures.¹⁰⁷
- The Florida Green Governments Grant Act which provides grants to assist local governments in the development and implementation of programs that achieve green standards.¹⁰⁸
- The Energy Economic Zone Pilot Program to develop “a model to help communities cultivate green economic development, encourage renewable electric energy generation, manufacture products that contribute to energy conservation and green jobs, and further implement chapter 2008-191, Laws of Florida, relative to discouraging sprawl and developing energy-efficient land use patterns and greenhouse gas reduction strategies.”¹⁰⁹
- The Natural Gas Fuel Fleet Vehicle Rebate Program which provides rebates for eligible expenses relating to investments in in the conversion, purchase of a natural gas fleet vehicles.¹¹⁰
- The Municipal Solid Waste-to-Energy program which provides grants to” municipal solid waste-to-energy facilities to incentivize the production and sale of energy from municipal solid waste-to-energy facilities while also reducing the amount of waste that would otherwise be disposed of in a landfill.”¹¹¹

¹⁰⁵ Section 377.802, F.S.

¹⁰⁶ Section 377.804, F.S.

¹⁰⁷ Section 377.805, F.S.

¹⁰⁸ Section 377.808, F.S.

¹⁰⁹ Section 377.809, F.S.

¹¹⁰ Section 377.810, F.S.

¹¹¹ Section 377.814, F.S.

- A program where the DACS is authorized to post information on its website information about the alternative fueling stations or electric vehicle charging stations available in the state.¹¹²
- A program operated by Office of Energy within the DACS for allocating or reallocating the qualified energy conservation bond volume limitation provided by 26 U.S.C. s. 54D.¹¹³

Acts of Destruction against Energy Infrastructure

The National Conference of State Legislatures (NCSL) suggests that states should be aware of and be prepared for actual physical threats perpetrated by humans to energy infrastructure.¹¹⁴ The U.S. Department of Energy's annual summary of Electric Emergency Incident and Disturbance Reports indicates at least 25 reports were filed as actual physical attacks in electric utilities perpetrated by humans in 2022, compared to six attacks in 2021.¹¹⁵

Cyber-attacks are also a growing threat to energy infrastructure. The growing reliance on digital technology to better utility infrastructure and business operations in general, has increased the exposure of these industries to cyber threats.¹¹⁶ The annual summary of Electric Emergency Incident and Disturbance Reports indicated six cyber-related events in 2022, compared to seven for 2021.¹¹⁷ However, according to the International Energy Agency, the publicly available information available on such cyber-attacks is limited due to under-reporting and lack of detection, and there is evidence that attacks have been growing rapidly since 2018.¹¹⁸

Low-Income Energy Assistance Program

The Low-Income Energy Assistance Program (LIHEAP) is a federally funded program intended to assist low income families with home heating and cooling costs. In Florida, the program is administered by the Florida Department of Commerce (FDC), which allocates funding directly to a network of community action agencies, also known as local agency providers.¹¹⁹

The FDC summarizes the program as follows:

¹¹² Section 377.815, F.S.

¹¹³ Section 377.816, F.S. Qualified energy conservation bonds (QECBs) were created in the federal 2008 Energy Improvement and Extension Act. The purpose of the bonds were to federally fund states, territories, local governments, and tribal governments to issue QECBs to finance renewable energy and efficiency projects. United States Department of Energy, *Qualified Energy Conservation Bonds*, Aug. 2016 (available at: <https://www.energy.gov/sites/prod/files/2017/04/f34/qecbpaper0816.pdf>) (last visited Feb. 1, 2024). 26 U.S.C. s. 54D was repealed by Pub.L. 115-97, Title I, s. 13404(a), effective Dec. 22, 2017.

¹¹⁴ The National Conference of State Legislatures, *Human-Driven Physical Threats to Energy Infrastructure*, updated May 22, 2023, available at www.ncsl.org/energy/human-driven-physical-threats-to-energy-infrastructure (last visited Feb. 1, 2024).

¹¹⁵ *Id.*; U.S. Department of Energy, Office of Cybersecurity, Energy Security, & Emergency Response, *Electric Disturbance Events (OE-417) Annual Summaries*, available at https://www.oe.netl.doe.gov/OE417_annual_summary.aspx (last visited Feb. 1, 2024).

¹¹⁶ International Energy Agency, *Cybersecurity – is the power system lagging behind?*,

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ Florida Department of Commerce, *Low-Income Home Energy Assistance Program*, <https://www.floridajobs.org/community-planning-and-development/community-services/low-income-home-energy-assistance-program> (last visited Feb. 1, 2024).

- Depending on the funds available in an applicant’s county, an applicant may be able to apply for assistance up to three times a year, but not every month.
- LIHEAP may help pay natural gas or propane bills only in the winter, and only if such is the primary source of home heating. If gas or propane is used only for purposes other than heating, such as hot water or cooking, the LIHEAP cannot assist with the bill.
- LIHEAP cannot pay for water, sewer or telephone services.
- Local LIHEAP providers make the payments directly to utility companies on behalf of the awardee.¹²⁰

Persons may be eligible for the program if they meet the following requirements:

- Have a total income no more than 60 percent of the median income in Florida;
- Are responsible for paying home heating or cooling bills;
- Are a resident of Florida; and
- Are a U.S. Citizen, qualified alien, or permanent resident of the U.S.?

The current household income limits for LIHEAP in Florida are as follows:¹²¹

Household Size	Maximum Monthly Income	Maximum Annual Income
Family of 1	\$2,311.25	\$27,735
Family of 2	\$3,022.41	\$36,269
Family of 3	\$3,733.58	\$44,803
Family of 4	\$4,444.75	\$53,337
Family of 5	\$5,155.83	\$61,870
Family of 6	\$5,867.00	\$70,404
Family of 7	\$6,000.33	\$72,004
Family of 8	\$6,133.75	\$73,605

Homeowners’ Associations

Chapter 720, F.S., provides statutory recognition to corporations that operate residential communities in Florida as well as procedures for operating homeowners’ associations. These laws protect the rights of association members without unduly impairing the ability of such associations to perform their functions.¹²²

A “homeowners’ association” is defined as a:

Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel.¹²³

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² See s. 720.302(1), F.S.

¹²³ Section 720.301(9), F.S.

Unless specifically stated to the contrary in the articles of incorporation, homeowners' associations are also governed by ch. 607, F.S., relating to for-profit corporations, or by ch. 617, F.S., relating to not-for-profit corporations.¹²⁴

Homeowners' associations are administered by a board of directors whose members are elected.¹²⁵ The powers and duties of homeowners' associations include the powers and duties provided in ch. 720, F.S., and in the governing documents of the association, which include a recorded declaration of covenants, bylaws, articles of incorporation, and duly-adopted amendments to these documents.¹²⁶ The officers and members of a homeowners' association have a fiduciary relationship to the members who are served by the association.¹²⁷

Unlike condominium associations, homeowners' associations are not regulated by a state agency. Section 720.302(2), F.S., expresses the legislative intent regarding the regulation of homeowners' associations:

The Legislature recognizes that it is not in the best interest of homeowners' associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners' associations. However, in accordance with s. 720.311, [F.S.], the Legislature finds that homeowners' associations and their individual members will benefit from an expedited alternative process for resolution of election and recall disputes and presuit mediation of other disputes involving covenant enforcement and authorizes the department to hear, administer, and determine these disputes as more fully set forth in this chapter. Further, the Legislature recognizes that certain contract rights have been created for the benefit of homeowners' associations and members thereof before the effective date of this act and that ss. 720.301-720.407[, F.S.], are not intended to impair such contract rights, including, but not limited to, the rights of the developer to complete the community as initially contemplated.

The Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business the Professional Regulation has limited regulatory authority over homeowners' associations. The division's authority is limited to the arbitration of recall election disputes.¹²⁸

The governing document of a homeowners' association are:

- The recorded declaration of covenants for a community and all duly adopted and recorded amendments, supplements, and recorded exhibits thereto; and
- The articles of incorporation and bylaws of the homeowners' association and any duly adopted amendments thereto.¹²⁹

¹²⁴ Section 720.302(5), F.S.

¹²⁵ See ss. 720.303 and 720.307, F.S.

¹²⁶ See ss. 720.301 and 720.303, F.S.

¹²⁷ Section 720.303(1), F.S.

¹²⁸ See s. 720.306(9)(c), F.S.

¹²⁹ Section 720.301(8), F.S.

III. Effect of Proposed Changes:

Section 1 creates s. 163.3210, F.S., relating to natural gas resiliency and reliability infrastructure. The section provides that it is the intent of the Legislature to maintain, encourage, and ensure adequate and reliable fuel sources for public utilities. The section finds that resiliency and reliability of fuel sources for public utilities is critical to Florida's economy; the ability of the state to recover from natural disasters; and to the health, safety, welfare, and quality of life of Florida residents.

Under the section, a resiliency facility¹³⁰ is a permitted use in all commercial, industrial, and manufacturing land use categories in a local government comprehensive plan and all commercial, industrial, and manufacturing districts. Such facilities must comply with setback and landscape criteria that would apply to other similar uses and local governments may adopt ordinances specifying such requirements.¹³¹

The section also provides that, after July 1, 2024, local governments may not amend their comprehensive plans, land use maps, zoning districts, or land development regulations in a manner that would conflict with a resiliency facility's classification as a permitted and allowable use.

Section 2 amends s. 286.29, F.S., regarding energy guidelines for public businesses. The bill deletes a provision relating to legislative intent and the following provisions:

- The Department of Management Services' (DMS's) Florida Climate-Friendly Preferred Products List;
- A requirement that state agencies contract only with hotels or conference facilities for meetings and conferences as recognized by the Green Lodging Program;
- A requirement that, when state agencies, state universities, community colleges, and local governments purchase vehicles under a state purchasing plan that such vehicles are selected for greatest fuel efficiency available for a given use class when fuel economy data is available.

The section also creates a new provision requiring the DMS, in consultation with the Florida Department of Commerce (FDC) and the Department of Agriculture and Consumer Services (DACS), to develop a Florida Humane Preferred Products List. In developing this list, the DMS must assess products currently available for purchase under state term contracts that contain or consist of an energy storage device with a capacity of greater than one kilowatt or that contain or consist of an energy generation device with a capacity of greater than 500 kilowatts. The DMS must then identify the specific products that appear to be largely made free from forced labor, irrespective of the age of the worker. The section defines "forced labor" as any work performed or service rendered that is:

- Obtained by intimidation, fraud, or coercion, including by threat of serious bodily harm to, or physical restraint against, a person, by means of a scheme intended to cause the person to

¹³⁰ The section defines "resiliency facility" as "a facility owned and operated by a public utility for the purposes of assembling, creating, holding, securing, or deploying natural gas reserves for temporary use during a system outage or natural disaster."

¹³¹ Provided that such requirements are not more excessive than those applied to similar other uses.

believe that if he or she does not perform such labor or render such service, the person will suffer serious bodily harm or physical restraint, or by means of the abuse or threatened abuse of law or the legal process;

- Imposed on the basis of a characteristic that has been held by the United States Supreme Court or the Florida Supreme Court to be protected against discrimination under the Fourteenth Amendment to the United States Constitution or under s. 2, Art. I of the State Constitution, including race, color, national origin, religion, gender, or physical disability;
- Not performed or rendered voluntarily by a person; or
- In violation of the Child Labor Law¹³² or otherwise performed or rendered through oppressive child labor.

State agencies and political subdivisions in the state must, when procuring such energy products from state term contracts, first consult the Florida Humane Preferred Energy Products List and may not purchase or procure products not included in the list.

Section 3 amends s. 337.25, F.S., to prohibit the Florida Department of Transportation (FDOT) from assigning or transferring its permitting rights across any transportation right-of-way operated by the FDOT to a third party or governmental entity that does not operate the transportation right-of-way without prior approval of the Legislature.

Section 4 amends s. 337.403, F.S., regarding the obligation for utilities to bear the cost of relocating utility facilities placed upon, under, over, or within the right-of-way public road or publicly owned rail corridors. This section specifies that the authority¹³³ may not require a utility within a public road operated by the authority to be relocated on behalf of any other third-party or governmental agency project related to a separate public or private road or transportation corridor.

Section 5 amends s. 366.032, F.S., to include “development districts” in a provision that states a municipality, county, special district, or other political subdivision of the state may not enact or enforce a resolution, ordinance, rule, code, or policy or take any action that restricts or prohibits or has the effect of restricting or prohibiting the types or fuel sources of energy production which may be used, delivered, converted, or supplied by utilities, gas districts, natural gas transmission companies, and certain liquefied petroleum gas dealers, dispensers, and cylinder exchange operators.

The section also includes “development districts” in a provision that prohibits a municipality, county, special district, or other political subdivision of the state from restricting or prohibiting the use of an appliance using the fuels or energy types supplied by the energy and gas providers above.

Section 6 amends s. 366.04, F.S., regarding the jurisdiction of the Public Service Commission (PSC). This section requires the PSC to approve a targeted storm reserve amount to be effective January 1, 2025, for each public utility. This storm reserve amount must be equal to 80 percent

¹³² Part I of ch. 450, F.S., provides the Child Labor Law for Florida.

¹³³ As used in ss. 337.401-337.404, F.S., “the authority” means the FDOT and local government entities. Section 337.401(1)(a), F.S.

of the approved incremental storm costs incurred for the public utility's highest cost storm impacting its service area over the five calendar years before January 2025. The incremental storm costs must be based on the filings of the public utility with the PSC and orders issued by the PSC.

The targeted storm reserve amount established by the PSC:

- May be adjusted on an annual basis for successive rolling five-year periods;
- Must be funded by an increase in base rates¹³⁴ effective January 1, 2025; and
- Must be designed to allow the public utility to recover the costs to fund the targeted reserve level over a four-year period.

The base rate adjustments and accompanying tariffs must be:

- Implemented by administrative approval of the PSC and employ the most recent authorized base rate structure for the public utility;
- Filed by October 15 together with the current storm reserve and supporting documentation and the highest cost storm over the prior five years as reflected by orders of the PSC; and
- Approved by each November 15 to take effect on January 1 of the following year.

The suspension of base rate increases and implementation of base rate adjustments relating to the targeted storm reserve must be based on the current status of the public utility's administratively-determined storm reserve and be consistent with the dates above. Adjustments to base rates must be designed to fund the public utility storm reserves. Cost recovery of such base rates may not consider a public utility's previous, current, or projected earnings. Revenues of such base rates are not to be considered in the calculation of a public utility's earnings in earnings surveillance reports.

Section 7 amends s. 366.075, F.S., to authorize the PSC to establish an experimental mechanism to facilitate energy infrastructure investment using the administrative proceeding structure designated in ss. 366.96, (7) and (8), F.S. In establishing this mechanism, the PSC is to consider the intent provided in s. 366.91(1), F.S., for renewable energy¹³⁵ and use the definition of the term "renewable natural gas" provided in s. 366.91(2)(f).¹³⁶ The section provides that the PSC has the discretion to determine whether to use an annual proceeding to conduct such an experimental mechanism. The section also requires the PSC to propose a rule for adoption as soon as practicable, but not later than October 31, 2024.

¹³⁴ Base rates are tariffed charges, set by a utility regulator, calculated to recover a utility's operations and maintenance expenses plus a rate of return on the book value of its assets that are considered to be used and useful.

¹³⁵ Section 366.91, F.S., provides that "it is in the public interest to promote the development of renewable energy resources in this state. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies."

¹³⁶ Section s. 366.91(2)(f), F.S., states that "renewable natural gas" means "electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced or resulting from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat, from sulfuric acid manufacturing operations and electrical energy produced using pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration."

Section 8 amends s. 366.94, F.S., to allow the PSC to approve voluntary public utility programs, to become effective on or after January 1, 2025, for residential, customer-specific electric vehicle charging if the PSC determines that the rates and rate structure of a proposed program would not adversely impact the public utility's general body of ratepayers. All utility revenue received under such programs must be credited to the public utility's retail ratepayers. The section also makes clear that it does not preclude cost recovery for electric vehicle charging programs approved by the PSC before January 1, 2024.

Section 9 creates s. 366.99, F.S., authorizing natural gas public utilities to petition¹³⁷ the PSC to annually recover prudently incurred natural gas facilities relocation costs¹³⁸ to accommodate requirements imposed by the FDOT and local government entities. The section allows each utility to recover such costs through a charge separate and apart from base rates, referred to in the section as the natural gas facilities relocation cost recovery clause.

The section directs the PSC to establish an annual proceeding to review these petitions. This review is limited to:

- Determining the prudence of the utility's actual incurred natural gas facilities relocation costs;
- Determining the reasonableness of the utility's projected natural gas facilities relocation costs for the next calendar year; and
- Providing for a true-up of the costs with the projections on which past factors were set.

Any refund or collection made pursuant to the true-up process must include applicable interest.

The section also requires all costs approved pursuant to this clause be allocated to customer classes pursuant to the rate design most recently approved by the PSC. If a capital expenditure is recoverable as a natural gas facilities relocation cost, the public utility may recover the annual depreciation on the cost, calculated at the public utility's current approved depreciation rates, and a return on the undepreciated balance of the costs at the public utility's weighted average cost of capital using the last approved return on equity.

The section directs the PSC to adopt rules to implement the section as soon as practicable.

Section 10 amends s. 377.601, F.S., to substantially revise the legislative intent as it pertains to part II, of ch. 377, F.S., which provides energy resource planning and development policies for Florida. It deletes the legislative intent section as described on page 20 of this analysis. As rewritten, the intent provides that the purpose of the state's energy policy is to ensure an adequate and reliable supply of energy for the state in a manner that promotes the health and welfare of the public and economic growth. The revised intent further states that governance of the state's energy policy be efficiently directed toward achieving this purpose.

¹³⁷ The petition should describe the utility's natural gas facilities relocation costs for the next calendar year, actual natural gas facilities relocation costs for the prior calendar year, and proposed cost-recovery factors designed to recover such costs. Proceeding with implementing a plan before filing this petition would not constitute imprudence on the part of the utility.

¹³⁸ Such costs would include, but not be limited to, the costs to relocate or reconstruct facilities as required by a mandate, a statute, a law, an ordinance, or an agreement between the utility and an authority, including, but not limited to, costs associated with reviewing plans provided by an authority. The costs would not include any costs recovered through base rates.

For the purposes of the above, the revised section states that the state's energy policy should be guided by all of the following goals:

- Ensuring a cost-effective and affordable energy supply.
- Ensuring adequate supply and capacity.
- Ensuring a secure, resilient, and reliable energy supply, with an emphasis on a diverse supply of domestic energy resources.
- Protecting public safety.
- Ensuring consumer choice.
- Protecting the state's natural resources, including its coastlines, tributaries, and waterways.
- Supporting economic growth.

In furtherance of the above goals, the rewritten section provides that it is state policy to:

- Promote the cost-effective development and effective use of a diverse supply of domestic energy resources in the state and discourage energy waste and deletes a provision on global climate change;
- Promote the cost-effective development and maintenance of energy infrastructure that is resilient to natural and manmade threats to the security and reliability of the state's energy supply and deletes programs aimed at promoting energy conservation, energy security, and the reduction of greenhouse gas emissions;
- Reduce reliance on foreign energy resources;
- Include energy considerations in all state, regional, and local planning;
- Utilize and manage effectively energy resources used within state agencies;
- Encourage local governments to include energy considerations in all planning and to support their work in promoting energy management programs;
- Include the full participation of citizens in the development and implementation of energy programs;
- Consider in its decisions the energy needs of each economic sector, including residential, industrial, commercial, agricultural, and governmental uses, and reduce those needs whenever possible;
- Promote energy education and the public dissemination of information on energy and its impacts in relation to the goals stated above;
- Encourage the research, development, demonstration, and application of domestic energy resources, including the use of renewable energy resources;
- Consider, in its decision-making, the impacts of energy-related activities on the goals above, including the whole-life-cycle impacts of any potential energy use choices, so that detrimental effects of these activities are understood and minimized; and
- Develop and maintain energy emergency preparedness plans to minimize the effects of an energy shortage within the state Florida.

Section 11 amends s. 377.6015, F.S., to revise the duties of the DACS to conform to the changes made by the bill and require that the DACS advocate for energy issues consistent with the goals in proposed s. 377.601(2), F.S., provided in Section 10 of the bill.

