

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Flores, Chair
Senator Farmer, Vice Chair

MEETING DATE: Monday, November 4, 2019

TIME: 4:00—6:00 p.m.

PLACE: 301 Senate Building

MEMBERS: Senator Flores, Chair; Senator Farmer, Vice Chair; Senators Broxson, Pizzo, and Simmons

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|---|----------------------------|
| 1 | SB 140 Hutson (Similar H 65) | Fireworks; Providing an exemption for the use of fireworks solely and exclusively during a designated holiday; requiring the Division of the State Fire Marshal of the Department of Financial Services to adopt certain rules, etc. CA 11/04/2019 Fav/CS BI RC | Fav/CS Yeas 4 Nays 0 |
| 2 | SJR 146 Brandes (Identical HJR 369, Compare H 371, Linked S 148) | Homestead Property Tax Assessments/Increased Portability Period; Proposing amendments to the State Constitution to increase the period of time during which the accrued benefit from specified limitations on homestead property tax assessments may be transferred from a prior homestead to a new homestead, and to provide an effective date, etc. CA 11/04/2019 Favorable FT AP | Favorable Yeas 4 Nays 0 |
| 3 | SB 148 Brandes (Identical H 371, Compare HJR 369, Linked SJR 146) | Limitations on Homestead Assessments; Revising the timeframe during which the accrued benefit from specified limitations on homestead property tax assessments may be transferred from a prior homestead to a new homestead; revising the timeframe during which an owner of homestead property significantly damaged or destroyed by a named tropical storm or hurricane must establish a new homestead to make a certain election, etc. CA 11/04/2019 Fav/CS FT AP | Fav/CS Yeas 4 Nays 0 |

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Monday, November 4, 2019, 4:00—6:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|---------------------------------|---|---|----------------------------|
| 4 | CS/SB 246 Governmental Oversight and Accountability / Hooper (Identical H 101) | Public Construction; Revising the amount of retainage that certain local governmental entities and contractors may withhold from progress payments for any construction services contract; revising the amounts of retainage that certain public entities and contractors may withhold from progress payments for any construction services contract, etc. GO 10/14/2019 Fav/CS CA 11/04/2019 Favorable AP | Favorable Yeas 4 Nays 0 |
| 5 | Presentation by the Florida Housing Finance Corporation on Multifamily Affordable Housing Rental Development Programs | | Presented |
| 6 | Panel Discussion on Affordable Housing Rental Development | | Discussed |
| Other Related Meeting Documents | | | |

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 140

INTRODUCER: Community Affairs Committee and Senator Hutson

SUBJECT: Fireworks

DATE: November 5, 2019 **REVISED:** _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|---------------|
| 1. | Toman | Yeatman | CA | Fav/CS |
| 2. | _____ | _____ | BI | _____ |
| 3. | _____ | _____ | RC | _____ |

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 140 provides an exemption from the prohibition of fireworks usage during designated holidays. The designated holidays are Memorial Day, the last Monday in May; Independence Day, July 4; New Year’s Eve, December 31; or New Year’s Day, January 1.

II. Present Situation:

Overview of Florida’s Fireworks Laws: Chapter 791, F.S.

Chapter 791, F.S., sets forth the framework for the regulation of fireworks in Florida under the State Fire Marshal’s (SFM) office within the Department of Financial Services (DFS). While ch. 791, F.S., applies uniformly throughout the state, enforcement of these statutes resides with local law enforcement departments.¹ The statutes prohibit the retail sale and use of fireworks² by the public. However, provisions of ch. 791, F.S., exempt certain wholesale sales and commercial uses of fireworks from this general ban. The law does allow sparklers and other novelty products,³ like smoke devices and noisemakers, to be sold at retail to the public and to be used by

¹ Section 791.001, F.S.

² Florida Statutes provide specific definitions of what are and are not fireworks, which is outlined in later sections of the analysis.

³ Section 791.01(4)(c), F.S. Novelty products include: snakes or glow worms, smoke devices, trick noisemakers, party poppers, booby traps, snappers, trick matches, cigarette load, and auto burglar alarms.

the public.⁴ Sparklers and similar items, as opposed to fireworks, do not contain explosive compounds, cannot be propelled through the air, and are hand-held or ground-based.

Federal Fireworks Provisions

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has adopted federal regulations to distinguish explosives from fireworks, which are sold in the United States as either “display fireworks” or “consumer fireworks.”⁵ Display fireworks are large fireworks used in shows, generally under the supervision of a trained pyrotechnician.⁶

ATF does not regulate consumer fireworks, which it characterizes as the small fireworks usually sold at stands around the Fourth of July holiday.⁷ The manufacturing of consumer fireworks requires an explosives license from ATF because consumer fireworks contain pyrotechnic compositions classified as explosive materials.⁸

Products Classified as Fireworks in Florida

Section 791.01(4)(a), F.S., defines the term “fireworks” as certain combustible or explosive substances or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation. The term includes “blank cartridges and toy cannons in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, roman candles, dago bombs, and any fireworks containing any explosives or flammable compound or any tablets or other device containing any explosive substance.” Section 791.02, F.S., provides that it is unlawful for any person, firm, copartnership, or corporation to offer for sale, expose for sale, sell at retail, or use or explode any fireworks.