Section 12 amends s. 377.703, F.S., to revise the duties of the DACS to conform to the changes made by the bill. It also eliminates a requirement that the DACS, when analyzing the energy data

it collects and preparing long-range forecasts of energy supply and demand in coordination with the PSC (which is responsible for electricity and natural gas forecasts), that the forecasts contain plans for the development of renewable energy resources and reduction in dependence on depletable energy resources, particularly oil and natural gas. Instead, such forecasts must contain an analysis of the extent to which domestic energy resources, including renewable energy sources, are being utilized in the state.

The section also deletes a requirement that the forecasts contain:

- Consideration of alternative scenarios of statewide energy supply and demand for five, 10, and 20 years to identify strategies for long-range action, including identification of potential social, economic, and environmental effects. Instead, such consideration must be made for potential impacts in relation to the goals in proposed s. 377.601(2), F.S., provided in Section 10 of the bill.
- An assessment of the state's energy resources, including examination of the availability of commercially developable and imported fuels, and an analysis of anticipated effects on the state's environment and social services resulting from energy resource development activities or from energy supply constraints, or both. Instead, such assessments must contain an analysis of anticipated impacts in relation to the goals in proposed s. 377.601(2), F.S., provided in Section 10 of the bill, resulting from energy resource development activities or from energy supply constraints, or both.

Section 13 repeals the following sections:

- Sections 377.801-804, F.S., providing the Florida Energy and Climate Protection Act (Renewable Energy and Energy-Efficient Technologies Grants Program);
- Section 377.808, F.S., providing the Florida Green Governments Grant Act;
- Section 377.809, F.S., providing the Energy Economic Zone Pilot Program;
- Section 377.816, F.S., providing a program operated by Office of Energy within the DACS for allocating or reallocating the qualified energy conservation bond volume limitation provided by 26 U.S.C. s. 54D.

Section 14 provides for the programs deleted in Section 13 of the bill, there may not be:

- New or additional applications, certifications, or allocations approved.
- New letters of certification issued.
- New contracts or agreements executed.
- New awards made.

All certifications or allocations issued under such programs are rescinded except for the certifications of, or allocations to, those certified applicants or projects that continue to meet the applicable criteria in effect before July 1, 2024. Any existing contracts or agreements authorized under those programs must continue in full force and effect in accordance with the statutory requirements in effect when the contract or agreement was executed or last modified. However, further modifications, extensions, or waivers may not be made or granted relating to those contracts or agreements, except computations by the Department of Revenue of the income generated by or arising out of a qualifying project.

Section 15 amends s. 288.9606, F.S., relating to the issue of revenue bonds, to conform to changes made by the bill.

Section 16 amends s. 380.0651, F.S., relating to statewide guidelines, standards, and exemptions, to conform to changes made by the bill.

Section 17 amends s. 403.9405, F.S., to provide that the Natural Gas Transmission Pipeline Siting Act does not apply to natural gas transmission pipelines which are less than 15 miles in length or which do not cross a county line, unless the applicant has elected to apply for certification of that pipeline. The section increases the 15-mile limit for non-applicability to be 100 miles.

Section 18 amends s. 409.508, F.S., regarding the Low-Income Energy Assistance Program (LIHEAP). The bill directs the FDC to expand the eligibility for LIHEAP to Florida residents enrolled in any of the following:

- Social Security Disability Insurance program.
- Social Security Insurance program.
- United States Department of Veterans Affairs disability benefits.
- Supplemental Nutritional Assistance Program.
- Temporary Assistance for Needy Families.

The section also directs the FDC to develop a process for automatic payments on behalf of individuals to their household's home energy supplier. The process must include:

- Detailed requirements for any necessary statutory or regulatory changes, application process changes, or other requirements necessary to allow the FDC to identify individuals who qualify for automatic program payments without requiring said individuals to submit additional program applications.
- A data sharing process detailing steps the FDC will take to identify and share a list of categorically eligible residents with home energy suppliers. A home energy supplier that agrees to receive direct program payments must apply the benefits as prescribed and document such payments in its annual program performance measures report.

The section also makes technical changes.

Section 19 amends s. 720.3075, F.S., which relates to prohibited clauses in homeowners' association documents. The section provides that homeowners' association documents, including declarations of covenants, articles of incorporation, or bylaws, may not preclude the types or fuel sources of energy production which may be used, delivered, converted, or supplied by the following entities to customers within the homeowners' association that these entities are authorized to serve:

- Investor-owned electric utilities;
- Municipal electric utilities;
- Rural electric cooperatives;
- Entities formed by interlocal agreement to generate, sell, and transmit electrical energy;
- Investor-owned gas utilities;
- Gas districts;

- Municipal natural gas utilities;
- Natural gas transmission companies; and
- Category I liquefied petroleum gas dealers, category II liquefied petroleum gas dispensers, or category III liquefied petroleum gas cylinder exchange operators as defined in s. 527.01, F.S.

The section also prohibits association documents, including declarations of covenants, articles of incorporation, or bylaws, may not preclude the use of an appliance,¹³⁹ including a stove or grill, which uses the types or fuel source of energy productions which may be used, delivered, converted, or supplied by the entities above.

Section 20 requires the PSC to conduct an assessment of the security and resiliency of the state's electric grid and natural gas facilities against both physical threats and cyber threats. In regards to the cyber threat assessment, the PSC is to also consult with the Florida Digital Service. The section also directs all electric utilities, natural gas utilities, and natural gas pipelines in the state to cooperate with the PSC to provide access to all information necessary to conduct the assessment. The bill requires the PSC, by July 1, 2025, to submit a report of its assessment to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must also contain any recommendations for potential legislative or administrative actions that may enhance the physical security or cyber security of the state's electric grid or natural gas facilities.

Section 21 directs the PSC to study and evaluate the technical and economic feasibility of using advanced nuclear power technologies, including small modular reactors (SMRs), to meet the state's electrical power needs, and research means to encourage and foster the installation and use of such technologies at military installations in the state. The PSC is to submit a report of its findings, along with any recommendations for potential legislative or administrative actions, to the Governor, President of the Senate, and Speaker of the House of Representatives by January 1, 2025. The findings and recommendations must be consistent with the goals proposed in s. 377.601(2), F.S., provided in Section 10 of the bill.

Section 22 directs the FDOT, in consultation with the Office of Energy within the DACS, to study and evaluate the potential development of hydrogen fueling infrastructure, including fueling stations, to support hydrogen-powered vehicles that use the state highway system. The FDOT is to submit a report of its findings, along with any recommendations for potential legislative or administrative actions, to the Governor, President of the Senate, and Speaker of the House of Representatives by January 1, 2025. The findings and recommendations must be consistent with the goals proposed in s. 377.601(2), F.S., provided in Section 10 of the bill.

Section 23 amends s. 220.193, F.S., regarding the Florida renewable energy production credit, to conform to changes made by the bill.

Section 24 provides that the bill shall take effect July 1, 2024.

¹³⁹ As used in this section, "appliance" means a device or apparatus manufactured and designed to use energy and for which the Florida Building Code or the Florida Fire Prevention Code provides specific requirements.

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:

Section 9 of Article I of the State Constitution, states that “no person shall be deprived of life, liberty or property without due process of law.” There is no single test as to whether the requirements of due process are met. However, the fundamental requirements of due process are whether there has been reasonable notice and reasonable opportunity to be heard.¹⁴⁰

As noted by the Supreme Court, the “general statutory scheme for making and adjusting [public utility] rates embraces the traditional requirements of procedural due process, i. e. notice and a hearing.”¹⁴¹ However, there is no single test of due process and the “legislature may determine by what process and procedure legal rights may be asserted and determined provided that the procedure adopted affords reasonable notice and a fair opportunity to be heard before rights are decided.”¹⁴² “Due process cannot be compromised on the footing convenience or expediency.”¹⁴³ Rather, due process should be appropriate to the nature of the case.¹⁴⁴

Section 6 of the bill, amending s. 366.04, F.S., creates a process for the Public Service Commission (PSC) to adjust base rates and accompanying tariffs for public utilities to provide public utilities with a targeted storm reserve. The section specifies a process where utilities must file, by October 15, with the PSC, their request under the proposed section, and the PSC must administratively approve the filing by November 15 (with

¹⁴⁰ *Citizens of State v. Florida Pub. Serv. Com'n*, 146 So. 3d 1143, 1154 (Fla. 2014).

¹⁴¹ *Florida Power Corp. v. Hawkins*, 367 So. 2d 1011, 1013 (Fla. 1979).

¹⁴² *Citizens of State v. Florida Pub. Serv. Com'n*, 146 So. 3d 1143, 1154 (Fla. 2014), citing *Peoples Bank of Indian River Cnty. v. State, Dep't of Banking & Fin.*, 395 So.2d 521, 524 (Fla.1981).

¹⁴³ *Citizens of State v. Florida Pub. Serv. Com'n*, 146 So. 3d 1143, 1154 (Fla. 2014), citing *United Tel. Co. of Fla. V. Beard*, 611 So.2d 1240, 1243 (Fla.1993).

¹⁴⁴ *Keys Citizens for Responsible Gov't, Inc. v. Florida Keys Aqueduct Auth.*, 795 So. 2d 940, 948 (Fla. 2001).

rates to take effect on January 1). This condensed time frame may raise substantial issues for the PSC, as the PSC notes in its analysis of this provision in SB 1548:

The process outlined by [the bill] does not clearly afford an entry point given ambiguity surrounding the phrase “administrative approval.” In the past, the Commission [PSC] has chosen to internally delegate certain powers to Staff...to address largely non-substantive matters unlikely to infringe upon the substantial rights of a party. That process would preclude participation from interested persons. However, if the phrase “administrative approval” was a reference to the typical administrative process by which changes in base rate are approved, then SB 1548 does not provide enough time to ensure substantially interested persons can participate.

Nor would the Commission [PSC] have sufficient time to process a base rate case (for 11 different utilities)....

Ambiguity surrounding the “administrative approval” process, combined with the narrow deadlines that the various required steps will be operating under, might result in stakeholders feeling left out of the process. If so, they could potentially mount legal challenges to the storm reserve figure if they object to its rate impact.¹⁴⁵

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The following provisions of the bill may have a fiscal impact on the private sector:

- Deleting requirements relating to the Florida Climate-Friendly Preferred Products List may have a negative impact on companies that have products on that list as they may see a reduction in purchases of those products.
- The provision requiring state agencies and political subdivisions to consult a Florida Humane Preferred Products List when procuring certain energy products, may positively financially impact those companies with products on the list. Conversely, companies with products not on the list may be negatively financially impacted.
- The provisions reducing the applicability of the Natural Gas Transmission Pipeline Siting Act will likely reduce regulatory costs for pipeline projects.
- Ratepayers may see, at least initially, a utility rate increase due to the targeted storm reserve provisions of the bill. The amount of any increase is dependent on several factors including the severity of storms impacting a particular public utility and current storm reserves.

¹⁴⁵ Florida Public Service Commission, *Bill Analysis for SB 1548*, *supra* note 82.

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact on state government expenditures because it imposes new requirements for specified state agencies, which may require the expenditure of resources. The directives of the bill likely expands the responsibilities of the following state agencies:

- Department of Management Services – due to the development of a Florida Humane Preferred Energy Products List;
- The Public Service Commission (PSC) – due to the assessment of the security and resiliency of the state’s electric grid and natural gas facilities;
- PSC – due to the study and evaluation of advanced nuclear power technologies;
- The Department of Agriculture and Consumer Services (DACS) – due to revised duties of the DACS to conform to the changes made by the bill and require that the DACS advocate for energy issues consistent with the goals in proposed s. 377.601(2), F.S.;
- The Department of Commerce – required to expand categorical eligibility of the Federal Low—Income Home Energy Assistance Program and develop an automatic program payments process; and
- Florida Department of Transportation – due to the study and evaluation of potential development of hydrogen fueling infrastructure.

Most of the above agencies have not yet provided their analyses of this bill, so it is unknown at this time the extent to which the bill would impact those agencies’ operations. Affected agencies may be able to satisfy all or some of these requirements with existing resources. For example, the DMS may incur additional workload for the development of the Florida Humane Preferred Energy Products Lists; however, according to the DMS, such workload can be absorbed within the current resources of the DMS. The impact of requiring state agencies to purchase certain energy-related items from a new Florida Humane Preferred Energy Products List, as required by the bill, is indeterminate.

The PSC, in its analysis of SB 1548, stated that implementing a similar provision in that bill to Section 21 of this bill (directing the PSC to study and evaluate the technical and economic feasibility of using advanced nuclear power technologies, including small modular reactors) would likely require the PSC to secure outside experts because the “technology is in its infancy, and no such reactors have been put into operation either in Florida or elsewhere.” The PSC provided an estimated cost of such services of \$190,000, based on the inflation-adjusted cost of consultants it has hired for a previous research project.¹⁴⁶ Historically, traditional studies cost approximately \$200,000 to \$300,000.

VI. Technical Deficiencies:

None.

¹⁴⁶ *Id.*

VII. Related Issues:

Section 2 of the bill refers to an “energy storage device with a capacity of greater than one kilowatt.” Kilowatt hours may be what was intended here as that is a measure of battery storage rather than output.

Section 5 of the bill uses the term “development district,” but does not define this term. It is unclear if this is intended to mean a community development district or another entity. The sponsor may wish to revise this term or include a definition.

Section 6 of the bill uses the terms “base rate,” “storm reserve,” and “surveillance reports.” While these terms are used commonly at the Public Service Commission (PSC), they are not defined for ch. 366, F.S. In addition, the term “surveillance reports” is not used anywhere in Florida Statutes. The sponsor may wish to define these terms for this section. In addition, the targeted storm reserves provisions are amended into the PSC’s jurisdiction section. A new separate section following s. 366.96, F.S., would appear to be a more logical placement.

Section 7 of the bill states that the PSC “is authorized to establish an experimental mechanism to facilitate energy infrastructure investment consistent with the structure set forth in s. 366.96(7) and (8), the intent of s. 366.91(1), and the definition of the term ‘renewable natural gas’ in s. 398 366.91(2)(f).” Sections 366.97, F.S., specifically provide a process for storm protection costs, so it is potentially unclear what portions of the procedures identified in those sections is intended to be applicable to Section 7 of the bill. It is also unclear as how the definition of “renewable natural gas” is intended to be included in the structure that is referenced.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 286.29, 337.25, 337.403, 366.032, 366.04, 366.075, 366.94, 377.601, 377.6015, 377.703, 288.9606, 380.0651, 403.9405, 409.508, 720.3075, and 220.193.

This bill creates sections 163.3210 and 366.99 of the Florida Statutes and several undesignated sections of law.

This bill repeals the following sections of the Florida Statutes: 377.801, 377.802, 377.803, 377.804, 377.808, 377.809, and 377.816.

IX. Additional Information:

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

CS by Regulated Industries on January 30, 2024:

The committee substitute:

- Adds a provision prohibiting the Florida Department of Transportation (FDOT) from assigning or transferring its permitting rights across any transportation right-of-way operated by the FDOT to a third party or governmental entity that does not operate the transportation right-of-way without prior approval of the Legislature.

- Adds a provision prohibiting the FDOT and local government entities from requiring a utility within a public road operated by the authority to be relocated on behalf of any other third-party or governmental agency project related to a separate public or private road or transportation corridor.
- Deletes a provision in the bill that created an electric vehicle battery deposit program within the Department of Highway Safety and Motor Vehicles and a related report.
- Deletes a provision in the bill that required the FDOT, when it enters a contract or has entered into a contract or license to allow a vendor to sell motor fuel or charging services along the turnpike system, offer access to potential vendors of other motor vehicle fuels or repowering services along the turnpike system.
- Deletes a provision in the bill that created a requirement that, before a public utility retires an electrical power plant, it must petition the Public Service Commission (PSC) for approval.
- Adds a provision requiring the PSC to create targeted storm reserve amounts for public utilities.
- Adds a provision authorizing the PSC to establish an experimental mechanism to facilitate energy infrastructure investment.
- Regarding a provision in the bill permitting the PSC to approve voluntary public utility programs for residential, customer-specific electric vehicle charging, it revises the applicability date for previously approved programs.
- Adds a provision requiring the PSC to conduct an annual proceeding to determine prudently incurred natural gas facilities relocation costs for cost recovery by natural gas public utilities.
- Adds a provision directing the Florida Department of Commerce (FDC) to expand eligibility for the Low-Income Energy Assistance Program (LIHEAP) to persons in certain federal disability programs.
- Adds a provision directing the FDC to develop a process for automated LIHEAP payments to home energy suppliers.
- Deletes a provision that directs the PSC to ensure technologies that allow businesses and consumers to use electrical energy for their own use are used in a way that best maintains the integrity of the state electricity grid. The deleted provision also required the PSC to establish programs and rate mechanisms, and submit a report to the legislature.
- Makes technical and conforming changes.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2024	.	
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The Appropriations Committee on Agriculture, Environment, and General Government (Collins) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 163.3210, Florida Statutes, is created
to read:

163.3210 Natural gas resiliency and reliability
infrastructure.—

(1) It is the intent of the Legislature to maintain,
encourage, and ensure adequate and reliable fuel sources for



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public utilities. The resiliency and reliability of fuel sources for public utilities is critical to the state's economy; the ability of the state to recover from natural disasters; and the health, safety, welfare, and quality of life of the residents of the state.

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

(a) "Natural gas" means all forms of fuel commonly or commercially known or sold as natural gas, including compressed natural gas and liquefied natural gas.

(b) "Natural gas reserve" means a facility that is capable of storing and transporting and, when operational, actively stores and transports a supply of natural gas.

(c) "Public utility" has the same meaning as defined in s. 366.02.

(d) "Resiliency facility" means a facility owned and operated by a public utility for the purposes of assembling, creating, holding, securing, or deploying natural gas reserves for temporary use during a system outage or natural disaster.

(3) A resiliency facility is a permitted use in all commercial, industrial, and manufacturing land use categories in a local government comprehensive plan and all commercial, industrial, and manufacturing districts. A resiliency facility must comply with the setback and landscape criteria for other similar uses. A local government may adopt an ordinance specifying buffer and landscaping requirements for resiliency facilities, provided such requirements do not exceed the requirements for similar uses involving the construction of other facilities that are permitted uses in commercial, industrial, and manufacturing land use categories and zoning



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districts.

(4) After July 1, 2024, a local government may not amend its comprehensive plan, land use map, zoning districts, or land development regulations in a manner that would conflict with a resiliency facility's classification as a permitted and allowable use, including, but not limited to, an amendment that causes a resiliency facility to be a nonconforming use, structure, or development.

Section 2. Section 286.29, Florida Statutes, is amended to read:

286.29 Energy guidelines for Climate-friendly public business. ~~The Legislature recognizes the importance of leadership by state government in the area of energy efficiency and in reducing the greenhouse gas emissions of state government operations. The following shall pertain to all state agencies when conducting public business:~~

~~(1) The Department of Management Services shall develop the "Florida Climate-Friendly Preferred Products List." In maintaining that list, the department, in consultation with the Department of Environmental Protection, shall continually assess products currently available for purchase under state term contracts to identify specific products and vendors that offer clear energy efficiency or other environmental benefits over competing products. When procuring products from state term contracts, state agencies shall first consult the Florida Climate-Friendly Preferred Products List and procure such products if the price is comparable.~~

~~(2) State agencies shall contract for meeting and conference space only with hotels or conference facilities that~~



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~~have received the "Green Lodging" designation from the Department of Environmental Protection for best practices in water, energy, and waste efficiency standards, unless the responsible state agency head makes a determination that no other viable alternative exists.~~

~~(1)~~ (3) Each state agency shall ensure that all maintained vehicles meet minimum maintenance schedules shown to reduce fuel consumption, which include:

(a) Ensuring appropriate tire pressures and tread depth. ~~;~~

(b) Replacing fuel filters and emission filters at recommended intervals. ~~;~~

(c) Using proper motor oils. ~~;~~ and

(d) Performing timely motor maintenance.

Each state agency shall measure and report compliance to the Department of Management Services through the Equipment Management Information System database.

~~(4) When procuring new vehicles, all state agencies, state universities, community colleges, and local governments that purchase vehicles under a state purchasing plan shall first define the intended purpose for the vehicle and determine which of the following use classes for which the vehicle is being procured:~~

~~(a) State business travel, designated operator;~~

~~(b) State business travel, pool operators;~~

~~(c) Construction, agricultural, or maintenance work;~~

~~(d) Conveyance of passengers;~~

~~(e) Conveyance of building or maintenance materials and supplies;~~



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~~(f) Off-road vehicle, motorcycle, or all-terrain vehicle;~~
~~(g) Emergency response; or~~
~~(h) Other.~~

~~Vehicles described in paragraphs (a) through (h), when being processed for purchase or leasing agreements, must be selected for the greatest fuel efficiency available for a given use class when fuel economy data are available. Exceptions may be made for individual vehicles in paragraph (g) when accompanied, during the procurement process, by documentation indicating that the operator or operators will exclusively be emergency first responders or have special documented need for exceptional vehicle performance characteristics. Any request for an exception must be approved by the purchasing agency head and any exceptional performance characteristics denoted as a part of the procurement process prior to purchase.~~

(2)(5) All state agencies shall use ethanol and biodiesel blended fuels when available. State agencies administering central fueling operations for state-owned vehicles shall procure biofuels for fleet needs to the greatest extent practicable.