The term “fireworks” does not include sparklers approved by the SFM pursuant to s. 791.013, F.S. Sparklers eligible to be sold or shipped in Florida are hand-held or ground-based devices, which emit showers of sparks when they are burned, do not contain explosive compounds, do not detonate or explode, are not self-propelled, and have a limited amount of combustible chemicals.⁹

Public Displays of Fireworks in Florida

Section 791.02, F.S., also allows counties and cities to adopt reasonable rules and regulations for the granting of permits for the supervised public display of fireworks within their boundaries.

⁴ Retailers that sell sparklers to the general public are classified into two groups: “seasonal retailers” are persons who sell sparklers only from June 20 through July 5 and from December 10 through January 2 (the temporary stands and tents near roads are operated by seasonal retailers); “retailers” are persons who sell sparklers throughout the year from a fixed location. See s. 791.015, F.S.

⁵ See ATF, *Fireworks Safety and Security*, available at <https://www.atf.gov/explosives/fireworks-safety-and-security> (last visited Oct. 28, 2019).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Section 791.01(8), F.S.

Display operators must apply for a permit at least 15 days in advance and obtain approval from municipal chiefs of police and fire departments. Section 791.03, F.S., authorizes counties to require a bond of not less than \$500 for any damages caused by a fireworks display.

The outdoor display of fireworks is governed by the National Fire Protection Association (NFPA), which establishes minimum safety standards for outdoor public displays.¹⁰ Local governments may adopt more stringent restrictions for the outdoor display of fireworks, but cannot enact less stringent provisions.¹¹

State Fire Marshal Role in Fireworks Regulation

The SFM issues a Certificate of Registration to persons and companies engaged in the business of manufacturing, distributing, wholesaling, and retailing sparklers and imposes an annual fee.¹² All sparklers must be annually tested¹³ and approved by the SFM according to specified standards prior to sale or use.¹⁴ Any product that is not approved by the SFM is classified as fireworks. The SFM promulgates an annual list of approved sparklers on its website.¹⁵

According to the SFM, there are currently 710 registered sparkler retailers, which sell to the public from 3,740 fixed places of business throughout the year. There are 841 registered sparkler seasonal retailers, which may sell from June 20 through July 5 and from December 10 through January 2. Presently, there are 92 registered sparkler wholesalers, 7 registered sparkler distributors and 3 registered sparkler manufacturers.¹⁶

Section 791.04, F.S., allows wholesalers, distributors, and manufacturers registered with the SFM to sell fireworks *at wholesale*, but only if the purchaser meets one of the enumerated exemptions. These exemptions allow the sale of fireworks to:

- Other manufacturers, distributors, or wholesalers registered with the SFM;
- Other registered manufacturers, distributors, or wholesalers who ship fireworks directly out of Florida;
- Persons holding a permit from any board of county commissioners (or municipality) at the display covered by such permit;

¹⁰ Section 791.012, F.S.

¹¹ *Id.* Section 791.055, F.S., further outlines restrictions on the storage of sparklers to ensure such products are kept in a safe manner.

¹² Section 791.015, F.S. The certificate issued by the SFM is mandatory and contains the licensed address where sales are permitted and must be posted at the registered location. Fees for manufacturers, distributors, and wholesalers of sparklers are \$1,000; for retailers the fees are \$15; and for seasonal retailers, the fee is \$200. Revenue from registration fee payments is deposited in the Insurance Regulatory Trust Fund for the purposes of implementing the registration and testing provisions of ch. 791, F.S.

¹³ Sparklers, unless they are subsequently altered, are only tested once by the SFM.

¹⁴ Sections 791.015 and 791.013, F.S. Sparklers must be submitted for testing to the SFM's Bureau of Forensic Fire and Explosives Analysis Laboratory in Tallahassee prior to September of each year. The SFM does not test novelties or trick noisemakers.

¹⁵ Division of State Fire Marshal, *List of Approved Sparklers: February 1, 2019 to January 31, 2019*, available at: <https://www.myfloridacfo.com/division/sfm/BFP/documents/2019-2020SparklerList.pdf> (last visited Oct. 28, 2019).

¹⁶ Section 791.01, F.S., and email from Meredith Stanfield, Director of Legislative and Cabinet Affairs, Department of Financial Services (Sep. 29, 2019) (on file with the Senate Committee on Community Affairs).

- Railroads or other transportation agencies for signal, illumination, quarrying, blasting or other industrial use;
- A show or theater for the sale or use of blank cartridges;
- Athletics or sports for signal or ceremonial purposes;
- Military organizations, or organizations composed of the Armed Forces of the United States; and
- Licensed manufacturers who experiment by exploding and storing fireworks in their own compounds.

Enforcement of Florida Fireworks Laws

It is a first-degree misdemeanor penalty for any person, firm, copartnership, or corporation to offer for sale, expose for sale, sell at retail, or use or explode any fireworks.¹⁷ It is not, however, a violation of the law to merely possess fireworks. The law imposes a similar penalty for individuals, members of a partnership, and officers of an association or corporation who violate the terms of ch. 791, F.S.,¹⁸ and for persons who alter approved sparklers and subsequently sell such products or fraudulently represent a device is approved for sale as a sparkler by the SFM when it is not approved.¹⁹ In addition, the sheriff or any other police officer is authorized to seize, take or remove at the expense of the owner, all stocks of fireworks or combustibles offered for sale, stored, or held in violation of ch. 791, F.S.²⁰

Agriculture Works and Fish Hatcheries Fireworks Exemption and Fireworks Retailer Waivers

The importation, purchase, sale, or use of fireworks to be used solely and exclusively to frighten birds from agricultural works and fish hatcheries is authorized pursuant to s. 791.07, F.S.²¹ The Department of Agriculture and Consumer Services (DACS) governs this provision pursuant to its rules, which mandate that persons who utilize this exemption must first file a written statement with the county sheriff verifying such persons are engaged in agriculture or operate a fish hatchery.²² These persons must then present this statement to the seller at the point of sale.

The processes and procedures for the agriculture works and fish hatcheries exemption should not be confused with “certificates,” “waivers,” or “affidavits” that fireworks retailers often ask fireworks buyers to sign when a person purchases something above a sparkler. While waivers may acknowledge and cite the agricultural exemption in s. 791.07, F.S., or the wholesale exemptions in s. 791.04, F.S., these documents do not waive these laws. The SFM has previously

¹⁷ Sections 791.02, F.S., and 791.06, F.S. A misdemeanor penalty is one year in jail and a \$1,000 fine; *see* ss.775.082 and 775.083, F.S.

¹⁸ Section 791.06, F.S. Firms, copartnerships, or corporations found to violate the law are subject to a \$1,000 fine.

¹⁹ Section 791.013, F.S.

²⁰ Section 791.05, F.S.

²¹ Specially designed pyrotechnic explosives and propane canons are commonly used and effective bird dispersal tools. *See* U.S. Department of Agriculture Animal & Plant Health Inspection Service, *Bird Dispersal Technics* (Aug. 2016), *available at*

https://www.aphis.usda.gov/wildlife_damage/reports/Wildlife%20Damage%20Management%20Technical%20Series/Bird-Dispersal-Techniques-WDM-Technical-Series.pdf (last visited Oct. 28, 2019).

²² Rules 5A-3.001 and 5A-3.002, F.A.C.

advised persons to *not sign* waivers in order to purchase illegal fireworks, stating that signing a waiver will not clear a consumer of responsibility if caught illegally using fireworks.²³

The Miketa Case

Issues surrounding fireworks buyer certificates was addressed in 2002 in *State v. Miketa*.²⁴ The Third District Court of Appeal held that ch. 791, F.S., did not require a seller of fireworks to use due diligence to determine if a purchaser met one of the statutory wholesale exemptions under the law. The Court reasoned that all that is required of the seller, before she or he could lawfully sell the fireworks, was for the purchaser to sign a statement, supplied by the seller, that the purchaser is covered by one of the exemptions to the statute. Since the statute was penal in nature, it should be strictly construed against the state. Because the fireworks statute failed to include a requirement that the seller make a bona fide attempt to determine if the purchase is exempt by requiring supporting documentation, such a requirement could not be read into the law.

Florida Consumer Fireworks Task Force (2007-2008)

In 2007, the Legislature enacted ch. 2007-67, Laws of Florida, and established a Consumer Fireworks Task Force (Task Force) within the DACS for the purpose of studying issues concerning consumer fireworks.²⁵

Pending completion of the Legislature's review of the Task Force's report and to ensure uniformity of fire prevention and safety standards, the Legislature enacted limits on retail sales facilities for consumer fireworks, which provided:

- A new permanent retail sales facility engaged in sales permitted under s. 791.07, F.S., (i.e., for agricultural and fish hatchery uses) may not be opened in Florida after March 8, 2007, unless construction for the permanent retail sales facility received site plan approval and construction begun on or before March 8, 2007; and
- The number of permits for temporary retail sales facilities, such as tents, engaged in sales otherwise permitted by s. 791.07, F.S., (i.e., for agricultural and fish hatchery uses) issued after March 8, 2007, by a county, municipality, or other unit of local government, may not exceed the number of permits the governmental entity issued for such facilities during the 2006 calendar year.²⁶

Under ch. 2007-67, s. 10(5), Laws of Florida, a municipality, county, or other unit of local government may not adopt an ordinance, rule, regulation, or other law after March 8, 2007,

²³ Florida Chief Financial Officer Press Release, *Florida State Fire Marshal's Office Urges Floridians to Celebrate Safely this Fourth of July* (July 3, 2017), available at <https://www.myfloridacfo.com/sitePages/newsroom/pressRelease.aspx?id=4848> (last visited Oct. 28, 2019).

²⁴ 824 So. 2d 970, 974.

²⁵ See ch. 2007-67, s. 10, Laws of Fla.; as set forth in s.10(4), transmittal of the Task Force report to the President of the Senate and the Speaker of the House of Representatives abolished the Task Force.