(3)(a) The Department of Management Services shall, in consultation with the Department of Commerce and the Department of Agriculture and Consumer Services, develop a Florida Humane Preferred Energy Products List. In developing the list, the department must assess products currently available for purchase under state term contracts that contain or consist of an energy storage device with a capacity of greater than one kilowatt-hour or that contain or consist of an energy generation device with a



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capacity of greater than 500 watts and identify specific
products that appear to be largely made free from forced labor,
irrespective of the age of the worker. For purposes of this
subsection, the term "forced labor" means any work performed or
service rendered that is:

1. Obtained by intimidation, fraud, or coercion, including
by threat of serious bodily harm to, or physical restraint
against, a person, by means of a scheme intended to cause the
person to believe that if he or she does not perform such labor
or render such service, the person will suffer serious bodily
harm or physical restraint, or by means of the abuse or
threatened abuse of law or the legal process;

2. Imposed on the basis of a characteristic that has been
held by the United States Supreme Court or the Florida Supreme
Court to be protected against discrimination under the
Fourteenth Amendment to the United States Constitution or under
s. 2, Art. I of the State Constitution, including race, color,
national origin, religion, gender, or physical disability;

3. Not performed or rendered voluntarily by a person; or

4. In violation of the Child Labor Law or otherwise
performed or rendered through oppressive child labor.

(b) When procuring the types of energy products described
in paragraph (a) from state term contracts, state agencies and
political subdivisions shall first consult the Florida Humane
Preferred Energy Products List and may not purchase or procure
products not included in the list.

Section 3. Subsections (1), (2), and (5) of section
366.032, Florida Statutes, are amended to read:

366.032 Preemption over utility service restrictions.—



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(1) A municipality, county, special district, development district, or other political subdivision of the state may not enact or enforce a resolution, ordinance, rule, code, or policy or take any action that restricts or prohibits or has the effect of restricting or prohibiting the types or fuel sources of energy production which may be used, delivered, converted, or supplied by the following entities to serve customers that such entities are authorized to serve:

(a) A public utility or an electric utility as defined in this chapter;

(b) An entity formed under s. 163.01 that generates, sells, or transmits electrical energy;

(c) A natural gas utility as defined in s. 366.04(3)(c);

(d) A natural gas transmission company as defined in s. 368.103; or

(e) A Category I liquefied petroleum gas dealer or Category II liquefied petroleum gas dispenser or Category III liquefied petroleum gas cylinder exchange operator as defined in s. 527.01.

(2) Except to the extent necessary to enforce the Florida Building Code adopted pursuant to s. 553.73 or the Florida Fire Prevention Code adopted pursuant to s. 633.202, a municipality, county, special district, development district, or other political subdivision of the state may not enact or enforce a resolution, an ordinance, a rule, a code, or a policy or take any action that restricts or prohibits or has the effect of restricting or prohibiting the use of an appliance, including a stove or grill, which uses the types or fuel sources of energy production which may be used, delivered, converted, or supplied



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by the entities listed in subsection (1). As used in this subsection, the term "appliance" means a device or apparatus manufactured and designed to use energy and for which the Florida Building Code or the Florida Fire Prevention Code provides specific requirements.

(5) Any municipality, county, special district, development district, or political subdivision charter, resolution, ordinance, rule, code, policy, or action that is preempted by this act that existed before or on July 1, 2021, is void.

Section 4. Section 366.042, Florida Statutes, is created to read:

366.042 Mutual aid agreements of electric cooperatives and municipal electric utilities.—

(1) For the purposes of restoring power following a natural disaster that is subject to a state of emergency declared by the Governor, all electric cooperatives and municipal electric utilities shall enter into and maintain, at a minimum, one of the following:

(a) A mutual aid agreement with a municipal electric utility;

(b) A mutual aid agreement with an electric cooperative;

(c) A mutual aid agreement with a public utility; or

(d) A pre-event agreement with a private contractor.

(2) All electric cooperatives and municipal electric utilities operating in this state shall annually submit to the commission an attestation, in conformity with s. 92.525, stating that the organization has complied with the requirements of this section on or before May 15. Nothing in this section shall be construed to give the commission jurisdiction over the terms and



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conditions of a mutual aid agreement or agreement with a private contractor entered into by an electric cooperative or a municipal electric utility.

(3) The commission shall compile the attestations and annually submit a copy to the Division of Emergency Management no later than May 30.

(4) An electric cooperative or municipal electric utility that submits the attestation required by this section is eligible to receive state financial assistance, if such funding is available, for power restoration efforts following a natural disaster that is subject to a state of emergency declared by the Governor.

(5) An electric cooperative or municipal electric utility that does not submit an attestation required by this section is ineligible to receive state financial assistance for power restoration efforts following a natural disaster that is subject to a state of emergency declared by the Governor, until such time as the attestation is submitted.

(6) Nothing in this section shall be construed to prohibit, limit, or disqualify an electric cooperative or municipal electric utility from receiving funding under The Stafford Act, 42 U.S.C. 5121 et seq., or any other federal program, including programs administered by the state.

(7) This section does not expand or alter the jurisdiction of the commission over public utilities or electric utilities.

Section 5. Subsection (4) is added to section 366.94, Florida Statutes, to read:

366.94 Electric vehicle charging ~~stations~~.—

(4) Upon petition of a public utility, the commission may



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approve voluntary electric vehicle charging programs to become effective on or after January 1, 2025, to include, but not be limited to, residential, fleet, and public electric vehicle charging, upon a determination by the commission that the utility's general body of ratepayers, as a whole, will not pay to support recovery of its electric vehicle charging investment by the end of the useful life of the assets dedicated to the electric vehicle charging service. This provision does not preclude cost recovery for electric vehicle charging programs approved by the commission before January 1, 2024.

Section 6. Section 366.99, Florida Statutes, is created to read:

366.99 Natural gas facilities relocation costs.—

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

(a) "Authority" has the same meaning as in s.

337.401(1) (a).

(b) "Facilities relocation" means the physical moving, modification, or reconstruction of public utility facilities to accommodate the requirements imposed by an authority.

(c) "Natural gas facilities" or "facilities" means gas mains, laterals, and service lines used to distribute natural gas to customers. The term includes all ancillary equipment needed for safe operations, including, but not limited to, regulating stations, meters, other measuring devices, regulators, and pressure monitoring equipment.

(d) "Natural gas facilities relocation costs" means the costs to relocate or reconstruct facilities as required by a mandate, a statute, a law, an ordinance, or an agreement between the utility and an authority, including, but not limited to,



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costs associated with reviewing plans provided by an authority.
The term does not include any costs recovered through the public
utility's base rates.

(e) "Public utility" or "utility" has the same meaning as
in s. 366.02, except that the term does not include an electric
utility.

(2) A utility may submit to the commission, pursuant to
commission rule, a petition describing the utility's projected
natural gas facilities relocation costs for the next calendar
year, actual natural gas facilities relocation costs for the
prior calendar year, and proposed cost-recovery factors designed
to recover such costs. A utility's decision to proceed with
implementing a plan before filing such a petition does not
constitute imprudence.

(3) The commission shall conduct an annual proceeding to
determine each utility's prudently incurred natural gas
facilities relocation costs and to allow each utility to recover
such costs through a charge separate and apart from base rates,
to be referred to as the natural gas facilities relocation cost
recovery clause. The commission's review in the proceeding is
limited to determining the prudence of the utility's actual
incurred natural gas facilities relocation costs and the
reasonableness of the utility's projected natural gas facilities
relocation costs for the following calendar year; and providing
for a true-up of the costs with the projections on which past
factors were set. The commission shall require that any refund
or collection made as a part of the true-up process includes
interest.

(4) All costs approved for recovery through the natural gas



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facilities relocation cost recovery clause must be allocated to customer classes pursuant to the rate design most recently approved by the commission.

(5) If a capital expenditure is recoverable as a natural gas facilities relocation cost, the public utility may recover the annual depreciation on the cost, calculated at the public utility's current approved depreciation rates, and a return on the undepreciated balance of the costs at the public utility's weighted average cost of capital using the last approved return on equity.

(6) The commission shall adopt rules to implement and administer this section and shall propose a rule for adoption as soon as practicable after July 1, 2024.

Section 7. Section 377.601, Florida Statutes, is amended to read:

377.601 Legislative intent.—

(1) The purpose of the state's energy policy is to ensure an adequate, reliable, and cost-effective supply of energy for the state in a manner that promotes the health and welfare of the public and economic growth. The Legislature intends that governance of the state's energy policy be efficiently directed toward achieving this purpose ~~The Legislature finds that the state's energy security can be increased by lessening dependence on foreign oil; that the impacts of global climate change can be reduced through the reduction of greenhouse gas emissions; and that the implementation of alternative energy technologies can be a source of new jobs and employment opportunities for many Floridians. The Legislature further finds that the state is positioned at the front line against potential impacts of global~~



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~~climate change. Human and economic costs of these impacts can be averted by global actions and, where necessary, adapted to by a concerted effort to make Florida's communities more resilient and less vulnerable to these impacts. In focusing the government's policy and efforts to benefit and protect our state, its citizens, and its resources, the Legislature believes that a single government entity with a specific focus on energy and climate change is both desirable and advantageous. Further, the Legislature finds that energy infrastructure provides the foundation for secure and reliable access to the energy supplies and services on which Florida depends. Therefore, there is significant value to Florida consumers that comes from investment in Florida's energy infrastructure that increases system reliability, enhances energy independence and diversification, stabilizes energy costs, and reduces greenhouse gas emissions.~~

(2) For the purposes of subsection (1), the state's energy policy must be guided by the following goals:

(a) Ensuring a cost-effective and affordable energy supply.

(b) Ensuring adequate supply and capacity.

(c) Ensuring a secure, resilient, and reliable energy supply, with an emphasis on a diverse supply of domestic energy resources.

(d) Protecting public safety.

(e) Protecting the state's natural resources, including its coastlines, tributaries, and waterways.

(f) Supporting economic growth.

(3)(2) In furtherance of the goals in subsection (2), it is the policy of the state of Florida to:



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(a) ~~Develop and~~ Promote the cost-effective development and effective use of a diverse supply of domestic energy resources in the state ~~and, discourage all forms of energy waste, and recognize and address the potential of global climate change wherever possible.~~

(b) Promote the cost-effective development and maintenance of energy infrastructure that is resilient to natural and manmade threats to the security and reliability of the state's energy supply ~~Play a leading role in developing and instituting energy management programs aimed at promoting energy conservation, energy security, and the reduction of greenhouse gas emissions.~~

(c) Reduce reliance on foreign energy resources.

(d) ~~(e)~~ Include energy reliability and security considerations in all state, regional, and local planning.

(e) ~~(d)~~ Utilize and manage effectively energy resources used within state agencies.

(f) ~~(e)~~ Encourage local governments to include energy considerations in all planning and to support their work in promoting energy management programs.

(g) ~~(f)~~ Include the full participation of citizens in the development and implementation of energy programs.

(h) ~~(g)~~ Consider in its decisions the energy needs of each economic sector, including residential, industrial, commercial, agricultural, and governmental uses, and reduce those needs whenever possible.

(i) ~~(h)~~ Promote energy education and the public dissemination of information on energy and its impacts in relation to the goals in subsection (2) ~~environmental, economic,~~



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~~and social impact.~~

(j)~~(i)~~ Encourage the research, development, demonstration, and application of domestic energy resources, including the use of alternative energy resources, particularly renewable energy resources.

(k)~~(j)~~ Consider, in its decisionmaking, the impacts of energy-related activities on the goals in subsection (2) ~~social, economic, and environmental impacts of energy-related activities,~~ including the whole-life-cycle impacts of any potential energy use choices, so that detrimental effects of these activities are understood and minimized.

(l)~~(k)~~ Develop and maintain energy emergency preparedness plans to minimize the effects of an energy shortage within this state Florida.

Section 8. Subsection (2) of section 377.6015, Florida Statutes, is amended to read:

377.6015 Department of Agriculture and Consumer Services; powers and duties.—

(2) The department shall:

~~(a) Administer the Florida Renewable Energy and Energy-Efficient Technologies Grants Program pursuant to s. 377.804 to assure a robust grant portfolio.~~

(a)~~(b)~~ Develop policy for requiring grantees to provide royalty-sharing or licensing agreements with state government for commercialized products developed under a state grant.

~~(c) Administer the Florida Green Government Grants Act pursuant to s. 377.808 and set annual priorities for grants.~~

(b)~~(d)~~ Administer the information gathering and reporting functions pursuant to ss. 377.601-377.608.



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~~(e) Administer the provisions of the Florida Energy and Climate Protection Act pursuant to ss. 377.801-377.804.~~

~~(c)(f)~~ Advocate for energy and climate change issues consistent with the goals in s. 377.601(2) and provide educational outreach and technical assistance in cooperation with the state's academic institutions.

~~(d)(g)~~ Be a party in the proceedings to adopt goals and submit comments to the Public Service Commission pursuant to s. 366.82.

~~(e)(h)~~ Adopt rules pursuant to chapter 120 in order to implement all powers and duties described in this section.

Section 9. Subsection (1) and paragraphs (e), (f), (h), and (m) of subsection (2) of section 377.703, Florida Statutes, are amended to read:

377.703 Additional functions of the Department of Agriculture and Consumer Services.—

(1) LEGISLATIVE INTENT.—Recognizing that energy supply and demand questions have become a major area of concern to the state which must be dealt with by effective and well-coordinated state action, it is the intent of the Legislature to promote the efficient, effective, and economical management of energy problems, centralize energy coordination responsibilities, pinpoint responsibility for conducting energy programs, and ensure the accountability of state agencies for the implementation of s. 377.601 ~~s. 377.601(2)~~, the state energy policy. It is the specific intent of the Legislature that nothing in this act shall in any way change the powers, duties, and responsibilities assigned by the Florida Electrical Power Plant Siting Act, part II of chapter 403, or the powers, duties,



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and responsibilities of the Florida Public Service Commission.

(2) DUTIES.—The department shall perform the following functions, unless as otherwise provided, consistent with the development of a state energy policy:

(e) The department shall analyze energy data collected and prepare long-range forecasts of energy supply and demand in coordination with the Florida Public Service Commission, which is responsible for electricity and natural gas forecasts. To this end, the forecasts shall contain:

1. An analysis of the relationship of state economic growth and development to energy supply and demand, including the constraints to economic growth resulting from energy supply constraints.

2. ~~Plans for the development of renewable energy resources and reduction in dependence on depletable energy resources, particularly oil and natural gas,~~ and An analysis of the extent to which domestic energy resources, including renewable energy sources, are being utilized in this ~~the~~ state.

3. Consideration of alternative scenarios of statewide energy supply and demand for 5, 10, and 20 years to identify strategies for long-range action, including identification of potential impacts in relation to the goals in s. 377.601(2) ~~social, economic, and environmental effects.~~

4. An assessment of the state's energy resources, including examination of the availability of commercially developable and imported fuels, and an analysis of anticipated impacts in relation to the goals in s. 377.601(2) ~~effects on the state's environment and social services~~ resulting from energy resource development activities or from energy supply constraints, or



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both.

(f) The department shall submit an annual report to the Governor and the Legislature reflecting its activities and making recommendations for policies for improvement of the state's response to energy supply and demand and its effect on the health, safety, and welfare of the residents of this state. The report must include a report from the Florida Public Service Commission on electricity and natural gas and information on energy conservation programs conducted and underway in the past year and include recommendations for energy efficiency and conservation programs for the state, including:

1. Formulation of specific recommendations for improvement in the efficiency of energy utilization in governmental, residential, commercial, industrial, and transportation sectors.

2. Collection and dissemination of information relating to energy efficiency and conservation.

3. Development and conduct of educational and training programs relating to energy efficiency and conservation.

4. An analysis of the ways in which state agencies are seeking to implement s. 377.601 ~~s. 377.601(2)~~, the state energy policy, and recommendations for better fulfilling this policy.

(h) The department shall promote the development and use of renewable energy resources, in conformance with chapter 187 and s. 377.601, by:

~~1. Establishing goals and strategies for increasing the use of renewable energy in this state.~~

~~1.2.~~ Aiding and promoting the commercialization of renewable energy resources, in cooperation with the Florida Energy Systems Consortium; the Florida Solar Energy Center; and



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any other federal, state, or local governmental agency that may seek to promote research, development, and the demonstration of renewable energy equipment and technology.

~~2.3.~~ Identifying barriers to greater use of renewable energy resources in this state, and developing specific recommendations for overcoming identified barriers, with findings and recommendations to be submitted annually in the report to the Governor and Legislature required under paragraph (f).

~~3.4.~~ In cooperation with the Department of Environmental Protection, the Department of Transportation, the Department of Commerce, the Florida Energy Systems Consortium, the Florida Solar Energy Center, and the Florida Solar Energy Industries Association, investigating opportunities, pursuant to the national Energy Policy Act of 1992, the Housing and Community Development Act of 1992, and any subsequent federal legislation, for renewable energy resources, electric vehicles, and other renewable energy manufacturing, distribution, installation, and financing efforts that enhance this state's position as the leader in renewable energy research, development, and use.

~~4.5.~~ Undertaking other initiatives to advance the development and use of renewable energy resources in this state.

In the exercise of its responsibilities under this paragraph, the department shall seek the assistance of the renewable energy industry in this state and other interested parties and may enter into contracts, retain professional consulting services, and expend funds appropriated by the Legislature for such purposes.



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(m) In recognition of the devastation to the economy of this state and the dangers to the health and welfare of residents of this state caused by severe hurricanes, and the potential for such impacts caused by other natural disasters, the Division of Emergency Management shall include in its energy emergency contingency plan and provide to the Florida Building Commission for inclusion in the Florida Energy Efficiency Code for Building Construction specific provisions to facilitate the use of cost-effective ~~solar~~ energy technologies as emergency remedial and preventive measures for providing electric power, street lighting, and water heating service in the event of electric power outages.

Section 10. Section 377.708, Florida Statutes, is created to read:

377.708 Wind energy.—

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

(a) "Coastline" means the established line of mean high water.

(b) "Department" means the Department of Environmental Protection.

(c) "Offshore wind energy facility" means any wind energy facility located on waters of this state, including other buildings, structures, vessels, or electrical transmission cabling to be sited on waters of this state, or connected to corresponding onshore substations that are used to support the operation of one or more wind turbines sited or constructed on waters of this state and any submerged lands or territorial waters that are not under the jurisdiction of the state.

(d) "Real property" has the same meaning as provided in s.



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192.001(12).

(e) "Waters of this state" has the same meaning as in s. 327.02, except the term also includes all state submerged lands.

(f) "Wind energy facility" means an electrical wind generation facility or expansion thereof having at least a 400-watt rated capacity, including substations; meteorological data towers; aboveground, underground, and electrical transmission lines; and transformers, control systems, and other buildings or structures under common ownership or operating control used to support the operation of the facility the primary purpose of which is to offer electricity supply for sale.

(g) "Wind turbine" means a device or apparatus that has the capability to convert kinetic wind energy into rotational energy that drives an electrical generator consisting of a tower body and rotator with two or more blades. The term includes both horizontal and vertical axis turbines. The term does not include devices used to measure wind speed and direction, such as an anemometer.

(2) PROHIBITED ACTIVITIES.—

(a) The construction, operation, or expansion of an offshore wind energy facility in this state is prohibited.

(b) The construction or operation of a wind turbine on real property within 1 mile of coastline in this state is prohibited.

(c) The construction or operation of a wind turbine on waters of this state and any submerged lands is prohibited.

(3) REVIEW.—The department shall review all applications for federal wind energy leases in the territorial waters of the United States adjacent to waters of this state and shall signify its approval of or objection to each application.



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(4) INJUNCTIVE RELIEF.—The department may bring an action for injunctive relief against any person who owns, constructs, or operates an offshore wind energy facility or a wind turbine in this state in violation of this section.

Section 11. Sections 377.801, 377.802, 377.803, 377.804, 377.808, 377.809, and 377.816, Florida Statutes, are repealed.

Section 12. (1) For programs established pursuant to s. 377.804, s. 377.808, s. 377.809, or s. 377.816, Florida Statutes, there may not be:

(a) New or additional applications, certifications, or allocations approved.

(b) New letters of certification issued.

(c) New contracts or agreements executed.

(d) New awards made.

(2) All certifications or allocations issued under such programs are rescinded except for the certifications of, or allocations to, those certified applicants or projects that continue to meet the applicable criteria in effect before July 1, 2024. Any existing contract or agreement authorized under any of these programs shall continue in full force and effect in accordance with the statutory requirements in effect when the contract or agreement was executed or last modified. However, further modifications, extensions, or waivers may not be made or granted relating to such contracts or agreements, except computations by the Department of Revenue of the income generated by or arising out of the qualifying project.

Section 13. Paragraph (d) of subsection (2) of section 220.193, Florida Statutes, is amended to read:

220.193 Florida renewable energy production credit.—



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

(d) "Florida renewable energy facility" means a facility in the state that produces electricity for sale from renewable energy, ~~as defined in s. 377.803.~~

Section 14. Subsection (7) of section 288.9606, Florida Statutes, is amended to read:

288.9606 Issue of revenue bonds.—

(7) Notwithstanding any provision of this section, the corporation in its corporate capacity may, without authorization from a public agency under s. 163.01(7), issue revenue bonds or other evidence of indebtedness under this section to:

(a) Finance the undertaking of any project within the state that promotes renewable energy as defined in s. 366.91 ~~or s. 377.803;~~

(b) Finance the undertaking of any project within the state that is a project contemplated or allowed under s. 406 of the American Recovery and Reinvestment Act of 2009; ~~or~~

(c) If permitted by federal law, finance qualifying improvement projects within the state under s. 163.08; or—

(d) Finance the costs of acquisition or construction of a transportation facility by a private entity or consortium of private entities under a public-private partnership agreement authorized by s. 334.30.

Section 15. Paragraph (w) of subsection (2) of section 380.0651, Florida Statutes, is amended to read:

380.0651 Statewide guidelines, standards, and exemptions.—

(2) STATUTORY EXEMPTIONS.—The following developments are exempt from s. 380.06:

~~(w) Any development in an energy economic zone designated~~



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~~pursuant to s. 377.809 upon approval by its local governing body.~~

If a use is exempt from review pursuant to paragraphs (a)-(u), but will be part of a larger project that is subject to review pursuant to s. 380.06(12), the impact of the exempt use must be included in the review of the larger project, unless such exempt use involves a development that includes a landowner, tenant, or user that has entered into a funding agreement with the state land planning agency under the Innovation Incentive Program and the agreement contemplates a state award of at least \$50 million.

Section 16. Subsection (2) of section 403.9405, Florida Statutes, is amended to read:

403.9405 Applicability; certification; exemption; notice of intent.—

(2) ~~No construction of~~ A natural gas transmission pipeline may not be constructed ~~be undertaken after October 1, 1992,~~ without first obtaining certification under ss. 403.9401-403.9425, but these sections do not apply to:

(a) Natural gas transmission pipelines which are less than 100 ~~15~~ miles in length or which do not cross a county line, unless the applicant has elected to apply for certification under ss. 403.9401-403.9425.

(b) Natural gas transmission pipelines for which a certificate of public convenience and necessity has been issued under s. 7(c) of the Natural Gas Act, 15 U.S.C. s. 717f, or a natural gas transmission pipeline certified as an associated facility to an electrical power plant pursuant to the Florida



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Electrical Power Plant Siting Act, ss. 403.501-403.518, unless the applicant elects to apply for certification of that pipeline under ss. 403.9401-403.9425.

(c) Natural gas transmission pipelines that are owned or operated by a municipality or any agency thereof, by any person primarily for the local distribution of natural gas, or by a special district created by special act to distribute natural gas, unless the applicant elects to apply for certification of that pipeline under ss. 403.9401-403.9425.

Section 17. Subsection (3) of section 720.3075, Florida Statutes, is amended to read:

720.3075 Prohibited clauses in association documents.—

(3) Homeowners' association documents, including declarations of covenants, articles of incorporation, or bylaws, may not preclude:

(a) The display of up to two portable, removable flags as described in s. 720.304(2)(a) by property owners. However, all flags must be displayed in a respectful manner consistent with the requirements for the United States flag under 36 U.S.C. chapter 10.

(b) Types or fuel sources of energy production which may be used, delivered, converted, or supplied by the following entities to serve customers within the association that such entities are authorized to serve:

1. A public utility or an electric utility as defined in chapter 366;

2. An entity formed under s. 163.01 that generates, sells, or transmits electrical energy;

3. A natural gas utility as defined in s. 366.04(3)(c);



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4. A natural gas transmission company as defined in s.
368.103; or

5. A Category I liquefied petroleum gas dealer, a Category
II liquefied petroleum gas dispenser, or a Category III
liquefied petroleum gas cylinder exchange operator as defined in
s. 527.01.

(c) The use of an appliance, including a stove or grill,
which uses the types or fuel sources of energy production which
may be used, delivered, converted, or supplied by the entities
listed in paragraph (b). As used in this paragraph, the term
"appliance" means a device or apparatus manufactured and
designed to use energy and for which the Florida Building Code
or the Florida Fire Prevention Code provides specific
requirements.

Section 18. (1) The Public Service Commission shall conduct
an assessment of the security and resiliency of the state's
electric grid and natural gas facilities against both physical
threats and cyber threats. In conducting this assessment, the
commission shall consult with the Division of Emergency
Management and, in its assessment of cyber threats, shall
consult with the Florida Digital Service. All electric
utilities, natural gas utilities, and natural gas pipelines
operating in this state, regardless of ownership structure,
shall cooperate with the commission to provide access to all
information necessary to conduct the assessment.

(2) By July 1, 2025, the commission shall submit a report
of its assessment to the Governor, the President of the Senate,
and the Speaker of the House of Representatives. The report must
also contain any recommendations for potential legislative or



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administrative actions that may enhance the physical security or
cyber security of the state's electric grid or natural gas
facilities.

Section 19. (1) Recognizing the evolution and advances that
have occurred and continue to occur in nuclear power
technologies, the Public Service Commission shall study and
evaluate the technical and economic feasibility of using
advanced nuclear power technologies, including small modular
reactors, to meet the electrical power needs of the state, and
research means to encourage and foster the installation and use
of such technologies at military installations in the state in
partnership with public utilities. In conducting this study, the
commission shall consult with the Department of Environmental
Protection and the Division of Emergency Management.

(2) By April 1, 2025, the commission shall prepare and
submit a report to the Governor, the President of the Senate,
and the Speaker of the House of Representatives, containing its
findings and any recommendations for potential legislative or
administrative actions that may enhance the use of advanced
nuclear technologies in a manner consistent with the energy
policy goals in s. 377.601(2), Florida Statutes.

Section 20. (1) Recognizing the continued development of
technologies that support the use of hydrogen as a
transportation fuel and the potential for such use to help meet
the state's energy policy goals in s. 377.601(2), Florida
Statutes, the Department of Transportation, in consultation with
the Office of Energy within the Department of Agriculture and
Consumer Services, shall study and evaluate the potential
development of hydrogen fueling infrastructure, including



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fueling stations, to support hydrogen-powered vehicles that use
the State Highway System.

(2) By April 1, 2025, the Department of Transportation
shall prepare and submit a report to the Governor, the President
of the Senate, and the Speaker of the House of Representatives,
containing its findings and any recommendations for potential
legislative or administrative actions that may accommodate the
future development of hydrogen fueling infrastructure in a
manner consistent with the energy policy goals in s. 377.601(2),
Florida Statutes.

Section 21. This act shall take effect July 1, 2024.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to energy resources; creating s.
163.3210, F.S.; providing legislative intent; defining
terms; providing that resilience facilities are a
permitted use in certain land use categories in local
government comprehensive plans and specified districts
if certain criteria are met; authorizing local
governments to adopt ordinances specifying certain
requirements for resiliency facilities if such
ordinances meet certain requirements; prohibiting
amendments after a specified date to a local
government's comprehensive plan, land use map, zoning
districts, or land development regulations if such



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amendments would conflict with resiliency facility classification; amending s. 286.29, F.S.; revising energy guidelines for public businesses; eliminating the requirement that the Department of Management Services develop and maintain the Florida Climate-Friendly Preferred Products List; deleting the requirement that state agencies contract for meeting and conference space only with facilities that have a Green Lodging designations; deleting the requirement that state agencies, state universities, community colleges, and local governments that procure new vehicles under a state purchasing plan select certain vehicles under a specified circumstance; requiring the Department of Management Services to develop a Florida Humane Preferred Energy Products List in consultation with the Department of Commerce and the Department of Agriculture and Consumer Services; providing assessment requirements developing the list; defining the term "forced labor"; requiring state agencies and political subdivisions that procure energy products from state term contracts to consult the list and purchase or procure such products; prohibiting state agencies and political subdivisions from purchasing or procuring products not included on the list; amending s. 366.032, F.S.; including development districts as a type of political subdivision for purposes of preemption over utility service restrictions; creating s. 366.042, F.S.; requiring electric cooperatives and municipal electric utilities to enter into and



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maintain at least one mutual aid agreement or pre-event agreement with certain entities for purposes of restoring power after a natural disaster; requiring electric cooperatives and municipal electric utilities to annually submit attestations of compliance to the Public Service Commission; requiring the commission to compile the attestations and annually submit a copy of such attestations to the Division of Emergency Management; providing that the submission of such attestations makes electric cooperatives and municipal electric utilities eligible to receive state financial assistance; providing that electric cooperatives and municipal electric utilities that do not submit such attestations are not eligible to receive state financial assistance until such attestations are submitted; providing construction; amending s. 366.94, F.S.; removing terminology; authorizing the commission to approve voluntary electric vehicle charging programs upon petition of a public utility, to become effective on or after a specified date, if certain requirements are met; providing applicability; creating s. 366.99, F.S.; defining terms; authorizing public utilities to submit to the commission a petition for a proposed cost recovery for certain natural gas facilities relocation costs; requiring the commission to conduct annual proceedings to determine each utility's prudently incurred natural gas facilities relocation costs and to allow for the recovery of such costs; providing requirements for the



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commission's review; providing requirements for the allocation of such recovered costs; requiring the commission to adopt rules; providing a timeframe for such rulemaking; amending s. 377.601, F.S.; revising legislative intent; amending s. 377.6015, F.S.; revising the powers and duties of the Department of Agriculture and Consumer Services; conforming provisions to changes made by the act; amending s. 377.703, F.S.; revising additional functions of the department relating to energy resources; conforming provisions to changes made by the act; creating s. 377.708, F.S.; defining terms; prohibiting the construction, operation, or expansion of certain wind energy facilities and wind turbines in this state; requiring the Department of Environmental Protection to review applications for federal wind energy leases in territorial waters of the United States adjacent to waters of this state and signify its approval or objection to such applications; authorizing the department to seek injunctive relief for violations; repealing ss. 377.801, 377.802, 377.803, 377.804, 377.808, 377.809, and 377.816, F.S., relating to the Florida Energy and Climate Protection Act, the purpose of the act, definitions under the act, the Renewable Energy and Energy-Efficient Technologies Grants Program, the Florida Green Government Grants Act, the Energy Economic Zone Pilot Program, and the Qualified Energy Conservation Bond Allocation Program, respectively; prohibiting the approval of new or



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additional applications, certifications, or allocations under such programs; prohibiting new contracts, agreements, and awards under such programs; rescinding all certifications or allocations issued under such programs; providing an exception; providing applicability relating to existing contracts or agreements under such programs; amending ss. 220.193, 288.9606, and 380.0651, F.S.; conforming provisions to changes made by the act; amending s. 403.9405, F.S.; revising the applicability of the Natural Gas Transmission Pipeline Siting Act; amending s. 720.3075, F.S.; prohibiting certain homeowners' association documents from precluding certain types or fuel sources of energy production and the use of certain appliances; defining the term "appliance"; requiring the commission to conduct an assessment of the security and resiliency of the state's electric grid and natural gas facilities against physical threats and cyber threats; requiring the commission to consult with the Division of Emergency Management and the Florida Digital Service; requiring cooperation from all operating facilities in the state relating to such assessment; requiring the commission to submit by a specified date a report of such assessment to the Governor and the Legislature; providing additional content requirements for such report; requiring the commission to study and evaluate the technical and economic feasibility of using advanced nuclear power technologies to meet the electrical power needs of



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this state; requiring the commission to research means to encourage and foster the installation and use of such technologies at military installations in partnership with public utilities; requiring the commission to consult with the Department of Environmental Protection and the Division of Emergency Management; requiring the commission to submit by a specified date a report to the Governor and the Legislature which contains its findings and any additional recommendations for potential legislative or administrative actions; requiring the Department of Transportation, in consultation with the Office of Energy within the Department of Agriculture and Consumer Services, to study and evaluate the potential development of hydrogen fueling infrastructure to support hydrogen-powered vehicles; requiring the Department of Transportation to submit by a specified date a report to the Governor and the Legislature which contains its findings and recommendations for legislative or administrative actions that may accommodate the future development of hydrogen fueling infrastructure; providing an effective date.

By the Committee on Regulated Industries; and Senator Collins

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1 A bill to be entitled
 2 An act relating to energy resources; creating s.
 3 163.3210, F.S.; providing legislative intent; defining
 4 terms; allowing resiliency facilities in certain land
 5 use categories in local government comprehensive plans
 6 and specified districts if certain criteria are met;
 7 authorizing local governments to adopt ordinances for
 8 resiliency facilities if certain requirements are met;
 9 prohibiting amendments to a local government's
 10 comprehensive plan, land use map, zoning districts, or
 11 land development regulations in a manner that would
 12 conflict with resiliency facility classification after
 13 a specified date; amending s. 286.29, F.S.; revising
 14 energy guidelines for public businesses; deleting the
 15 requirement that the Department of Management Services
 16 develop and maintain the Florida Climate-Friendly
 17 Preferred Products List; deleting the requirement that
 18 state agencies contract for meeting and conference
 19 space only with facilities that have Green Lodging
 20 designations; deleting the requirement that state
 21 agencies, state universities, community colleges, and
 22 local governments that procure new vehicles under a
 23 state purchasing plan select certain vehicles under a
 24 specified circumstance; requiring the Department of
 25 Management Services to develop a Florida Humane
 26 Preferred Energy Products List in consultation with
 27 the Department of Commerce and the Department of
 28 Agriculture and Consumer Services; providing for
 29 assessment considerations in developing the list;

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30 defining the term "forced labor"; requiring state
 31 agencies and political subdivisions that procure
 32 energy products from state term contracts to consult
 33 the list and purchase or procure such products;
 34 prohibiting state agencies and political subdivisions
 35 from purchasing or procuring products not included in
 36 the list; amending s. 337.25, F.S.; prohibiting the
 37 Department of Transportation from assigning or
 38 transferring its permitting rights across
 39 transportation rights-of-way operated by the
 40 department to certain third parties under certain
 41 circumstances; amending s. 337.403, F.S.; prohibiting
 42 authorities from requiring the relocation of utilities
 43 on behalf of certain other third-party or governmental
 44 agency projects; amending s. 366.032, F.S.; including
 45 development districts as a type of political
 46 subdivision for purposes of preemption over utility
 47 service restrictions; amending s. 366.04, F.S.;
 48 requiring the Public Service Commission to approve
 49 targeted storm reserve amounts for public utilities;
 50 providing requirements for the targeted storm reserve
 51 amounts; providing for base rate adjustments; amending
 52 s. 366.075, F.S.; authorizing the commission to
 53 establish an experimental mechanism to facilitate
 54 energy infrastructure investment for renewable natural
 55 gas; providing requirements for the experimental
 56 mechanism; requiring the commission to adopt rules;
 57 providing a timeframe for such rulemaking; amending s.
 58 366.94, F.S.; deleting terminology; conforming

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59 provisions to changes made by the act; authorizing the
 60 commission upon a specified date to approve voluntary
 61 public utility programs for electric vehicle charging
 62 if certain requirements are met; requiring that all
 63 revenues received from such program be credited to the
 64 public utility's general body of ratepayers; providing
 65 applicability; creating s. 366.99, F.S.; defining
 66 terms; authorizing public utilities to submit to the
 67 commission a petition for a proposed cost recovery for
 68 certain natural gas facilities relocation costs;
 69 requiring the commission to conduct annual proceedings
 70 to determine each utility's prudently incurred natural
 71 gas facilities relocation costs and to allow for the
 72 recovery of such costs; providing requirements for the
 73 commission's review; providing requirements for the
 74 allocation of such recovered costs; requiring the
 75 commission to adopt rules; providing a timeframe for
 76 such rulemaking; amending s. 377.601, F.S.; revising
 77 legislative intent; amending s. 377.6015, F.S.;
 78 revising the powers and duties of the department;
 79 conforming provisions to changes made by the act;
 80 amending s. 377.703, F.S.; revising additional
 81 functions of the department relating to energy
 82 resources; conforming provisions to changes made by
 83 the act; repealing ss. 377.801, 377.802, 377.803,
 84 377.804, 377.808, 377.809, and 377.816, F.S., relating
 85 to the Florida Energy and Climate Protection Act, the
 86 purpose of the act, and definitions under the act, the
 87 Renewable Energy and Energy-Efficient Technologies

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88 Grants Program, the Florida Green Government Grants
 89 Act, the Energy Economic Zone Pilot Program, and the
 90 qualified energy conservation bond allocation;
 91 prohibiting the approval of new or additional
 92 applications, certifications, or allocations under
 93 such programs; prohibiting new contracts, agreements,
 94 and awards under such programs; rescinding all
 95 certifications or allocations issued under such
 96 programs; providing an exception; providing
 97 application relating to existing contracts or
 98 agreements under such programs; amending ss. 288.9606
 99 and 380.0651, F.S.; conforming provisions to changes
 100 made by the act; amending s. 403.9405, F.S.; revising
 101 the applicability of the Natural Gas Transmission
 102 Pipeline Siting Act; amending s. 409.508, F.S.;
 103 defining and redefining terms; requiring the
 104 Department of Commerce to expand categorical
 105 eligibility for the low-income home energy assistance
 106 program to include individuals who are enrolled in
 107 certain federal disability programs; requiring the
 108 department to develop a comprehensive process for
 109 automatic payments to be made on behalf of such
 110 individuals; providing requirements for such process;
 111 making technical changes; amending s. 720.3075, F.S.;
 112 prohibiting certain homeowners' association documents
 113 from precluding certain types or fuel sources of
 114 energy production and the use of certain appliances;
 115 defining the term "appliance"; requiring the
 116 commission to conduct an assessment of the security

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117 and resiliency of the state's electric grid and
 118 natural gas facilities against physical threats and
 119 cyber threats; requiring the commission to consult
 120 with the Florida Digital Service; requiring
 121 cooperation from all operating facilities in the state
 122 relating to such assessment; requiring the commission
 123 to submit by a specified date a report of such
 124 assessment to the Governor and the Legislature;
 125 providing additional content requirements for such
 126 report; requiring the commission to study and evaluate
 127 the technical and economic feasibility of using
 128 advanced nuclear power technologies to meet the
 129 electrical power needs of the state; requiring the
 130 commission to submit by a specified date a report to
 131 the Governor and the Legislature which contains its
 132 findings and any additional recommendations for
 133 potential legislative or administrative actions;
 134 requiring the Department of Transportation, in
 135 consultation with the Office of Energy within the
 136 Department of Agriculture and Consumer Services, to
 137 study and evaluate the potential development of
 138 hydrogen fueling infrastructure to support hydrogen-
 139 powered vehicles; requiring the department to submit,
 140 by a specified date, a report to the Governor and the
 141 Legislature that contains its findings and
 142 recommendations for specified actions that may
 143 accommodate the future development of hydrogen fueling
 144 infrastructure; amending s. 220.193, F.S.; conforming
 145 a cross-reference; providing an effective date.