²⁶ See ch. 2007-67, s. 10(5), Laws of Fla.

which directly prohibits or directly interferes with the safety standards established by state law or the right to purchase, sell, use, or possess consumer fireworks in Florida.²⁷

Key recommendations adopted by the Task Force in its final report included:

- Clear definitions and conditions for the use of consumer fireworks;
- Removal or amendments to existing exemptions;
- Establishment of consistent local government regulations, compliance and penalties;
- Baseline regulation and safety standards for temporary retail sales facilities;
- Regulation of hours and location of the use of consumer fireworks; and
- Ensure that fees be developed sufficient to ensure that all aspects of the Task Force's recommendations are revenue neutral to state and local governments.²⁸

Other States' Regulation of Fireworks

Industry association information indicates that nationally, one state, Massachusetts, bans all consumer fireworks, three states allow only wire or wood stick sparklers and other novelty items, and 46 states and the District of Columbia allow some or all types of consumer fireworks permitted by federal regulations.²⁹

State law in Georgia allows fireworks use on any day from 10:00 a.m. to 11:59 p.m., unless the noise from such use is not in compliance with a noise ordinance of a county or municipal corporation.³⁰ A noise ordinance provision does not apply on January 1, the last Saturday and Sunday in May, July 3, July 4, the first Monday in September, and December 31 of each year. In addition, on January 1 of each year, fireworks use is permitted from 12:00 midnight up to 1:00 a.m.

In Michigan,³¹ local units of government may enact certain ordinances regulating fireworks but such ordinances shall not regulate the use of consumer fireworks on the following days beginning at 11:00 a.m.:

²⁷ *Id.* Further, if the Legislature enacts legislation to provide for the comprehensive regulation of fire prevention and safety standards for the use of consumer fireworks to replace s. 791.07, F.S., *on or before July 1, 2008*, s. 791.07, F.S., does not prohibit opening any such facility, permitting any such temporary facility, or adopting any such ordinance or other law after such legislation is enacted. However, no such legislation was enacted on or before July 1, 2008.

²⁸ Department of Agriculture and Consumer Services, *Florida Consumer Fireworks Task Force: Final Report* (Jan. 15, 2008), available at https://consensus.fsu.edu/Fireworks-Task-Force/pdfs/Fireworks_Final.pdf (last visited Oct. 28, 2019).

²⁹ See American Pyrotechnics Association, *2019 State Fireworks Control Laws* (June 2019) available at <https://www.americanpyro.com/assets/docs/FactsandFigures/Rev2019%20State%20Laws%20Firework%20Map.pdf> (last visited Oct. 29, 2019).

³⁰ See Official Code of Georgia, § 25-10-2, available at <https://advance.lexis.com/documentpage/?pdmfid=1000516&crid=326894ef-3894-4c3d-a276-3c354a51ae72&config=00JAA1MDBIYzczZi11YjFILTQxMTgtYWE3OS02YTgyOGM2NWJIMDYKAFBvZENhdGFsb2fe00M9qoQOMCSJFX5qkd&pddocfullpath=%2Fshared%2Fdocument%2Fstatutes-legislation%2Furn%3AcontentItem%3A5WRH-YDC1-JKB3-X17P-00008-00&pddocid=urn%3AcontentItem%3A5WRH-YDC1-JKB3-X17P-00008-00&pdcontentcomponentid=234186&pdteaserkey=sr4&pditab=allpods&ecomp=h567kkk&earg=sr4&prid=67d7319f-75b1-4851-9d42-29b12824fa69> (last visited Oct. 29, 2019).

³¹ See Michigan Fireworks Safety Act, Section 28.457, available at [http://www.legislature.mi.gov/\(S\(k5phsamwcqvfiul5qtah2lsu\)\)/mileg.aspx?page=GetObject&objectname=mcl-28-457](http://www.legislature.mi.gov/(S(k5phsamwcqvfiul5qtah2lsu))/mileg.aspx?page=GetObject&objectname=mcl-28-457) (last

- December 31 until 1 a.m. on January 1;
- The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days;
- June 29 to July 4 until 11:45 p.m. on each of those days;
- July 5, if that date is a Friday or Saturday, until 11:45 p.m.; and
- The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.

Fireworks Related Injuries and Fires

According to the U.S. Consumer Product Safety Commission's (CPSC) *2018 Fireworks Annual Report*,³² fireworks were involved in an estimated 9,100 injuries treated in U.S. hospital emergency departments during calendar year 2018. Approximately 81 percent of the victims treated at emergency departments were released upon receiving care. The report found that there is not a statistically significant trend in estimated emergency department-treated, fireworks-related injuries from 2003 to 2018. CPSC staff received reports of five non-occupational fireworks-related deaths during the year.

The National Fire Protection Association reports³³ that fireworks start an average of 18,500 fires per year, including 1,300 structure fires, 300 vehicle fires, and 16,900 outside and other fires. These fires caused an average of three deaths, 40 civilian injuries, and an average of \$43 million in direct property damage.

According to DFS, in 2018, there were 108 fires in Florida in which fireworks were reported as the cause.³⁴ DFS states those fires resulted in estimated property damage of \$287,751. In 2017, DFS identified 173 fires in the state in which fireworks were reported as the cause, which resulted in one civilian death and estimated property damage of \$500,660.³⁵

III. Effect of Proposed Changes:

Section 1 creates s. 791.08, F.S., to provide an exemption from the prohibition of fireworks usage during designated holidays. The designated holidays are Memorial Day, the last Monday in May; Independence Day, July 4; New Year's Eve, December 31; or New Year's Day, January 1.

Section 2 provides that the bill shall take effect upon becoming law.

visited Oct. 29, 2019).