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146
 147 Be It Enacted by the Legislature of the State of Florida:
 148
 149 Section 1. Section 163.3210, Florida Statutes, is created
 150 to read:
 151 163.3210 Natural gas resiliency and reliability
 152 infrastructure.—
 153 (1) It is the intent of the Legislature to maintain,
 154 encourage, and ensure adequate and reliable fuel sources for
 155 public utilities. The resiliency and reliability of fuel sources
 156 for public utilities is critical to the state's economy; the
 157 ability of the state to recover from natural disasters; and to
 158 the health, safety, welfare, and quality of life of the
 159 residents of the state.
 160 (2) As used in this section, the term:
 161 (a) "Natural gas" means all forms of fuel commonly or
 162 commercially known or sold as natural gas, including compressed
 163 natural gas and liquefied natural gas.
 164 (b) "Natural gas reserve" means a facility that is capable
 165 of storing and transporting and, when operational, actively
 166 stores and transports a supply of natural gas.
 167 (c) "Public utility" has the same meaning as defined in s.
 168 366.02.
 169 (d) "Resiliency facility" means a facility owned and
 170 operated by a public utility for the purposes of assembling,
 171 creating, holding, securing, or deploying natural gas reserves
 172 for temporary use during a system outage or natural disaster.
 173 (3) A resiliency facility is a permitted use in all
 174 commercial, industrial, and manufacturing land use categories in

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a local government comprehensive plan and all commercial, industrial, and manufacturing districts. A resiliency facility must comply with the setback and landscape criteria for other similar uses. A local government may adopt an ordinance specifying buffer and landscaping requirements for resiliency facilities, provided that such requirements do not exceed the requirements for similar uses involving the construction of other facilities that are permitted uses in commercial, industrial, and manufacturing land use categories and zoning districts.

(4) After July 1, 2024, a local government may not amend its comprehensive plan, land use map, zoning districts, or land development regulations in a manner that would conflict with a resiliency facility's classification as a permitted and allowable use, including, but not limited to, an amendment that causes a resiliency facility to be a nonconforming use, structure, or development.

Section 2. Section 286.29, Florida Statutes, is amended to read:

286.29 Energy guidelines for Climate-friendly public business. ~~The Legislature recognizes the importance of leadership by state government in the area of energy efficiency and in reducing the greenhouse gas emissions of state government operations. The following shall pertain to all state agencies when conducting public business:~~

(1) ~~The Department of Management Services shall develop the "Florida Climate Friendly Preferred Products List."~~ In maintaining that list, the department, in consultation with the Department of Environmental Protection, shall continually assess

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~~products currently available for purchase under state term contracts to identify specific products and vendors that offer clear energy efficiency or other environmental benefits over competing products. When procuring products from state term contracts, state agencies shall first consult the Florida Climate-Friendly Preferred Products List and procure such products if the price is comparable.~~

~~(2) State agencies shall contract for meeting and conference space only with hotels or conference facilities that have received the "Green Lodging" designation from the Department of Environmental Protection for best practices in water, energy, and waste efficiency standards, unless the responsible state agency head makes a determination that no other viable alternative exists.~~

~~(3) Each state agency shall ensure that all maintained vehicles meet minimum maintenance schedules shown to reduce fuel consumption, which include:~~

(a) Ensuring appropriate tire pressures and tread depth.

(b) Replacing fuel filters and emission filters at recommended intervals.

(c) Using proper motor oils. ~~and~~

(d) Performing timely motor maintenance.

Each state agency shall measure and report compliance to the Department of Management Services through the Equipment Management Information System database.

~~(4) When procuring new vehicles, all state agencies, state universities, community colleges, and local governments that purchase vehicles under a state purchasing plan shall first~~

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define the intended purpose for the vehicle and determine which of the following use classes for which the vehicle is being procured:

- ~~(a) State business travel, designated operator;~~
- ~~(b) State business travel, pool operators;~~
- ~~(c) Construction, agricultural, or maintenance work;~~
- ~~(d) Conveyance of passengers;~~
- ~~(e) Conveyance of building or maintenance materials and supplies;~~
- ~~(f) Off-road vehicle, motorcycle, or all-terrain vehicle;~~
- ~~(g) Emergency response; or~~
- ~~(h) Other.~~

Vehicles described in paragraphs (a) through (h), when being processed for purchase or leasing agreements, must be selected for the greatest fuel efficiency available for a given use class when fuel economy data are available. Exceptions may be made for individual vehicles in paragraph (g) when accompanied, during the procurement process, by documentation indicating that the operator or operators will exclusively be emergency first responders or have special documented need for exceptional vehicle performance characteristics. Any request for an exception must be approved by the purchasing agency head and any exceptional performance characteristics denoted as a part of the procurement process prior to purchase.

(2)~~(5)~~ All state agencies shall use ethanol and biodiesel blended fuels when available. State agencies administering central fueling operations for state-owned vehicles shall procure biofuels for fleet needs to the greatest extent

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practicable.

(3) (a) The Department of Management Services shall, in consultation with the Department of Commerce and the Department of Agriculture and Consumer Services, develop a Florida Humane Preferred Energy Products List. In developing the list, the department must assess products currently available for purchase under state term contracts that contain or consist of an energy storage device with a capacity of greater than one kilowatt or that contain or consist of an energy generation device with a capacity of greater than 500 kilowatts and identify specific products that appear to be largely made free from forced labor, irrespective of the age of the worker. For purposes of this subsection, the term "forced labor" means any work performed or service rendered that is:

1. Obtained by intimidation, fraud, or coercion, including by threat of serious bodily harm to, or physical restraint against, a person, by means of a scheme intended to cause the person to believe that if he or she does not perform such labor or render such service, the person will suffer serious bodily harm or physical restraint, or by means of the abuse or threatened abuse of law or the legal process;

2. Imposed on the basis of a characteristic that has been held by the United States Supreme Court or the Florida Supreme Court to be protected against discrimination under the Fourteenth Amendment to the United States Constitution or under s. 2, Art. I of the State Constitution, including race, color, national origin, religion, gender, or physical disability;

3. Not performed or rendered voluntarily by a person; or

4. In violation of the Child Labor Law or otherwise

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performed or rendered through oppressive child labor.

(b) When procuring the types of energy products described in paragraph (a) from state term contracts, state agencies and political subdivisions shall first consult the Florida Humane Preferred Energy Products List and may not purchase or procure products not included in the list.

Section 3. Paragraph (e) is added to subsection (1) of section 337.25, Florida Statutes, to read:

337.25 Acquisition, lease, and disposal of real and personal property.—

(1)

(e) The department may not, without prior approval from the Legislature, assign or transfer its permitting rights across any transportation right-of-way operated by the department to a third party or governmental entity that does not operate the transportation right-of-way.

Section 4. Subsection (1) of section 337.403, Florida Statutes, is amended to read:

337.403 Interference caused by utility; expenses.—

(1) If a utility that is placed upon, under, over, or within the right-of-way limits of any public road or publicly owned rail corridor is found by the authority to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road or publicly owned rail corridor, the utility owner shall, upon 30 days' written notice to the utility or its agent by the authority, initiate the work necessary to alleviate the interference at its own expense except as provided in paragraphs (a)-(j). The authority may not require a utility

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within a public road operated by the authority to be relocated on behalf of any other third-party or governmental agency project related to a separate public or private road or transportation corridor. The work must be completed within such reasonable time as stated in the notice or such time as agreed to by the authority and the utility owner.

(a) If the relocation of utility facilities, as referred to in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No. 84-627, is necessitated by the construction of a project on the federal-aid interstate system, including extensions thereof within urban areas, and the cost of the project is eligible and approved for reimbursement by the Federal Government to the extent of 90 percent or more under the Federal-Aid Highway Act, or any amendment thereof, then in that event the utility owning or operating such facilities shall perform any necessary work upon notice from the department, and the state shall pay the entire expense properly attributable to such work after deducting therefrom any increase in the value of a new facility and any salvage value derived from an old facility.

(b) When a joint agreement between the department and the utility is executed for utility work to be accomplished as part of a contract for construction of a transportation facility, the department may participate in those utility work costs that exceed the department's official estimate of the cost of the work by more than 10 percent. The amount of such participation is limited to the difference between the official estimate of all the work in the joint agreement plus 10 percent and the amount awarded for this work in the construction contract for such work. The department may not participate in any utility

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work costs that occur as a result of changes or additions during the course of the contract.

(c) When an agreement between the department and utility is executed for utility work to be accomplished in advance of a contract for construction of a transportation facility, the department may participate in the cost of clearing and grubbing necessary to perform such work.

(d) If the utility facility was initially installed to exclusively serve the authority or its tenants, or both, the authority shall bear the costs of the utility work. However, the authority is not responsible for the cost of utility work related to any subsequent additions to that facility for the purpose of serving others. For a county or municipality, if such utility facility was installed in the right-of-way as a means to serve a county or municipal facility on a parcel of property adjacent to the right-of-way and if the intended use of the county or municipal facility is for a use other than transportation purposes, the obligation of the county or municipality to bear the costs of the utility work shall extend only to utility work on the parcel of property on which the facility of the county or municipality originally served by the utility facility is located.

(e) If, under an agreement between a utility and the authority entered into after July 1, 2009, the utility conveys, subordinates, or relinquishes a compensable property right to the authority for the purpose of accommodating the acquisition or use of the right-of-way by the authority, without the agreement expressly addressing future responsibility for the cost of necessary utility work, the authority shall bear the

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cost of removal or relocation. This paragraph does not impair or restrict, and may not be used to interpret, the terms of any such agreement entered into before July 1, 2009.

(f) If the utility is an electric facility being relocated underground in order to enhance vehicular, bicycle, and pedestrian safety and in which ownership of the electric facility to be placed underground has been transferred from a private to a public utility within the past 5 years, the department shall incur all costs of the necessary utility work.

(g) An authority may bear the costs of utility work required to eliminate an unreasonable interference when the utility is not able to establish that it has a compensable property right in the particular property where the utility is located if:

1. The utility was physically located on the particular property before the authority acquired rights in the property;

2. The utility demonstrates that it has a compensable property right in adjacent properties along the alignment of the utility or, after due diligence, certifies that the utility does not have evidence to prove or disprove that it has a compensable property right in the particular property where the utility is located; and

3. The information available to the authority does not establish the relative priorities of the authority's and the utility's interests in the particular property.

(h) If a municipally owned utility or county-owned utility is located in a rural area of opportunity, as defined in s. 288.0656(2), and the department determines that the utility is unable, and will not be able within the next 10 years, to pay

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for the cost of utility work necessitated by a department project on the State Highway System, the department may pay, in whole or in part, the cost of such utility work performed by the department or its contractor.

(i) If the relocation of utility facilities is necessitated by the construction of a commuter rail service project or an intercity passenger rail service project and the cost of the project is eligible and approved for reimbursement by the Federal Government, then in that event the utility owning or operating such facilities located by permit on a department-owned rail corridor shall perform any necessary utility relocation work upon notice from the department, and the department shall pay the expense properly attributable to such utility relocation work in the same proportion as federal funds are expended on the commuter rail service project or an intercity passenger rail service project after deducting therefrom any increase in the value of a new facility and any salvage value derived from an old facility. In no event shall the state be required to use state dollars for such utility relocation work. This paragraph does not apply to any phase of the Central Florida Commuter Rail project, known as SunRail.

(j) If a utility is lawfully located within an existing and valid utility easement granted by recorded plat, regardless of whether such land was subsequently acquired by the authority by dedication, transfer of fee, or otherwise, the authority must bear the cost of the utility work required to eliminate an unreasonable interference. The authority shall pay the entire expense properly attributable to such work after deducting any increase in the value of a new facility and any salvage value

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derived from an old facility.

Section 5. Subsections (1), (2), and (5) of section 366.032, Florida Statutes, are amended to read:

366.032 Preemption over utility service restrictions.—

(1) A municipality, county, special district, development district, or other political subdivision of the state may not enact or enforce a resolution, ordinance, rule, code, or policy or take any action that restricts or prohibits or has the effect of restricting or prohibiting the types or fuel sources of energy production which may be used, delivered, converted, or supplied by the following entities to serve customers that such entities are authorized to serve:

(a) A public utility or an electric utility as defined in this chapter;

(b) An entity formed under s. 163.01 that generates, sells, or transmits electrical energy;

(c) A natural gas utility as defined in s. 366.04(3)(c);

(d) A natural gas transmission company as defined in s. 368.103; or

(e) A Category I liquefied petroleum gas dealer or Category II liquefied petroleum gas dispenser or Category III liquefied petroleum gas cylinder exchange operator as defined in s. 527.01.

(2) Except to the extent necessary to enforce the Florida Building Code adopted pursuant to s. 553.73 or the Florida Fire Prevention Code adopted pursuant to s. 633.202, a municipality, county, special district, development district, or other political subdivision of the state may not enact or enforce a resolution, an ordinance, a rule, a code, or a policy or take

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any action that restricts or prohibits or has the effect of restricting or prohibiting the use of an appliance, including a stove or grill, which uses the types or fuel sources of energy production which may be used, delivered, converted, or supplied by the entities listed in subsection (1). As used in this subsection, the term "appliance" means a device or apparatus manufactured and designed to use energy and for which the Florida Building Code or the Florida Fire Prevention Code provides specific requirements.

(5) Any municipality, county, special district, development district, or political subdivision charter, resolution, ordinance, rule, code, policy, or action that is preempted by this act that existed before or on July 1, 2021, is void.

Section 6. Subsection (10) is added to section 366.04, Florida Statutes, to read:

366.04 Jurisdiction of commission.—

(10) The commission shall approve a targeted storm reserve amount to be effective January 1, 2025, for each public utility. The targeted storm reserve amount must be set at a level equal to 80 percent of the approved incremental storm costs incurred for the public utility's highest cost storm impacting its service area over the 5 calendar years before January 2025. The approved incremental storm costs that form the basis for the targeted storm reserve amount must be based on the filings of the public utility with the commission and orders issued by the commission.

(a)1. The initial targeted storm reserve amount established by the commission:

a. Is subject to adjustment on an annual basis for

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successive rolling 5-year periods;

b. Must be funded by an increase in base rates effective January 1, 2025; and

c. Must be designed to allow the utility to recover the costs to fund the targeted reserve level over a 4-year period.

2. All base rate adjustments and accompanying tariffs must be:

a. Implemented by administrative approval of the commission and employ the most recent authorized base rate structure for the public utility;

b. Filed by October 15 together with the current storm reserve and supporting documentation and the highest cost storm over the prior 5 years as reflected by commission order; and

c. Administratively approved by each November 15 to take effect on January 1 of the following calendar year.

(b) Suspension of base rate increases and implementation of base rate adjustments under this subsection based on use and depletion of the storm reserve and the determination of the annual storm reserve amount must be administratively determined and approved by the commission consistent with calendar deadlines under paragraph (a).

(c) The adjustments to base rates must be designed to fund the public utility storm reserves; the cost recovery of such base rates must be without regard to any impact on a public utility's previous, current, or projected earnings; and the revenues from such base rates may not be considered in the calculation of a public utility's earnings in earnings surveillance reports filed with the commission.

Section 7. Section 366.075, Florida Statutes, is amended to

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read:

366.075 Experimental and transitional rates; experimental mechanisms.—

(1) The commission is authorized to approve rates on an experimental or transitional basis for any public utility to encourage energy conservation or to encourage efficiency. The application of such rates may be for limited geographic areas and for a limited period.

(2) The commission is authorized to approve the geographic area used in testing experimental rates and shall specify in the order setting those rates the area affected. The commission may extend the period designated for the test if it determines that further testing is necessary to fully evaluate the effectiveness of such experimental rates.

(3) The commission is authorized to establish an experimental mechanism to facilitate energy infrastructure investment consistent with the structure set forth in s. 366.96(7) and (8), the intent of s. 366.91(1), and the definition of the term "renewable natural gas" in s. 366.91(2)(f). The commission shall have discretion to determine whether to use an annual proceeding to conduct such experimental mechanism. The commission shall adopt rules to implement and administer this subsection and shall propose a rule for adoption as soon as practicable after the effective date of this act, but not later than October 31, 2024.

Section 8. Section 366.94, Florida Statutes, is amended to read:

366.94 Electric vehicle charging ~~stations.~~—

(1) The provision of electric vehicle charging to the

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public by a nonutility is not the retail sale of electricity for the purposes of this chapter. The rates, terms, and conditions of electric vehicle charging services by a nonutility are not subject to regulation under this chapter. This section does not affect the ability of individuals, businesses, or governmental entities to acquire, install, or use an electric vehicle charger for their own vehicles.

(2) The Department of Agriculture and Consumer Services shall adopt rules to provide definitions, methods of sale, labeling requirements, and price-posting requirements for electric vehicle charging ~~stations~~ to allow for consistency for consumers and the industry.

(3) (a) It is unlawful for a person to stop, stand, or park a vehicle that is not capable of using an electrical recharging station within any parking space specifically designated for charging an electric vehicle.

(b) If a law enforcement officer finds a motor vehicle in violation of this subsection, the officer or specialist shall charge the operator or other person in charge of the vehicle in violation with a noncriminal traffic infraction, punishable as provided in s. 316.008(4) or s. 318.18.

(4) The commission may approve voluntary public utility programs to become effective on or after January 1, 2025, for residential, customer-specific electric vehicle charging if the commission determines that the rates and rate structure of the program will not adversely impact the public utility's general body of ratepayers. All revenues received from the program must be credited to the public utility's retail ratepayers. This provision does not preclude cost recovery for electric vehicle

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581 charging programs approved by the commission before January 1,
582 2024.

583 Section 9. Section 366.99, Florida Statutes, is created to
584 read:

585 366.99 Natural gas facilities relocation costs.-

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

587 (a) "Authority" has the same meaning as in s.

588 337.401(1)(a).

589 (b) "Facilities relocation" means the physical moving,
590 modification, or reconstruction of public utility facilities to
591 accommodate the requirements imposed by an authority.

592 (c) "Natural gas facilities" or "facilities" means gas
593 mains, laterals, and service lines used to distribute natural
594 gas to customers. The term includes all ancillary equipment
595 needed for safe operations, including, but not limited to,
596 regulating stations, meters, other measuring devices,
597 regulators, and pressure monitoring equipment.

598 (d) "Natural gas facilities relocation costs" means the
599 costs to relocate or reconstruct facilities as required by a
600 mandate, a statute, a law, an ordinance, or an agreement between
601 the utility and an authority, including, but not limited to,
602 costs associated with reviewing plans provided by an authority.
603 The term does not include any costs recovered through the public
604 utility's base rates.

605 (e) "Public utility" or "utility" has the same meaning as
606 in s. 366.02, except that the term does not include an electric
607 utility.

608 (2) A utility may submit to the commission, pursuant to
609 commission rule, a petition describing the utility's projected

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610 natural gas facilities relocation costs for the next calendar
611 year, actual natural gas facilities relocation costs for the
612 prior calendar year, and proposed cost-recovery factors designed
613 to recover such costs. A utility's decision to proceed with
614 implementing a plan before filing such a petition does not
615 constitute imprudence.

616 (3) The commission shall conduct an annual proceeding to
617 determine each utility's prudently incurred natural gas
618 facilities relocation costs and to allow each utility to recover
619 such costs through a charge separate and apart from base rates,
620 to be referred to as the natural gas facilities relocation cost
621 recovery clause. The commission's review in the proceeding is
622 limited to determining the prudence of the utility's actual
623 incurred natural gas facilities relocation costs and the
624 reasonableness of the utility's projected natural gas facilities
625 relocation costs for the following calendar year; and providing
626 for a true-up of the costs with the projections on which past
627 factors were set. The commission shall require that any refund
628 or collection made as a part of the true-up process includes
629 interest.

630 (4) All costs approved for recovery through the natural gas
631 facilities relocation cost recovery clause must be allocated to
632 customer classes pursuant to the rate design most recently
633 approved by the commission.

634 (5) If a capital expenditure is recoverable as a natural
635 gas facilities relocation cost, the public utility may recover
636 the annual depreciation on the cost, calculated at the public
637 utility's current approved depreciation rates, and a return on
638 the undepreciated balance of the costs at the public utility's

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weighted average cost of capital using the last approved return on equity.

(6) The commission shall adopt rules to implement and administer this section and shall propose a rule for adoption as soon as practicable after July 1, 2024.

Section 10. Section 377.601, Florida Statutes, is amended to read:

377.601 Legislative intent.—

(1) The purpose of the state's energy policy is to ensure an adequate and reliable supply of energy for the state in a manner that promotes the health and welfare of the public and economic growth. The Legislature intends that governance of the state's energy policy be efficiently directed toward achieving this purpose The Legislature finds that the state's energy security can be increased by lessening dependence on foreign oil; that the impacts of global climate change can be reduced through the reduction of greenhouse gas emissions; and that the implementation of alternative energy technologies can be a source of new jobs and employment opportunities for many Floridians. The Legislature further finds that the state is positioned at the front line against potential impacts of global climate change. Human and economic costs of those impacts can be averted by global actions and, where necessary, adapted to by a concerted effort to make Florida's communities more resilient and less vulnerable to these impacts. In focusing the government's policy and efforts to benefit and protect our state, its citizens, and its resources, the Legislature believes that a single government entity with a specific focus on energy and climate change is both desirable and advantageous. Further,

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~~the Legislature finds that energy infrastructure provides the foundation for secure and reliable access to the energy supplies and services on which Florida depends. Therefore, there is significant value to Florida consumers that comes from investment in Florida's energy infrastructure that increases system reliability, enhances energy independence and diversification, stabilizes energy costs, and reduces greenhouse gas emissions.~~

(2) For the purposes of subsection (1), the state's energy policy must be guided by the following goals:

(a) Ensuring a cost-effective and affordable energy supply.

(b) Ensuring adequate supply and capacity.

(c) Ensuring a secure, resilient, and reliable energy supply, with an emphasis on a diverse supply of domestic energy resources.

(d) Protecting public safety.

(e) Ensuring consumer choice.

(f) Protecting the state's natural resources, including its coastlines, tributaries, and waterways.

(g) Supporting economic growth.

~~(3)(2)~~ In furtherance of the goals in subsection (2), it is the policy of the state of Florida to:

(a) ~~Develop and Promote the cost-effective development and effective use of a diverse supply of domestic energy resources in this the state and, discourage all forms of energy waste, and recognize and address the potential of global climate change wherever possible.~~

(b) Promote the cost-effective development and maintenance of energy infrastructure that is resilient to natural and

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~~manmade threats to the security and reliability of the state's energy supply. Play a leading role in developing and instituting energy management programs aimed at promoting energy conservation, energy security, and the reduction of greenhouse gas emissions.~~

(c) Reduce reliance on foreign energy resources.

~~(d)(e)~~ Include energy considerations in all state, regional, and local planning.

~~(e)(d)~~ Utilize and manage effectively energy resources used within state agencies.

~~(f)(e)~~ Encourage local governments to include energy considerations in all planning and to support their work in promoting energy management programs.

(g)(f) Include the full participation of citizens in the development and implementation of energy programs.

~~(h)(g)~~ Consider in its decisions the energy needs of each economic sector, including residential, industrial, commercial, agricultural, and governmental uses, and reduce those needs whenever possible.

~~(i)(h)~~ Promote energy education and the public dissemination of information on energy and its impacts in relation to the goals in subsection (2) ~~environmental, economic, and social impact.~~

~~(j)(i)~~ Encourage the research, development, demonstration, and application of domestic energy resources, including the use of alternative energy resources, particularly renewable energy resources.

~~(k)(j)~~ Consider, in its decisionmaking, the impacts of energy-related activities on the goals in subsection (2) ~~social,~~

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~~economic, and environmental impacts of energy-related activities, including the whole-life-cycle impacts of any potential energy use choices, so that detrimental effects of these activities are understood and minimized.~~

~~(l)(k)~~ Develop and maintain energy emergency preparedness plans to minimize the effects of an energy shortage within this state Florida.

Section 11. Subsection (2) of section 377.6015, Florida Statutes, is amended to read:

377.6015 Department of Agriculture and Consumer Services; powers and duties.—

(2) The department shall:

~~(a) Administer the Florida Renewable Energy and Energy-Efficient Technologies Grants Program pursuant to s. 377.804 to assure a robust grant portfolio.~~

~~(b)~~ Develop policy for requiring grantees to provide royalty-sharing or licensing agreements with state government for commercialized products developed under a state grant.

~~(c) Administer the Florida Green Government Grants Act pursuant to s. 377.808 and set annual priorities for grants.~~

~~(b)(d)~~ Administer the information gathering and reporting functions pursuant to ss. 377.601-377.608.

~~(e) Administer the provisions of the Florida Energy and Climate Protection Act pursuant to ss. 377.801-377.804.~~

~~(c)(f)~~ Advocate for energy and climate change issues consistent with the goals in s. 377.601(2) and provide educational outreach and technical assistance in cooperation with the state's academic institutions.

~~(d)(g)~~ Be a party in the proceedings to adopt goals and

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submit comments to the Public Service Commission pursuant to s. 366.82.

~~(e)-(h)~~ Adopt rules pursuant to chapter 120 in order to implement all powers and duties described in this section.

Section 12. Subsection (1) and paragraphs (e), (f), and (m) of subsection (2) of section 377.703, Florida Statutes, are amended to read:

377.703 Additional functions of the Department of Agriculture and Consumer Services.—

(1) LEGISLATIVE INTENT.—Recognizing that energy supply and demand questions have become a major area of concern to the state which must be dealt with by effective and well-coordinated state action, it is the intent of the Legislature to promote the efficient, effective, and economical management of energy problems, centralize energy coordination responsibilities, pinpoint responsibility for conducting energy programs, and ensure the accountability of state agencies for the implementation of s. 377.601 ~~s. 377.601(2)~~, the state energy policy. It is the specific intent of the Legislature that nothing in this act shall in any way change the powers, duties, and responsibilities assigned by the Florida Electrical Power Plant Siting Act, part II of chapter 403, or the powers, duties, and responsibilities of the Florida Public Service Commission.

(2) DUTIES.—The department shall perform the following functions, unless as otherwise provided, consistent with the development of a state energy policy:

(e) The department shall analyze energy data collected and prepare long-range forecasts of energy supply and demand in coordination with the Florida Public Service Commission, which

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is responsible for electricity and natural gas forecasts. To this end, the forecasts shall contain:

1. An analysis of the relationship of state economic growth and development to energy supply and demand, including the constraints to economic growth resulting from energy supply constraints.

2. ~~Plans for the development of renewable energy resources and reduction in dependence on depletable energy resources, particularly oil and natural gas, and~~ An analysis of the extent to which domestic energy resources, including renewable energy sources, are being utilized in this ~~the~~ state.

3. Consideration of alternative scenarios of statewide energy supply and demand for 5, 10, and 20 years to identify strategies for long-range action, including identification of potential impacts in relation to the goals in s. 377.601(2) ~~social, economic, and environmental effects~~.

4. An assessment of the state's energy resources, including examination of the availability of commercially developable and imported fuels, and an analysis of anticipated impacts in relation to the goals in s. 377.601(2) ~~effects on the state's environment and social services~~ resulting from energy resource development activities or from energy supply constraints, or both.

(f) The department shall submit an annual report to the Governor and the Legislature reflecting its activities and making recommendations for policies for improvement of the state's response to energy supply and demand and its effect on the health, safety, and welfare of the residents of this state. The report must include a report from the Florida Public Service

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Commission on electricity and natural gas and information on energy conservation programs conducted and underway in the past year and include recommendations for energy efficiency and conservation programs for the state, including:

1. Formulation of specific recommendations for improvement in the efficiency of energy utilization in governmental, residential, commercial, industrial, and transportation sectors.

2. Collection and dissemination of information relating to energy efficiency and conservation.

3. Development and conduct of educational and training programs relating to energy efficiency and conservation.

4. An analysis of the ways in which state agencies are seeking to implement s. 377.601 ~~s. 377.601(2)~~, the state energy policy, and recommendations for better fulfilling this policy.

(m) In recognition of the devastation to the economy of this state and the dangers to the health and welfare of residents of this state caused by severe hurricanes, and the potential for such impacts caused by other natural disasters, the Division of Emergency Management shall include in its energy emergency contingency plan and provide to the Florida Building Commission for inclusion in the Florida Energy Efficiency Code for Building Construction specific provisions to facilitate the use of cost-effective ~~solar~~ energy technologies as emergency remedial and preventive measures for providing electric power, street lighting, and water heating service in the event of electric power outages.

Section 13. Sections 377.801, 377.802, 377.803, 377.804, 377.808, 377.809, and 377.816, Florida Statutes, are repealed.

Section 14. (1) For programs established pursuant to s.

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377.804, s. 377.808, s. 377.809, or s. 377.816, Florida Statutes, there may not be:

(a) New or additional applications, certifications, or allocations approved.

(b) New letters of certification issued.

(c) New contracts or agreements executed.

(d) New awards made.

(2) All certifications or allocations issued under such programs are rescinded except for the certifications of, or allocations to, those certified applicants or projects that continue to meet the applicable criteria in effect before July 1, 2024. Any existing contract or agreement authorized under any of these programs shall continue in full force and effect in accordance with the statutory requirements in effect when the contract or agreement was executed or last modified. However, further modifications, extensions, or waivers may not be made or granted relating to such contracts or agreements, except computations by the Department of Revenue of the income generated by or arising out of the qualifying project.

Section 15. Subsection (7) of section 288.9606, Florida Statutes, is amended to read:

288.9606 Issue of revenue bonds.—

(7) Notwithstanding any provision of this section, the corporation in its corporate capacity may, without authorization from a public agency under s. 163.01(7), issue revenue bonds or other evidence of indebtedness under this section to:

(a) Finance the undertaking of any project within this the state that promotes renewable energy as defined in s. 366.91 ~~or s. 377.803~~;

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871 (b) Finance the undertaking of any project within the state
 872 that is a project contemplated or allowed under s. 406 of the
 873 American Recovery and Reinvestment Act of 2009; ~~or~~

874 (c) If permitted by federal law, finance qualifying
 875 improvement projects within the state under s. 163.08; ~~or-~~

876 (d) Finance the costs of acquisition or construction of a
 877 transportation facility by a private entity or consortium of
 878 private entities under a public-private partnership agreement
 879 authorized by s. 334.30.

880 Section 16. Paragraph (w) of subsection (2) of section
 881 380.0651, Florida Statutes, is amended to read:

882 380.0651 Statewide guidelines, standards, and exemptions.—

883 (2) STATUTORY EXEMPTIONS.—The following developments are
 884 exempt from s. 380.06:

885 ~~(w) Any development in an energy economic zone designated~~
 886 ~~pursuant to s. 377.809 upon approval by its local governing~~
 887 ~~body.~~

888
 889 If a use is exempt from review pursuant to paragraphs (a)-(u),
 890 but will be part of a larger project that is subject to review
 891 pursuant to s. 380.06(12), the impact of the exempt use must be
 892 included in the review of the larger project, unless such exempt
 893 use involves a development that includes a landowner, tenant, or
 894 user that has entered into a funding agreement with the state
 895 land planning agency under the Innovation Incentive Program and
 896 the agreement contemplates a state award of at least \$50
 897 million.

898 Section 17. Subsection (2) of section 403.9405, Florida
 899 Statutes, is amended to read:

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900 403.9405 Applicability; certification; exemption; notice of
 901 intent.—

902 (2) ~~No construction of~~ A natural gas transmission pipeline
 903 ~~may not be constructed be undertaken after October 1, 1992,~~
 904 without first obtaining certification under ss. 403.9401-
 905 403.9425, but these sections do not apply to:

906 (a) Natural gas transmission pipelines which are less than
 907 100 ~~15~~ miles in length or which do not cross a county line,
 908 unless the applicant has elected to apply for certification
 909 under ss. 403.9401-403.9425.

910 (b) Natural gas transmission pipelines for which a
 911 certificate of public convenience and necessity has been issued
 912 under s. 7(c) of the Natural Gas Act, 15 U.S.C. s. 717f, or a
 913 natural gas transmission pipeline certified as an associated
 914 facility to an electrical power plant pursuant to the Florida
 915 Electrical Power Plant Siting Act, ss. 403.501-403.518, unless
 916 the applicant elects to apply for certification of that pipeline
 917 under ss. 403.9401-403.9425.

918 (c) Natural gas transmission pipelines that are owned or
 919 operated by a municipality or any agency thereof, by any person
 920 primarily for the local distribution of natural gas, or by a
 921 special district created by special act to distribute natural
 922 gas, unless the applicant elects to apply for certification of
 923 that pipeline under ss. 403.9401-403.9425.

924 Section 18. Section 409.508, Florida Statutes, is amended
 925 to read:

926 409.508 Low-income home energy assistance program.—

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

928 (a) "Department" means the Department of Commerce.

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929 (b) "Eligible household" means a household eligible for
 930 funds from the program Low-income Home Energy Assistance Act of
 931 1981, 42 U.S.C. ss. 8621 et seq.

932 (c)(b) "Home energy" means a source of heating or cooling
 933 in residential dwellings.

934 (d) "Program" means the federal low-income home energy
 935 assistance program established pursuant to 42 U.S.C. ss. 8621 et
 936 seq.

937 (e)(e) "Utility" means any person, corporation,
 938 partnership, municipality, cooperative, association, or other
 939 legal entity and its lessees, trustees, or receivers now or
 940 hereafter owning, operating, managing, or controlling any plant
 941 or other facility supplying electricity or natural gas to or for
 942 the public within this state, directly or indirectly, for
 943 compensation.

944 (2) The department ~~of Economic Opportunity~~ is designated as
 945 the state agency to administer the program Low-income Home
 946 Energy Assistance Act of 1981, 42 U.S.C. ss. 8621 et seq. The
 947 department ~~may of Economic Opportunity is authorized to~~ provide
 948 home energy assistance benefits to eligible households which may
 949 be in the form of cash, vouchers, certificates, or direct
 950 payments to electric or natural gas utilities or other energy
 951 suppliers and operators of low-rent, subsidized housing in
 952 behalf of eligible households. Priority ~~must shall~~ be given to
 953 eligible households having at least one elderly or handicapped
 954 individual and to eligible households with the lowest incomes.

955 (3)(a) The department shall expand categorical eligibility
 956 for the program to include households with residents of this
 957 state who are enrolled in any of the following federal

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958 disability programs:

959 1. Social Security Disability Insurance program.
 960 2. Social Security Insurance program.
 961 3. United States Department of Veterans Affairs disability
 962 benefits.
 963 4. Supplemental Nutritional Assistance Program.
 964 5. Temporary Assistance for Needy Families.

965 (b) The department shall develop a comprehensive process
 966 for automatic program payments on behalf of such individuals to
 967 be made directly to the household's home energy supplier. The
 968 process must include all of the following:

969 1. Detailed requirements for any necessary statutory or
 970 regulatory change, application process change, or other
 971 requirement necessary to allow the department to identify
 972 individuals who qualify under this subsection for automatic
 973 program payments without requiring the individual to submit
 974 additional program applications.

975 2. A data sharing process detailing the steps the
 976 department will take to identify and share a list of
 977 categorically eligible residents with home energy suppliers. A
 978 home energy supplier that agrees to receive direct program
 979 payments must apply the benefits as prescribed to the resident
 980 accounts identified by the department and document such payments
 981 in its annual program performance measures report.

982 (4) Agreements may be established between electric or
 983 natural gas utility companies, other energy suppliers, the
 984 department, and the Department of Revenue to provide, and the
 985 Department of Economic Opportunity for the purpose of providing
 986 payments to energy suppliers in the form of a credit against

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sales and use taxes due or direct payments to energy suppliers for services rendered to low-income, eligible households.

~~(5)(4)~~ The department of ~~Economic Opportunity~~ shall adopt rules to carry out ~~the provisions of this section act~~.

Section 19. Subsection (3) of section 720.3075, Florida Statutes, is amended to read:

720.3075 Prohibited clauses in association documents.—

(3) Homeowners' association documents, including declarations of covenants, articles of incorporation, or bylaws, may not preclude:

(a) The display of up to two portable, removable flags as described in s. 720.304(2)(a) by property owners. However, all flags must be displayed in a respectful manner consistent with the requirements for the United States flag under 36 U.S.C. chapter 10.

(b) Types or fuel sources of energy production which may be used, delivered, converted, or supplied by the following entities to serve customers within the association that such entities are authorized to serve:

1. A public utility or an electric utility as defined in this chapter;

2. An entity formed under s. 163.01 that generates, sells, or transmits electrical energy;

3. A natural gas utility as defined in s. 366.04(3)(c);

4. A natural gas transmission company as defined in s. 368.103; or

5. A category I liquefied petroleum gas dealer, a category II liquefied petroleum gas dispenser, or a category III liquefied petroleum gas cylinder exchange operator as defined in

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s. 527.01.

(c) The use of an appliance, including a stove or grill, which uses the types or fuel sources of energy production which may be used, delivered, converted, or supplied by the entities listed in paragraph (b). As used in this paragraph, the term "appliance" means a device or apparatus manufactured and designed to use energy and for which the Florida Building Code or the Florida Fire Prevention Code provides specific requirements.

Section 20. (1) The Public Service Commission shall conduct an assessment of the security and resiliency of the state's electric grid and natural gas facilities against both physical threats and cyber threats. The commission shall consult with the Florida Digital Service in assessing cyber threats. All electric utilities, natural gas utilities, and natural gas pipelines operating in this state, regardless of ownership structure, shall cooperate with the commission to provide access to all information necessary to conduct the assessment.

(2) By January 1, 2025, the commission shall submit a report of its assessment to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must also contain any recommendations for potential legislative or administrative actions that may enhance the physical security or cyber security of the state's electric grid or natural gas facilities.

Section 21. (1) Recognizing the evolution and advances that have occurred and continue to occur in nuclear power technologies, the Public Service Commission shall study and evaluate the technical and economic feasibility of using

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advanced nuclear power technologies, including small modular reactors, to meet the electrical power needs of the state, and research means to encourage and foster the installation and use of such technologies at military installations in this state.

(2) By January 1, 2025, the commission shall prepare and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, containing its findings and any recommendations for potential legislative or administrative actions that may enhance the use of advanced nuclear technologies in a manner consistent with the energy policy goals in s. 377.601(2), Florida Statutes.

Section 22. (1) Recognizing the continued development of technologies that support the use of hydrogen as a transportation fuel and the potential for such use to help meet the state's energy policy goals in s. 377.601(2), Florida Statutes, the Department of Transportation, in consultation with the Office of Energy within the Department of Agriculture and Consumer Services, shall study and evaluate the potential development of hydrogen fueling infrastructure, including fueling stations, to support hydrogen-powered vehicles that use the state highway system.

(2) By January 1, 2025, the department shall prepare and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, containing its findings and any recommendations for potential legislative or administrative actions that may accommodate the future development of hydrogen fueling infrastructure in a manner consistent with the energy policy goals in s. 377.601(2), Florida Statutes.

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Section 23. Paragraph (d) of subsection (2) of section 220.193, Florida Statutes, is amended to read:

220.193 Florida renewable energy production credit.—

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

(d) "Florida renewable energy facility" means a facility in the state that produces electricity for sale from renewable energy, ~~as defined in s. 377.803.~~

Section 24. This act shall take effect July 1, 2024.



The Florida Senate

Committee Agenda Request

To: Senator Jason Brodeur, Chair
Appropriations Committee on Agriculture, Environment, and General
Government

Subject: Committee Agenda Request

Date: February 1, 2024

I respectfully request that **Senate Bill # 1624**, relating to Energy Resources, be placed on the:

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

A handwritten signature in blue ink, which appears to read "Jay Collins", is written over a horizontal line.

Senator Jay Collins
Florida Senate, District 14

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 Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/SB 7042

INTRODUCER: Appropriations Committee on Agriculture, Environment, and General Government and Governmental Oversight and Accountability Committee

SUBJECT: Commodities Produced by Forced Labor

DATE: February 15, 2024 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Limones-Borja	McVaney		GO Submitted as Comm. Bill/Fav
1.	Davis	Betta	AEG	Fav/CS
2.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7042 creates a new provision in ch. 287, F.S., preventing contracts with companies for commodities produced, in whole or in part, by forced labor. For purposes of this legislation, “forced labor” means work or service exacted from any person, including a minor, under the menace of a penalty for nonperformance and for which the worker does not offer himself or herself voluntarily or an activity that violates s. 787.06, F.S.

The bill requires the Department of Management Services (DMS or department) to create and maintain a forced labor vendor list that identifies companies that are disqualified from public contracting and purchasing process for 365 days. The DMS shall publish an updated version of the list quarterly, and electronically post the list on its website.

A company is considered disqualified from the public contracting and purchasing process as of the date a final order is entered. Once placed on the forced labor vendor list, a company may not:

- Submit a bid, proposal, or reply on a contract to provide any commodities to an agency;
- Be awarded a contract or perform work as a contractor, supplier, subcontractor, or consultant;
- or
- Transact business pertaining to the provision of commodities with an agency.

Likewise, an agency (a state executive branch entity generally) may not (1) accept a bid, proposal, or reply from; (2) award a contract to; or (3) transact business with a company on the

forced labor vendor list. These prohibitions apply for a period of 365 days after the date the company was placed on the list, unless the company is removed from the list earlier.