³² U.S. Consumer Product Safety Commission, 2018 Fireworks Annual Report (June 2019), available at https://www.cpsc.gov/s3fs-public/Fireworks_Report_2018.pdf?5kZ4zdr9jPFyhPmeg3MoL35mGX8fB0s7 (last visited Oct. 29, 2019).

³³ National Fire Protection Association, *Public Education: Fireworks*, available at <https://www.nfpa.org/Public-Education/Fire-causes-and-risks/Seasonal-fire-causes/Fireworks> (last visited Oct. 29, 2019).

³⁴ Department of Financial Services, *Senate Bill 140 Agency Analysis* (Sep. 20, 2019) (on file with the Senate Committee on Community Affairs).

³⁵ *Id.*

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Sellers of fireworks may experience increased sales because of the bill.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

While the bill removes the prohibition on fireworks usage on certain designated holidays, it is silent on the importation, purchase, or sale of fireworks on or for usage on these days. In addition, seasonal retailer sales dates do not currently include any time around Memorial Day.

VIII. Statutes Affected:

This bill creates section 791.08 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 Community Affairs on November 4, 2019:

- Added New Year’s Day to the list of designated holidays that are exempt from the current prohibition on fireworks use.
- Removed a rulemaking requirement for the Division of State Fire Marshal.

- B. **Amendments:**

None.

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



563010

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 11/05/2019 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Community Affairs (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 17 - 24

and insert:

(a) New Year's Day, January 1;

(b) Memorial Day, the last Monday in May;

(c) Independence Day, July 4; or

(d) New Year's Eve, December 31.

(2) This chapter does not prohibit the use of fireworks solely and exclusively during a designated holiday.



563010

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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 5 - 8

and insert:

and exclusively during a designated holiday; providing
an effective date.

From: Stanfield, Meredith <Meredith.Stanfield@myfloridacfo.com>
Sent: Tuesday, October 29, 2019 5:17 PM
To: Toman, John <Toman.John@flsenate.gov>
Subject: RE: SB 140 Fireworks

John –

Thank you for taking the time to speak with me today! I have included the number of active sparkler registrations below. If you need anything else, please let me know. Thanks!

| License Type | Count of Active Registrations |
|-------------------------------------|-------------------------------|
| Sparkler Manufacturer | 3 |
| Sparkler Distributor | 7 |
| Sparkler Wholesaler | 92 |
| Sparkler Seasonal Retailer | 841 |
| Sparkler Retailer | 710 |
| Sparkler Retail Location | 3,740 |
| Total Sparkler Registrations | 5,393 |

Meredith Brock Stanfield

Director of Legislative and Cabinet Affairs

Office of Chief Financial Officer Jimmy Patronis
Florida Department of Financial Services
(o): 850-413-2890 (c): 850-509-2753
Meredith.Stanfield@myfloridacfo.com



[Download](#) CFO Patronis' Hurricane Financial Preparedness Toolkit

Please note that Florida has a broad public records law. Most written communications to or from state officials regarding state business are considered to be public records and will be made available to the public and the media upon request. Therefore, your e-mail message may be subject to public disclosure.



Department of Financial Services (DFS) 2020 Legislative Bill Analysis

BILL INFORMATION

| | |
|-----------------|-------------------|
| Bill Number: | SB 140 |
| Bill Title: | Fireworks |
| Bill Sponsor: | Hutson |
| Effective Date: | Upon becoming law |

ANALYSIS INFORMATION

| | |
|--------------------|--|
| Agency Contact: | Meredith Stanfield, Legislative Affairs Director, (850) 413-2890 |
| Division Director: | Julius Halas, Division of State Fire Marshal |
| Program Analyst: | Casia Sinco |
| Analysis Date: | September 20, 2019 |

POLICY ANALYSIS

I. SUMMARY ANALYSIS

This bill would allow for the use of fireworks on three designated holidays.

II. PRESENT SITUATION

Fireworks are defined in section 791.01, F.S., as any combustible or explosive composition, or substance or combination of substances prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation. The term includes blank cartridges and toy cannons in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrocket, roman candles, dago bombs, and any fireworks containing any explosives, flammable compound, tablets, or other device containing any explosive substance. Currently, section 791.02, F.S., states that it is unlawful for anyone to “offer for sale, expose for sale, sell at retail, or use or explode any fireworks,” although there are exceptions to that prohibition. Local governments have the ability to approve supervised public displays of fireworks. Section 791.04, F.S., exempts use of fireworks “by railroads or transportation agencies for signal purposes or illumination or when used in quarrying or for blasting or other industrial use, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations”. Section 791.07, F.S., also exempts the use of fireworks “solely and exclusively in frightening birds from agricultural works and fish hatcheries” and provides that the use of fireworks for this purpose shall be governed by rules prescribed by the Florida Department of Agriculture and Consumer Services (DOACS). Those rules are found in Chapter 5A-3, F.A.C.

Pursuant to a 2002 3rd District Court of Appeal case, [Florida v. Miketa](#), there is no due diligence requirement placed upon a fireworks dealer to verify whether or not the exemption under which a person purchases fireworks actually applies to the purchaser. The penalty for a violation of Chapter 791, F.S., including the unlawful use of a firework, is a first-degree misdemeanor pursuant to section 791.06, F.S.