The bill requires all invitations to bid, requests for proposals, invitations to negotiate, and any written contracts for the provision of commodities by an agency to include a statement informing companies of such requirements related to forced labor. Contracts with an agency for the provision of commodities entered into or renewed on or after July 1, 2024, must contain a provision that allows the awarding agency to terminate the contract if the company is placed on the forced labor vendor list.

Prior to putting a company on the forced labor vendor list, the DMS must investigate reasonable and credible information that a company has submitted a false certification or provided a commodity produced by forced labor. If good cause exists, and if placement on the list is in the public interest, the DMS must notify the company in writing of its intent to place the company on the list. The notice must include a notice of ch. 120, F.S., hearing rights and of the applicable hearing procedures and time requirements.

A company that submits a false certification that the commodities it offered to the agency had not been produced, in whole or in part, by forced labor and is subsequently placed on the forced labor vendor list must be assessed a fine by the DMS.

The bill clarifies that placement on the forced labor vendor list does not affect any rights or obligations under any contract, franchise, or other binding agreement which predate such placement.

The bill may have an insignificant fiscal impact on state revenues and expenditures. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Government Contracting and Procurement

Chapter 287, F.S., regulates state agency¹ procurement of personal property and services. The Department of Management Services (DMS or department) is responsible for overseeing state purchasing activity including professional and contractual services as well as commodities needed to support agency activities.² Its responsibilities include creating uniform agency procurement rules,³ implementing the online procurement program,⁴ and procuring state term contracts.⁵ The DMS is also responsible for registering vendors that wish to provide goods or

¹ As defined in s. 287.012(1), F.S., “agency” means any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. “Agency” does not include the university and college boards of trustees or the state universities and colleges.

² See ss. 287.032 and 287.042, F.S.

³ See ss. 287.032(2) and 287.042(3), (4), and (12), F.S.

⁴ See s. 287.057(24), F.S. See ss. 287.032 and 287.042, F.S.

⁵ See ss. 287.042(2) and 287.056, F.S.

services to the state⁶ and maintaining lists of vendors who may not submit bids, proposals, or replies to agency solicitations.⁷ The Division of State Purchasing in the DMS establishes statewide purchasing rules and negotiates contracts and purchasing agreements that are intended to leverage the state's buying power.⁸

Current law requires contracts for commodities or contractual services in excess of \$35,000 to be procured utilizing a competitive solicitation process.^{9,10} These competitive procurement provisions apply to an agency, defined as “any of the various state officers, departments, board commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive boards of state government.”¹¹ This definition does not include municipalities and local governments; and university and college boards of trustees, and the state universities and colleges are specifically excluded from this definition.¹²

State agencies may use a variety of procurement methods, depending on the cost and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors. These methods include the following:

- Invitations to bid,¹³ used when an agency determines that standard services or goods will meet needs, wide competition is available and the vendor's experience will not greatly influence the agency's results;
- Requests for proposals,¹⁴ used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- Invitations to negotiate,¹⁵ used when negotiations are determined to be necessary to obtain the best value and involve a request for highly complex, customized, mission-critical services, by an agency dealing with a limited number of vendors.

A competitive solicitation for contractual services in excess of \$35,000 must be evidenced by a written agreement (contract) embodying all provisions and conditions of the procurement.¹⁶ The contract must include, but not be limited to, provisions on the following:

⁶ See ss. 287.032 and 287.042, F.S.; see also Department of Management Services, *Vendor Registration and Vendor Lists*, https://www.dms.myflorida.com/business_operations/state_purchasing/state_agency_resources/vendor_registration_and_vendor_lists (last visited Jan. 31, 2024).

⁷ See ss. 287.1351, 287.133, 287.134, and 287.137, F.S.

⁸ Chapter 287, F.S., provides requirements for the procurement of personal property and services. Part I of that chapter pertains to commodities, insurance, and contractual services, and part II pertains to means of transport.

⁹ Section 287.057(1), F.S., requires all projects that exceed the Category Two (\$35,000) threshold provided in s. 287.017, F.S., to be competitively bid.

¹⁰ As defined in s. 287.012(6), F.S., “competitive solicitation” means the process of requesting and receiving two or more sealed bids, proposals, or replies submitted by responsive vendors in accordance with the terms of a competitive process, regardless of the method of procurement.

¹¹ Section 287.012(1), F.S.

¹² *Id.*

¹³ Section 287.057(1)(a), F.S.

¹⁴ Section 287.057(1)(b), F.S.

¹⁵ Section 287.057(1)(c), F.S.

¹⁶ Section 287.058(1), F.S., provides an exception for the written agreement for contractual services that provide health and mental health services or drugs in the examination, diagnosis, or treatment of sick or injured state employees or provide other benefits as required by ch. 440, F.S.

- Bills for fees or other compensation for services or expenses must be submitted in detail sufficient for a proper pre-audit and post-audit of such items;¹⁷
- Bills for any travel expenses be submitted in accordance with the law on per diem and travel expenses of public officers, employees, or authorized persons;¹⁸
- Allowing unilateral cancellation by the agency for refusal by the contractor to allow public access to all documents, papers, letters, or other material made or received by the contractor in conjunction with the contract, unless the records are exempt;¹⁹
- Specifying a scope of work clearly establishing all tasks the contractor is required to perform;²⁰
- Dividing the contract into quantifiable, measurable, and verifiable units of deliverables that must be received and accepted in writing by the contract manager before payment;²¹
- Specifying the performance criteria and the final date by which such criteria must be met for completion of the contract;²²
- Specifying the conditions that must be met for a renewal of the contract, including, but not limited to:²³
 - The contract may be renewed for a period not exceeding three years or the term of the original contract, whichever is longer;
 - The renewal price for the contractual service as set forth in the bid, proposal, or reply;
 - Specifying costs for the renewal may not be charged; and
 - Specifying that contract renewals are contingent upon satisfactory performance evaluations by the agency and subject to the availability of funds;
- Specifying the financial consequences if the contractor fails to perform in accordance with the contract;²⁴ and
- Addressing the property rights of any intellectual property related to the contract and the specific rights of the state regarding the intellectual property if the contractor fails to provide the services or is no longer providing services.²⁵

The contract must be signed by the agency head or designee and the contractor before the rendering of any contractual service in excess of \$35,000.²⁶ The Chief Financial Officer (CFO) may waive the contracting requirements for the procurement of certain specified commodities or services, unless otherwise provided in the annual General Appropriations Act (GAA) or the substantive bill implementing the GAA.²⁷ A contract may not prohibit a contractor from lobbying the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding any contract to which the contractor and a state agency are parties,

¹⁷ Section 287.058(1)(a), F.S.

¹⁸ Section 287.058(1)(b), F.S.

¹⁹ Section 287.058(1)(c), F.S.

²⁰ Section 287.058(1)(d), F.S.

²¹ Section 287.058(1)(e), F.S.

²² Section 287.058(1)(f), F.S.

²³ Section 287.058(1)(g), F.S.

²⁴ Section 287.058(1)(h), F.S.

²⁵ Section 287.058(1)(i), F.S.

²⁶ Section 287.058(2), F.S.

²⁷ Section 287.058(5), F.S., incorporates s. 287.057(3)(e), F.S., which lists 13 specific types of commodities or services for which the contracting requirement may be waived, including, for example, artistic services, lectures by individuals, certain health services, family placement services, and services or commodities provided by governmental entities.

after contract execution and during the contract term.²⁸ Each public agency contract for services must authorize the public agency to inspect the following records within 10 days after the agency makes a request:²⁹

- Financial records, papers, and documents of the contractor that are directly related to the performance of the contract or the expenditure of state funds.³⁰
- Programmatic records, papers, and documents of the contractor that the public agency determines are necessary to monitor the performance of the contract or to ensure that the terms of the contract are being met.³¹

Department Vendor Lists

The DMS maintains a vendor list based on the vendor registration process,³² and may remove from the vendor list any source of supply that fails to fulfill any of its duties specified in a contract.³³ The DMS also maintains the following lists of disqualified, scrutinized, or removed vendors:

- Suspended Vendor List;³⁴
- Convicted Vendor List;³⁵
- Discriminatory Vendor List;³⁶
- Scrutinized List of Prohibited Companies; and³⁷
- Antitrust Violator Vendor List.³⁸

Forced Labor

The term “forced labor” is defined as part of the Tariff Act of 1930 (Act), to mean “all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily, including forced or indentured child labor.”³⁹ The Act also prohibits importing any product into the U.S. that was mined, produced, or manufactured wholly or in part by forced labor, with some limited exceptions.⁴⁰

Florida Law includes the term “forced labor” within the context of human trafficking⁴¹, finding that that victims of human trafficking are subjected to force, fraud, or coercion for the purpose of

²⁸ Section 287.058(6), F.S.

²⁹ Section 216.1366(1), F.S.

³⁰ Section 216.1366(1)(a), F.S.

³¹ Section 216.1366(1)(b), F.S.

³² Section 287.042, F.S. See also The Department of Management Services, *Vendor Resources*, available at https://www.dms.myflorida.com/business_operations/state_purchasing/vendor_resources (last visited Jan. 31, 2024).

³³ Section 287.042(1)(b), F.S.

³⁴ Section 287.1351, F.S.

³⁵ Section 287.133, F.S.

³⁶ Section 287.134, F.S.

³⁷ Section 287.135, F.S.

³⁸ Section 287.137, F.S.

³⁹ 19 U.S.C. § 1307.

⁴⁰ *Id.*

⁴¹ Section 787.06 (2)(d), F.S., defines “human trafficking” as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, purchasing, patronizing, procuring, or obtaining another person for the purpose of exploitation of that person.

sexual exploitation or forced labor.⁴² Human trafficking occurs in many forms of labor exploitation including domestic servitude, restaurant work, janitorial work, sweatshop factory work, and migrant agricultural work.⁴³ Any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking for labor,⁴⁴ services,⁴⁵ or commercial sexual activity, commits a crime.⁴⁶

Administrative Procedures Act

The Administrative Procedures Act (APA) provides that a party who wishes to challenge an agency determination of his or her substantial interests must file a petition for a hearing with the agency. An agency request for an administrative law judge (ALJ) must be made to the Division of Administrative Hearings within 15 days after receiving the petition.^{47,48} All parties shall be given an opportunity for a hearing after reasonable notice.⁴⁹ Generally, agency determinations that impact a party's substantial interests are subject to either an informal hearing in which the petitioner does not dispute any material facts of the agency's final action,⁵⁰ or a formal hearing, in which the petitioner disputes a material fact of the agency's final action.⁵¹

III. Effect of Proposed Changes:

Section 1 creates s. 287.1346, F.S., to define the following terms:

- “Forced labor” means work or service exacted from any person, including a minor, under the menace of a penalty for nonperformance and for which the worker does not offer himself or herself voluntarily or an activity that violates s. 787.06, F.S.
- “Forced labor vendor list” or “list” means the list required to be created and maintained by the Department of Management Services (DMS or department) pursuant to s. 287.1346(4)(d), F.S.
- “Senior management” includes chief executive officers; assistant chief executive officers, including, but not limited to, assistant presidents, vice presidents, or assistant treasurers; chief financial officers; chief personnel officers; or any employee of an entity performing similar functions.

⁴² Section 787.06(1)(a), F.S.

⁴³ Section 787.06(1)(b), F.S.

⁴⁴ Section 787.06(2)(e), F.S., defines “labor” as: work of economic or financial value.

⁴⁵ Section 787.06(2)(h), F.S., defines “services” as: any act committed at the behest of, under the supervision of, or for the benefit of another. The term includes, but is not limited to, forced marriage, servitude, or the removal of organs.

⁴⁶ Section 787.06(3), F.S.

⁴⁷ Section 120.569(2)(a), F.S.

⁴⁸ Section 120.569, F.S., applies except when mediation is elected by all parties pursuant to s. 120.573, or when a summary hearing is elected by all parties pursuant to s. 120.574, F.S.

⁴⁹ The notice must contain a statement of (1) time, place, and nature of the hearing; and (2) the legal authority and jurisdiction under which the hearing is to be held. Section 120.569(2)(b), F.S.

⁵⁰ Section 120.57(2), F.S.

⁵¹ Sections 120.569 and 120.57(1), F.S.

Agency Procurement of Commodities

The bill prevents a company on the forced labor vendor list from:

- Submitting a bid, proposal, or reply on a contract to provide any commodities to an agency;
- Being awarded a contract or performing work as a contractor, supplier, subcontractor, or consultant with an agency for the provision of commodities; or
- Transacting business pertaining to the provision of commodities with any agency.

Likewise, an agency cannot (1) accept a bid, proposal, or reply from; (2) award a contract to; or (3) transact business with a company, or an entity under the control of such company, on the forced labor vendor list. These prohibitions apply for a period of 365 days after the date the company was placed on the list, unless the company is removed from the list earlier.

The bill requires all invitations to bid, requests for proposals, invitations to negotiate, and any written contracts for the provision of commodities by an agency to include a statement informing companies of such requirements related to forced labor. Contracts with an agency for the provision of commodities entered into or renewed on or after July 1, 2024, must contain a provision that allows the awarding agency to terminate the contract if the company is placed on the forced labor vendor list.

A member of a company's senior management must certify in writing that, to the best of his/her knowledge, the commodities offered to the agency have not been produced, in whole or in part, by forced labor when a company submits a bid, proposal, or reply for a contract and before the company enters into or renews a contract with an agency for the provision of commodities. A company must notify the DMS within 30 days of gaining knowledge that it provided a commodity produced, in whole or in part, by forced labor. Additionally, an agency that learns that it received a commodity produced, in whole or in part, by forced labor must report this information to the DMS in writing within 10 days.

Forced Labor Vendor List

The DMS must create and maintain a forced labor vendor list. The list must contain the name and address of each company that has been disqualified from the public contracting and purchasing process. The DMS must publish an updated version of the list quarterly, and electronically post the list on its website. A company is disqualified from the public contracting and purchasing process as of the date a final order is entered. A company is removed automatically from the list 366 days after the date of the final order placing the company on the list.

The DMS must investigate reasonable and credible information that a company has submitted a false certification or provided a commodity produced by forced labor. If good cause exists, and if placement on the list is in the public interest, the DMS must initiate a proceeding to place the company on the forced labor vendor list, and notify the company in writing of its intent. The DMS's notice must include a notice of ch. 120, F.S., hearing rights and of the applicable hearing procedures and time requirements.

The bill provides specific guidance on when it is not in the public interest to place a company on the forced labor list. Specifically, a company cannot be placed on the list if any of the following apply:

- The company did not provide to an agency a commodity produced, in whole or in part, by forced labor;
- The company's senior management did not have actual or constructive knowledge that its employee provided an agency a commodity produced, in whole or in part, by forced labor;
- The member of the company's senior management responsible for the contract under which the company provided to the agency a commodity produced, in whole or in part, by forced labor did not have actual or constructive knowledge that the commodity was produced, in whole or in part, by forced labor and a reasonable person under similar circumstances to that of such member would not have known that the commodity was produced, in whole or in part, by forced labor;
- The member of the company's senior management responsible for the contract under which the company provided to the agency a commodity produced, in whole or in part, by forced labor is no longer an employee of the company; or
- One of the following occurs:
 - For a contract with an executive agency, the Governor makes a public finding that, absent the provision of such commodities by the company, the agency would be unable to obtain the commodities.
 - For a contract with an agency of a state constitutional officer other than the Governor, that officer makes a public finding that, absent the provision of such commodities by the company, the agency would be unable to obtain the commodities.

The bill also requires the following factors be considered when determining whether it is in the public interest to place a company on the forced labor vendor list:

- The nature and details of the provision of the commodity produced, in whole or in part, by forced labor.
- The degree of culpability of the company proposed to be placed on the forced labor vendor list.
- Prior or future self-policing by the company to prevent the provision of a commodity produced, in whole or in part, by forced labor.
- The company's compliance with the notification requirements.
- The needs of agencies for additional competition in the procurement of commodities in their respective markets.
- Mitigation based upon any demonstration of good citizenship by the company, including, but not limited to, the adoption of a formal plan to cease producing or providing commodities produced, in whole or in part, by forced labor.

A company may file a petition for a hearing to dispute issues of material fact pursuant to the department's determination within 21 days of its receipt of the DMS's notice of intent to place the company on the forced labor vendor list. The bill specifically prevents a company from filing a petition for a hearing unless it involves disputed issues of material fact. If a company does not request a hearing, the DMS is required to enter a final order, which places the company on the list.

The bill requires that ch. 120, F.S., applies to such hearings, but sets the following exceptions:

- The petition must be filed with the DMS. The DMS shall be a party to the proceeding for all purposes.
- Within five days after the filing of the petition, the department shall notify the Division of Administrative Hearings (DOAH) of the request for a hearing. The DOAH shall, within five days after receipt of notice from the DMS, assign an administrative law judge (ALJ) to the proceeding. The ALJ, upon request by a party, may consolidate related proceedings.
- The ALJ shall conduct the hearing within 30 days after being assigned, unless otherwise stipulated by the parties.
- Within 30 days after the hearing or receipt of the hearing transcript, whichever is later, the ALJ shall enter a final order, which shall consist of findings of fact, conclusions of law, interpretation of agency rules, and any other information required by law or rule to be contained in the final order. The final order must determine whether or not to place the company on the forced labor vendor list.
- The ALJ's final order constitutes final agency action for purposes of s. 120.68, F.S.
- At any time after the filing of the petition, the parties may opt to informally dispose of the matter pursuant to s. 120.57(4), F.S. In that event, the ALJ shall enter a final order adopting the stipulation, agreed settlement, or consent order.

The DMS must prove by clear and convincing evidence that it is in the public interest to place the company on the forced labor vendor list. The bill creates a rebuttable presumption, wherein proof that the company provided a commodity produced, in whole or in part, by forced labor to an agency constitutes a presumption that it is in the public interest for the company to be placed on the forced labor vendor list. The company may rebut this presumption by proving, by a preponderance of the evidence, that it is not in the public interest for such company to be placed on the list based upon evidence required in the bill.

The ALJ must issue a final order, which constitutes final agency action, determining whether to place the company on the forced labor vendor list.

Removal from the Forced Labor Vendor List

The bill allows a company placed on the forced labor vendor list to petition for its removal after six months since the date a final order is entered placing them on the list. Such petition must be filed with the DMS.

An ALJ may remove a company from the forced labor vendor list upon a determination that removal is in the public interest. The ALJ must consider any relevant factors, including whether the company has prepared a corrective action plan that addresses the original grounds for placement on the list as well as any additional evidence that the company has in good faith taken significant remedial action.

A company cannot petition for another hearing if a petition for removal is denied. The bill allows the DMS to petition for removal prior to the 365-day period.

False Certification

A company that submits a false certification that the commodities it offered to the agency were not been produced, in whole or in part, by forced labor and is subsequently placed on the forced labor vendor list must be assessed a fine by the DMS. Specifically, the bill requires the fine be the greater of \$1,000, or an amount equal to 20 percent of the value of the commodity provided to the agency under the contract.

Miscellaneous

The bill clarifies that placement on the forced labor vendor list does not affect any rights or obligations under any contract, franchise, or other binding agreement which predate such placement.

The bill provides that any fines collected be deposited into the General Revenue Fund.

Section 2 provides that the bill will take effect on July 1, 2024.

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

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with 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.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Management Services (DMS) may incur additional workload for the oversight and management for maintaining and administering the forced labor vendor list; however, such, workload can be absorbed within the current resources of the DMS. The bill may have an indeterminate positive fiscal impact on the General Revenue Fund by fines collected under the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 287.1346 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 Appropriations Committee on Agriculture, Environment, and General Government on February 13, 2024:

The committee substitute is a technical amendment to correctly reference the department (meaning the Department of Management Services or DMS) instead of “agency” as it relates to allowing a company to file a petition for a hearing to dispute issues of material fact pursuant to the “department’s” determination within 21 days of its receipt of the DMS’s notice of intent to place the company on the forced labor vendor list. ..

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (Avila) recommended the following:

Senate Amendment

Delete line 183
and insert:
pursuant to ss. 120.569 and 120.57(1) to challenge the
department's

By the Committee on Governmental Oversight and Accountability

585-02593-24

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1 A bill to be entitled
 2 An act relating to commodities produced by forced
 3 labor; creating s. 287.1346, F.S.; defining terms;
 4 prohibiting a company on the forced labor vendor list
 5 from taking certain procurement actions; prohibiting
 6 an agency from procuring commodities from certain
 7 companies for a certain timeframe; requiring that
 8 certain solicitations and contracts include a certain
 9 statement; requiring that certain contracts include a
 10 certain termination provision; requiring a member of a
 11 company's senior management to provide a certain
 12 certification within a specified timeframe; requiring
 13 a company to provide a certain notification to the
 14 Department of Management Services within a certain
 15 timeframe; requiring an agency to provide certain
 16 information to the department within a certain
 17 timeframe; requiring the department to create and
 18 maintain a forced labor vendor list; providing
 19 requirements for such list; requiring the department
 20 to publish such list quarterly and to post such list
 21 on its website; providing for automatic removal from
 22 the list if certain conditions are met; providing a
 23 process for the department to place a company on such
 24 list; subjecting a company that submits a false
 25 certification or that should have had certain
 26 knowledge to a fine; authorizing a company that
 27 receives certain notice to file a petition for a
 28 certain hearing; providing requirements and procedures
 29 for such hearings; providing evidentiary standards for

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30 certain proceedings; authorizing a company placed on
 31 such list to petition for removal; providing
 32 requirements for such petitions; authorizing the
 33 removal of a company from such list under certain
 34 circumstances; providing construction; requiring that
 35 collected fines be deposited into the General Revenue
 36 Fund; providing an effective date.
 37
 38 Be It Enacted by the Legislature of the State of Florida:
 39
 40 Section 1. Section 287.1346, Florida Statutes, is created
 41 to read:
 42 287.1346 Provision of commodities produced by forced labor;
 43 denial or revocation of the right to transact business with
 44 agencies.—
 45 (1) As used in this section, the term:
 46 (a) "Forced labor" means work or service exacted from any
 47 person, including a minor, under the menace of a penalty for
 48 nonperformance and for which the worker does not offer himself
 49 or herself voluntarily or an activity that violates s. 787.06.
 50 (b) "Forced labor vendor list" or "list" means the list
 51 required to be created and maintained by the department pursuant
 52 to paragraph (4)(d).
 53 (c) "Senior management" includes chief executive officers;
 54 assistant chief executive officers, including, but not limited
 55 to, assistant presidents, vice presidents, or assistant
 56 treasurers; chief financial officers; chief personnel officers;
 57 or any employee of an entity performing similar functions.
 58 (2) A company on the forced labor vendor list may not:

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59 (a) Submit a bid, proposal, or reply on a contract to
 60 provide any commodities to an agency.

61 (b) Be awarded a contract or perform work as a contractor,
 62 supplier, subcontractor, or consultant with an agency for the
 63 provision of commodities.

64 (c) Transact business for the provision of commodities with
 65 any agency.

66 (3) An agency may not accept a bid, proposal, or reply
 67 from, award a contract to, or transact business pertaining to
 68 the provision of commodities with a company on the forced labor
 69 vendor list, or an entity under the control of such company, for
 70 a period of 365 days after the date the company is placed on the
 71 list unless the company is removed from the list pursuant to
 72 paragraph (5) (d).

73 (4) (a) 1. All invitations to bid, requests for proposals,
 74 and invitations to negotiate and any written contract for the
 75 provision of commodities by an agency must include a statement
 76 informing companies of the requirements of this section.

77 2. Any contract with an agency for the provision of
 78 commodities entered into or renewed on or after July 1, 2024,
 79 must include a provision that allows for the termination of such
 80 contract at the option of the awarding agency if the company is
 81 placed on the forced labor vendor list.

82 (b) At the time a company submits a bid, proposal, or reply
 83 for a contract and before the company enters into or renews a
 84 contract with an agency for the provision of commodities, a
 85 member of the company's senior management must certify, in
 86 writing, that to the best of his or her knowledge the
 87 commodities such company is offering to the agency have not been

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88 produced, in whole or in part, by forced labor.

89 (c) A company must notify the department within 30 days
 90 after gaining actual knowledge that the company has provided to
 91 an agency a commodity produced, in whole or in part, by forced
 92 labor. Any agency that receives information that a company has
 93 provided to an agency a commodity produced, in whole or in part,
 94 by forced labor must provide that information to the department
 95 in writing within 10 days.

96 (d) The department shall create and maintain a forced labor
 97 vendor list that contains the name and address of each company
 98 that has been disqualified from the public contracting and
 99 purchasing process under this section. The department shall
 100 publish an updated version of the list quarterly. The updated
 101 quarterly list shall be electronically posted on the
 102 department's website. Notwithstanding this paragraph, a company
 103 disqualified from the public contracting and purchasing process
 104 pursuant to this section shall be disqualified as of the date a
 105 final order is entered pursuant to paragraph (e) or paragraph
 106 (5) (a). A company is removed automatically from the list 366
 107 days after the date of the final order placing the company on
 108 the list.

109 (e) Upon receiving from any source reasonable and credible
 110 information that a company has submitted a false certification
 111 or provided to an agency a commodity produced, in whole or in
 112 part, by forced labor, the department shall investigate the
 113 information and determine whether good cause exists to place the
 114 company on the forced labor vendor list and whether such
 115 placement is in the public interest. If good cause exists and
 116 placement is in the public interest, the department shall notify

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117 the company in writing of the department's intent to place the
 118 company on the list and of the company's right to a hearing, the
 119 procedure that must be followed, and the applicable time
 120 requirements. If the company does not request a hearing, the
 121 department shall enter a final order placing the company on the
 122 forced labor vendor list. A company may not be placed on the
 123 forced labor vendor list without receiving an individual notice
 124 of intent from the department.

125 1. It is not in the public interest to place a company on
 126 the forced labor vendor list if any of the following applies:

127 a. The company did not provide to an agency a commodity
 128 produced, in whole or in part, by forced labor;

129 b. The provision to an agency of a commodity produced, in
 130 whole or in part, by forced labor was committed by an employee
 131 of the company without the actual or constructive knowledge of
 132 any member of the company's senior management;

133 c. The member of the company's senior management
 134 responsible for the contract under which the company provided to
 135 the agency a commodity produced, in whole or in part, by forced
 136 labor did not have actual or constructive knowledge that the
 137 commodity was produced, in whole or in part, by forced labor and
 138 a reasonable person under similar circumstances to that of such
 139 member would not have known that the commodity was produced, in
 140 whole or in part, by forced labor;

141 d. The member of the company's senior management
 142 responsible for the contract under which the company provided to
 143 the agency a commodity produced, in whole or in part, by forced
 144 labor is no longer an employee of the company; or

145 e. One of the following occurs:

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146 (I) For a contract with an executive agency, the Governor
 147 makes a public finding that, absent the provision of such
 148 commodities by the company, the agency would be unable to obtain
 149 the commodities for which the contract is offered.

150 (II) For a contract with an agency of a state
 151 constitutional officer other than the Governor, the state
 152 constitutional officer makes a public finding that, absent the
 153 provision of such commodities by the company, the agency would
 154 be unable to obtain the commodities for which the contract is
 155 offered.

156 2. In determining whether it is in the public interest to
 157 place a company on the forced labor vendor list, the following
 158 factors shall be considered:

159 a. The nature and details of the provision of the commodity
 160 produced, in whole or in part, by forced labor.

161 b. The degree of culpability of the company proposed to be
 162 placed on the forced labor vendor list.

163 c. Prior or future self-policing by the company to prevent
 164 the provision of a commodity produced, in whole or in part, by
 165 forced labor.

166 d. The company's compliance with paragraph (c).

167 e. The needs of agencies for additional competition in the
 168 procurement of commodities in their respective markets.

169 f. Mitigation based upon any demonstration of good
 170 citizenship by the company, including, but not limited to, the
 171 adoption of a formal plan to cease producing or providing
 172 commodities produced, in whole or in part, by forced labor.

173 (f) A company that submits a false certification under
 174 paragraph (b) or that should have known that a commodity

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provided under a contract with an agency was produced, in whole or in part, by forced labor and is subsequently placed on the forced labor vendor list shall be assessed a fine of \$1,000 or an amount equal to 20 percent of the value of the commodity provided to the agency under the contract, whichever is greater.

(5) (a) Within 21 days after receipt of the notice of intent pursuant to paragraph (4) (e), the company may file a petition for a hearing involving disputed issues of material fact pursuant to ss. 120.569 and 120.57(1) to challenge the agency's determination that the company's placement on the forced labor vendor list is in the public interest. A company may not file a petition for a hearing not involving disputed issues of material fact under s. 120.57(2). Chapter 120 applies to a hearing under this section except that:

1. The petition shall be filed with the department. The department shall be a party to the proceeding for all purposes.

2. Within 5 days after the filing of the petition, the department shall notify the Division of Administrative Hearings of the request for a hearing pursuant to ss. 120.569 and 120.57(1). The director of the Division of Administrative Hearings shall, within 5 days after receipt of notice from the department, assign an administrative law judge to preside over the proceeding. The administrative law judge, upon request by a party, may consolidate related proceedings.

3. The administrative law judge shall conduct the hearing within 30 days after being assigned, unless otherwise stipulated by the parties.

4. Within 30 days after the hearing or receipt of the hearing transcript, whichever is later, the administrative law

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judge shall enter a final order, which shall consist of findings of fact, conclusions of law, interpretation of agency rules, and any other information required by law or rule to be contained in the final order. Such final order shall place or not place the company on the forced labor vendor list.

5. The final order of the administrative law judge shall be final agency action for purposes of s. 120.68.

6. At any time after the filing of the petition, informal disposition may be made pursuant to s. 120.57(4). In that event, the administrative law judge shall enter a final order adopting the stipulation, agreed settlement, or consent order.

(b) In any proceeding under this section, the department is required to prove by clear and convincing evidence that it is in the public interest for the company to which the department has provided notice of intent pursuant to paragraph (4) (e) to be placed on the forced labor vendor list. Proof that such company provided to an agency a commodity produced, in whole or in part, by forced labor constitutes a rebuttable presumption that it is in the public interest for the company to be placed on the forced labor vendor list.

(c) Upon establishment of the rebuttable presumption in paragraph (b) that it is in the public interest for the company to be placed on the forced labor vendor list, that company may prove by a preponderance of the evidence that it is not in the public interest for such company to be placed on the list based upon evidence addressing the provisions of sub-subparagraph (4) (e)1. or the factors in sub-subparagraph (4) (e)2.

(d) 1. A company on the forced labor vendor list may petition for such company's removal from the list no sooner than

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233 6 months after the date a final order is entered placing the
234 company on the list. The petition shall be filed with the
235 department, and the proceeding shall be conducted pursuant to
236 this subsection.

237 2. A company may be removed from the forced labor vendor
238 list subject to such terms and conditions as may be prescribed
239 by the administrative law judge upon a determination that
240 removal is in the public interest. In determining whether
241 removal is in the public interest, the administrative law judge
242 shall give consideration to any relevant factors, including
243 whether the company has prepared a corrective action plan that
244 addresses the original grounds for placement on the list as well
245 as any additional evidence that the company has in good faith
246 taken significant remedial action.

247 3. If a petition for removal is denied, the company may not
248 petition for another hearing on removal. The department may
249 petition for removal before the expiration of the 365-day period
250 provided in subsection (3) if, in the department's discretion,
251 the department determines that removal would be in the public
252 interest.

253 (6) Placement on the forced labor vendor list does not
254 affect any rights or obligations under any contract, franchise,
255 or other binding agreement which predate such placement.

256 (7) Any fines collected under this section shall be
257 deposited into the General Revenue Fund.

258 Section 2. This act shall take effect July 1, 2024.



SENATOR Bryan Avila
39th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Government Oversight and Accountability, Chair
Appropriations
Appropriations Committee on Education
Appropriations Committee of Health and Human
Services
Education Pre-K 12
Ethics and Elections
Health Policy
Select Committee on Resiliency
Joint Select Committee on Collective Bargaining

January 31, 2024

Honorable Senator Jason Brodeur
Committee on Agriculture, Environment, and General Government

Honorable Chair Brodeur:

I respectfully request SB 7042 Commodities Produced by Forced Labor be placed on the next committee agenda.

SB 7042 Commodities Produced by Forced Labor; Prohibiting a company on the forced labor vendor list from taking certain procurement actions; requiring a company to provide a certain notification to the Department of Management Services within a certain timeframe; requiring the department to create and maintain a forced labor vendor list; providing a process for the department to place a company on such list.

Sincerely,

A handwritten signature in blue ink that reads "Bryan Avila".

Senator Bryan Avila
Florida Senate, District 39

CC: Giovanni Betta Staff Director
Julie Brass, Committee Administrative Assistant

REPLY TO:

- ☐ 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
- ☐ 326 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5039

Senate's Website: www.flsenate.gov

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

CourtSmart Tag Report

Room: SB 110

Case No.:

Type:

Caption: Senate Appropriations Committee on Agriculture, Environment, and General Government

Judge:

Started: 2/13/2024 8:32:15 AM

Ends: 2/13/2024 9:50:02 AM

Length: 01:17:48

8:32:22 AM	Sen. Brodeur (Chair)
8:33:30 AM	S 1386
8:33:39 AM	Sen. Calatayud
8:33:42 AM	Am. 306560
8:35:58 AM	Sen. Burman
8:36:02 AM	Sen. Calatayud
8:36:26 AM	Sen. Burman
8:36:37 AM	Sen. Calatayud
8:37:24 AM	S 1386 (cont.)
8:37:35 AM	Waives
8:38:30 AM	Sen. Burton
8:38:37 AM	S 1436
8:38:45 AM	Sen. Burton
8:39:40 AM	Am. 402814
8:39:46 AM	Sen. Burton
8:40:36 AM	Edda "Ivonne" Fernandez, AARP (waives in support)
8:40:39 AM	Sen. Brodeur
8:40:43 AM	Scott Jenkins, Florida Financial Services Association (waives in support)
8:40:54 AM	S 1436 (cont.)
8:41:05 AM	Reverend Dr. Russell Meyer, Florida Faith Advocacy Office
8:43:38 AM	Tammy Fecci, Florida Catholic Conference of Bishops
8:45:08 AM	Jessica Kraynak, Florida Retail Federation (waives in support)
8:45:15 AM	Scott Jenkins, Executive Director, Florida Financial Services Association
8:48:47 AM	Sen. Burman
8:48:56 AM	S. Jenkins
8:49:09 AM	Sen. Burman
8:49:29 AM	S. Jenkins
8:50:18 AM	Karen Woodall, Florida Center for Fiscal and Economic Policy
8:52:05 AM	Sen. Burton
8:53:57 AM	S 662
8:53:59 AM	Sen. Burton
8:54:32 AM	Edda "Ivonne" Fernandez, AARP (waives in support)
8:55:04 AM	S 892
8:55:18 AM	Sen. Harrell
8:56:29 AM	Am. 101858
8:56:35 AM	Sen. Harrell
8:57:21 AM	Joe Anne Hart, Florida Dental Association (waives in support)
8:57:32 AM	S 892 (cont.)
8:57:38 AM	Joe Anne Hart, Florida Dental Association
9:01:08 AM	Dr. Tracy Eckles, Florida Dental Association
9:02:54 AM	Kevin Comerer, Association of Dental Support Organizations (waives in support)
9:03:04 AM	Sen. Harrell
9:03:41 AM	S 56
9:03:43 AM	Sen. Harrell
9:05:24 AM	Edda "Ivonne" Fernandez, AARP (waives in support)
9:05:28 AM	Jeff Scott, Florida Medical Association (waives in support)
9:05:32 AM	Marnie George, Florida Academy of Dermatology (waives in support)
9:05:36 AM	Matthew Holiday, Naples Comprehensive Healthcare (waives in support)
9:05:38 AM	Karen Mazzola, Florida Parents Teachers Association (waives in support)
9:05:44 AM	Sen. Rodriguez
9:06:12 AM	Sen. Harrell
9:06:53 AM	Sen. Brodeur

9:07:04 AM S 1098
9:07:07 AM Sen. Diceglie
9:07:15 AM Sen. Brodeur
9:07:18 AM Sen. Diceglie
9:07:50 AM Am. 203882
9:07:54 AM Sen. Diceglie
9:08:35 AM S 1098 (cont.)
9:08:42 AM Chase Mitchell, Department of Financial Services (waives in support)
9:08:47 AM Jimmy Patronis, Chief Financial Officer, Florida Department of Financial Services
9:12:26 AM Sen. Diceglie
9:12:59 AM Sen. Collins
9:13:09 AM S 1398
9:13:15 AM Sen. Collins
9:14:18 AM Sen. Brodeur
9:14:24 AM Sen. Collins
9:14:45 AM S 1262
9:14:48 AM Sen. Collins
9:15:20 AM Jeff Goldberg, Director of Emergency Services, Walton County
9:17:46 AM Sen. Burman
9:18:07 AM Sen. Boyd
9:18:18 AM Sen. Grall
9:18:53 AM Sen. Collins
9:19:56 AM Sen. Brodeur
9:19:58 AM S 656
9:20:02 AM Sen. Diceglie
9:21:02 AM Am. 881588
9:21:09 AM Sen. Diceglie
9:21:32 AM George Levesque, American Institute of Architects, Florida Chapter
9:21:44 AM S 656 (cont.)
9:21:52 AM Sen. Burman
9:21:59 AM Sen. Diceglie
9:22:17 AM Edward Briggs, American Fire Sprinkler Association, Florida Chapter and Florida Refrigeration and AC Contractors (waives in support)
9:22:25 AM Jeff Scala, Florida Association of Counties (waives in support)
9:22:30 AM Carol Bowen, Associated Builders and Contractors (waives in support)
9:23:07 AM Sen. Brodeur
9:23:11 AM S 808
9:23:14 AM Sen. Diceglie
9:23:39 AM Rocco Salvatori, Florida Professional Firefighters (waives in support)
9:23:56 AM Sen. Diceglie
9:24:29 AM S 932
9:24:43 AM Am. 523720
9:24:50 AM Sen. Burman
9:25:49 AM S 932 (cont.)
9:25:59 AM Chris Nuland, American College of Physicians, Florida Chapter (waives in support)
9:26:04 AM Jeff Scott, Florida Medical Association (waives in support)
9:26:08 AM Edda "Ivonne" Fernandez, AARP (waives in support)
9:26:11 AM Matthew Holiday, Naples Comprehensive Health (waives in support)
9:26:17 AM Sen. Polsky
9:27:12 AM Sen. Burman
9:27:41 AM S 1178
9:27:47 AM Sen. Bradley
9:27:55 AM Am. 633220
9:30:25 AM Travis Moore, Community Associations Institute and First Service Residential (waives in support)
9:30:31 AM Sen. Boyd
9:30:56 AM S 1178 (cont.)
9:31:08 AM Trey Goldman, Florida Realtors (waives in support)
9:31:11 AM Mark Anderson, Community Association Managers (waives in support)
9:31:15 AM Edda "Ivonne" Fernandez, AARP (waives in support)
9:31:19 AM Travis Moore, Community Associations Institute and First Service Residential (waives in support)
9:31:25 AM Sen. Polsky
9:32:59 AM Sen. Rodriguez

9:33:39 AM	Sen. Bradley
9:35:13 AM	S 1422
9:35:17 AM	Sen. Burgess
9:35:21 AM	Am. 770948
9:35:27 AM	Sen. Burgess
9:36:25 AM	Sen. Burman
9:36:36 AM	Sen. Burgess
9:37:11 AM	Sen. Burman
9:37:22 AM	Sen. Burgess
9:37:37 AM	S 1422 (cont.)
9:37:46 AM	Edda "Ivonne" Hernandez, AARP (waives in support)
9:37:48 AM	Karen Mazzola, Florida Parents Teachers Association (waives in support)
9:37:53 AM	Robert Holroyd, Palm Beach County Food Bank (waives in support)
9:38:33 AM	S 7042
9:38:39 AM	Sen. Rodriguez
9:39:33 AM	Am. 917942
9:39:39 AM	Sen. Rodriguez
9:40:00 AM	S 7042 (Cont.)
9:41:26 AM	Sen. Brodeur
9:41:44 AM	S 1106
9:41:49 AM	Sen. Hooper
9:43:55 AM	S 1544
9:43:57 AM	Sen. Hooper
9:45:09 AM	Sen. Polsky
9:45:23 AM	Sen. Hooper
9:46:04 AM	Sen. Polsky
9:46:08 AM	Sen. Hooper
9:46:16 AM	Sen. Polsky
9:46:31 AM	Sen. Hooper
9:47:33 AM	Derek Miller, Department of Business and Professional Regulation (waives in support)
9:47:41 AM	Sen. Mayfield
9:48:23 AM	Sen. Hooper
9:49:10 AM	Sen. Garcia
9:49:31 AM	Sen. Trumbull
9:49:37 AM	Sen. Osgood
9:49:52 AM	Meeting Adjourned