Chapter 791, F.S., authorizes the Division of State Fire Marshal (SFM) to issue registrations for the sale of sparklers in the State of Florida and the testing of those sparkler products before they are offered for sale. The SFM is given rulemaking authority to develop registration forms and testing procedures for sparklers. All enforcement authority for Chapter 791, F.S. is given to local law enforcement departments and officials charged with the enforcement of the laws of the state.

III. EFFECT OF PROPOSED CHANGES

The bill would allow for the use of fireworks during three designated holidays: Memorial Day, Independence Day, and New Year’s Eve. It would also give the Division of State Fire Marshal rulemaking authority to adopt rules for the use which “must prescribe such use in the same manner as rules adopted under s. 791.07.”

IV. DOES THE BILL DIRECT OR ALLOW THE DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y N

| | |
|--|--|
| If yes, explain: | Directs rules to be developed for the use of fireworks during designated holidays, which must prescribe such use in the same manner as Rule Chapter 5A-3, F.A.C. |
| Is the change consistent with the agency’s core mission? | Y <input type="checkbox"/> N <input checked="" type="checkbox"/> |
| Rule(s) impacted (provide references to F.A.C.): | Chapter 5A-3, F.A.C.; Chapter 69A-50, 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? Unknown Y N

| | |
|---------------|--|
| Revenues: | |
| Expenditures: | |

II. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Unknown Y N

| | |
|--|--------------------------------------|
| Revenues: | |
| Expenditures: | Minimal expenditures for rulemaking. |
| 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: | Potential increase for firework sales. |
| Expenditures: | |
| Other: | |

IV. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Unknown 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. | |
|--|--|

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

It is unclear what would be accomplished in rulemaking by the SFM as the current DOACS rule requires fireworks users to file with the sheriff of the county and enforcement authority under Chapter 791, F.S., is given to local law enforcement.

The National Fire Protection Association (NFPA) reports that fireworks “start an average of 18,500 fires per year, including 1,300 structure fires, 300 vehicle fires, and 16,900 outside and other fires. These fires caused an average of three deaths, 40 civilian injuries, and an average of \$43 million in direct property damage.”

<https://www.nfpa.org/Public-Education/Fire-causes-and-risks/Seasonal-fire-causes/Fireworks>

The Consumer Products Safety Commission (CPSC) reported that in 2018, there were a minimum of 5 nonoccupational fireworks-related deaths. All five of these fatalities were associated with reloadable aerial devices (commercial fireworks) and all five victims died from direct impacts of these fireworks. The CPSC also reported that fireworks were involved in an estimated 9,100 injuries during 2018 and that nearly half of the estimated emergency department-treated, fireworks-related injuries were to individuals younger than 20 years old, with children ages 10 to 14 year having the highest rate of injuries. https://www.cpsc.gov/s3fs-public/Fireworks_Report_2018_1.pdf?TTYVB8RRwBf7WPtxETx0IYkYwb3cX1qj

An article from the Insurance Journal indicates that there were 8 deaths in 2017 from fireworks and 12,900 injuries. <https://www.insurancejournal.com/news/national/2018/07/02/493945.htm>

In 2018, there were 108 fires in Florida in which fireworks were reported as the cause. Those fires resulted in estimated property damage of \$287,751. In 2017, there were 173 fires in Florida in which fireworks were reported as the cause. Those fires resulted in 1 civilian death and estimated property damage of \$500,660.

LEGAL - GENERAL COUNSEL’S OFFICE REVIEW

| | |
|---------------------------|--|
| Issues/concerns/comments: | <p>A. Does the proposed legislation conflict with existing state or federal law or regulations? If so, what laws and/or regulations? No.</p> <p>B. 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)? No.</p> <p>C. Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties? No, litigation involving the Department is unlikely.</p> <p>D. Rules: Yes, the proposed legislation requires the Department to promulgate new rules.</p> |
|---------------------------|--|

From: Stanfield, Meredith <Meredith.Stanfield@myfloridacfo.com>
Sent: Tuesday, October 29, 2019 5:17 PM
To: Toman, John <Toman.John@flsenate.gov>
Subject: RE: SB 140 Fireworks

John –

Thank you for taking the time to speak with me today! I have included the number of active sparkler registrations below. If you need anything else, please let me know. Thanks!

| License Type | Count of Active Registrations |
|-------------------------------------|--------------------------------------|
| Sparkler Manufacturer | 3 |
| Sparkler Distributor | 7 |
| Sparkler Wholesaler | 92 |
| Sparkler Seasonal Retailer | 841 |
| Sparkler Retailer | 710 |
| Sparkler Retail Location | 3,740 |
| Total Sparkler Registrations | 5,393 |

Meredith Brock Stanfield

Director of Legislative and Cabinet Affairs

Office of Chief Financial Officer Jimmy Patronis

Florida Department of Financial Services

(o): 850-413-2890 (c): 850-509-2753

Meredith.Stanfield@myfloridacfo.com

[Download](#) CFO Patronis' Hurricane Financial Preparedness Toolkit  

Please note that Florida has a broad public records law. Most written communications to or from state officials regarding state business are considered to be public records and will be made available to the public and the media upon request. Therefore, your e-mail message may be subject to public disclosure.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date

11-4

Bill Number (if applicable)

140

Amendment Barcode (if applicable)

Topic fireworks

Name Rona Brown

Job Title Consultant Ronald Book PA

Address 10400 Jefferson St

Street 724

City _____ State _____ Zip _____

Phone 802243427

Email _____

Speaking: For Against Information

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

Representing TNT Firearms

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 11/04/2019

Bill Number (if applicable) SB 140

Topic FIREWORKS

Amendment Barcode (if applicable) _____

Name CESAR GRAJALES

Job Title COALITIONS DIRECTOR

Address 200W. COLLEGE AVE.

Phone 786. 260. 9283

Street TALLAHASSEE, State FL. Zip 32301

Email cgrajales@belibre.org

Speaking: For Against Information

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

Representing AMERICANS FOR PROSPERITY

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 11/4/14

Bill Number (if applicable) 140

Topic Fireworks Amendment Barcode (if applicable) _____

Name CASEY COOK

Job Title Legislative Advocate

Address PO Box 1757 Phone 850 701 3701

City Tallahassee State FL Zip 32307 Email ccook@flcitr.com

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

Representing FLORIDA LEAGUE OF CITIES

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SJR 146

INTRODUCER: Senator Brandes

SUBJECT: Homestead Property Tax Assessments/Increased Portability Period

DATE: October 29, 2019

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------|----------------|-----------|------------------|
| 1. | <u>Toman</u> | <u>Yeatman</u> | <u>CA</u> | Favorable |
| 2. | _____ | _____ | <u>FT</u> | _____ |
| 3. | _____ | _____ | <u>AP</u> | _____ |

I. Summary:

SJR 146 proposes an amendment to the Florida Constitution to extend from two to three years the “portability” period during which a person may transfer up to \$500,000 of accumulated Save Our Homes benefit from a prior homestead property to a new homestead property.

If adopted by the Legislature, the proposed amendment will be submitted to Florida’s electors for approval or rejection at the next general election in November 2020.

If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2021.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise (FLA. CONST. art VII, s. 4.). Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

³ *See* s. 192.001(2) and (16), F.S.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ and limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Save Our Homes Assessment Limitation and Portability

In 1992, Florida voters approved the Save Our Homes amendment to the Florida Constitution.¹¹ The Save Our Homes amendment limits the amount that the assessed value of a homestead property may increase annually to the lesser of 3 percent or the percentage increase in the Consumer Price Index.¹² The accumulated difference between the assessed value and the just value is the Save Our Homes benefit. The assessed value may increase even if the value of the home decreases; however, the assessed value of a homestead property will never be more than the just value.

In 2008, Florida voters further amended the Florida Constitution to provide for the portability of the accrued benefit under the Save Our Homes assessment limitation.¹³ The portability amendment allows homestead property owners who relocate to a new homestead to transfer, or "port," up to \$500,000 of the accrued Save Our Homes benefit to the new homestead. To transfer the Save Our Homes benefit, the homestead owner must establish a new homestead within 2 years of January 1 of the year he or she abandoned the old homestead (not 2 years after the sale).¹⁴

III. Effect of Proposed Changes:

The joint resolution proposes an amendment to the Florida Constitution to extend from two to three years the "portability" period during which a person has the ability to transfer up to

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ See FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ FLA. CONST. art. VII, s. 4(d). The Florida Legislature implemented the Saves Our Homes amendment in s. 193.155, F.S.

¹² FLA. CONST. art. VII, s. 4(d).

¹³ FLA. CONST. art VII, s. (4)(d)(8). The Florida Legislature implemented the Saves Our Homes amendment in s. 193.155(8), F.S.

¹⁴ See Department of Revenue, Save Our Homes Assessment Limitation and Portability Transfer Brochure *available at* <http://floridarevenue.com/property/Documents/pt112.pdf> (last visited Oct. 25, 2019).

\$500,000 of accumulated Save our Homes benefit from a prior homestead property to a new homestead property. The resolution also deletes obsolete provisions pertaining to 2008 homestead property assessments.

If adopted by the Legislature, the proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election in November 2020.

If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandates provisions in Article VII, section 18 of the State Constitution, do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article XI, Section 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. Article XI, Section 5(a) of the Florida Constitution requires the amendment be placed before the electorate at the next general election¹⁵ held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose. Section 101.161(1), F.S., requires constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking "first, whether the ballot title and summary 'fairly inform the voter of the chief purpose of the amendment,' and second, 'whether the language of the title and summary, as written, misleads the public.'"¹⁶

¹⁵ Section 97.012(16), F.S., defines "general election" as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

¹⁶ *Roberts v. Doyle*, 43 So. 3d 654, 659 (Fla. 2010), citing *Florida Dep't of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

Article XI, Section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held.

Article XI, Section 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

As of this date, the Revenue Estimating Conference (REC) has not met to consider the proposed fiscal impact of SJR 146. During the 2019 Legislative Session, the REC determined that a similar joint resolution on Save Our Homes portability timeframes, SJR 326, would have a zero/negative indeterminate impact because of the need for voter approval.¹⁷ If the constitutional amendment did not pass, the impact would be zero. However, if approved, the REC determined that SJR 326 (2019) would reduce local property taxes by \$2.1 million, beginning in Fiscal Year 2021–2022, with a recurring reduction of \$6.5 million. The fiscal impact included a \$0.8 million reduction in school taxes, beginning in Fiscal Year 2021–2022, with a \$2.4 million recurring reduction.

B. Private Sector Impact:

If the proposed amendment, SJR 146, is approved by a 60 percent vote of the electors, homeowners will have an additional year to transfer their existing homestead Save Our Homes benefit to a new homestead property.

C. Government Sector Impact:

If the proposed amendment, SJR 146, is approved by a 60 percent vote of the electors, local governments may receive less ad valorem tax revenue.

The Division of Elections (Division) is required to advertise the full text of proposed constitutional amendments in English and Spanish¹⁸ twice in a newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with English and Spanish booklets or posters displaying the full text of proposed amendments, for each polling room or early voting area in each county. The Division is also responsible for translating the amendments into Spanish. The statewide average cost to

¹⁷ Office of Economic and Demographic Research, The Florida Legislature, *SOH Portability Timeframes: SJR 326* (Jan. 24, 2019), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2019/pdf/page20-22.pdf> (last visited Oct. 25, 2019).

¹⁸ The requirement to provide these publications in Spanish stems from Section 203 of the Federal Voting Rights Act.

advertise constitutional amendments, in English and Spanish, in newspapers for the 2018 election cycle was \$92.93 per English word of the originating document.¹⁹

Using 2018 election cycle rates, the cost to advertise this amendment in newspapers and produce booklets for the 2020 general election could be, at a minimum, \$63,378.26.²⁰ Accurate cost estimates cannot be determined until the total number of amendments to be advertised is known.²¹

According to the Florida Department of Revenue (DOR), if SJR 146 and the implementing language in SB 148 are approved, DOR would need to amend Forms DR-490PORT, DR-501, and DR-501RVSH, and amend Rules 12D-8.0065(2)(a) and 12D-16.002, F.A.C.²²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This joint resolution substantially amends Article VII, section 4 of the Florida Constitution and creates a new section in Article XII of the Florida Constitution.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

¹⁹ E-mail from Brittany N. Dover, Legislative Affairs Director, Florida Department of State (Oct. 2, 2019) (on file with the Senate Committee on Community Affairs).

²⁰ *Id.*

²¹ *Id.*

²² Florida Department of Revenue, *SJR 146 Agency Analysis* (Oct. 13, 2019) (on file with the Senate Committee on Community Affairs).

From: [Dover, Brittany N.](#)
To: [Toman, John](#)
Subject: Constitutional Amendments Costs
Date: Tuesday, October 1, 2019 3:39:15 PM

Good afternoon, John.

I apologize for my delay as I have been out of the office for a few days. Below is our current description as it relates to our 2020 general election constitutional amendments. Please let me know if you need any additional information or have any questions. Happy to help.

The Division of Elections is required to advertise the full text of proposed constitutional amendments in English and Spanish* twice in a newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with English and Spanish booklets or posters displaying the full text of proposed amendments, for each polling room or early voting area in each county. The Division is also responsible for translating the amendments into Spanish. The statewide average cost to advertise constitutional amendments, in English and Spanish, in newspapers for the 2018 election cycle was \$92.93 per English word of the originating document.

Using 2018 election cycle rates, the cost to advertise this amendment in newspapers and produce booklets for the 2020 general election could be \$ 63,378.26, at a minimum. Accurate cost estimates cannot be determined until the total number of amendments to be advertised is known.

*The requirement to provide these publications in Spanish stems from Section 203 of the federal Voting Rights act.

Thank you,

Brittany N. Dover
Legislative Affairs Director
Department of State
850.245.6509 (office)
850.274.3105 (cell)



2020 AGENCY LEGISLATIVE BILL ANALYSIS DEPARTMENT OF REVENUE

BILL INFORMATION

| | |
|------------------------|---|
| BILL NUMBER: | SJR 146 |
| BILL TITLE: | Homestead Property Tax Assessments/increased Portability Period |
| BILL SPONSOR: | Senator Brandes |
| EFFECTIVE DATE: | January 1, 2021, if approved by voters |

DL
RW

COMMITTEES OF REFERENCE

| |
|----------------------|
| 1) Community Affairs |
| 2) Finance and Tax |
| 3) Appropriations |
| 4) |
| 5) |

CURRENT COMMITTEE

| |
|-------------------|
| Community Affairs |
|-------------------|

SIMILAR BILLS

| | |
|---------------------|-----------------|
| BILL NUMBER: | SB 148 |
| SPONSOR: | Senator Brandes |

IDENTICAL BILLS

| | |
|---------------------|-----|
| BILL NUMBER: | N/A |
| SPONSOR: | |

PREVIOUS LEGISLATION

| |
|---|
| YEAR/BILL NUMBER/SPONSOR/LAST ACTION: 2019 SB 326/Senator Brandes/Died in Appropriations 2018 SB 454/Senator Brandes/Died in Appropriations Subcommittee on Finance and Tax 2018 SB 452/Senator Brandes/Died in Appropriations Subcommittee on Finance and Tax 2018 HB 503/Representative Ahearn/Died in Ways and Means Committee 2018 HB 501/Representative Ahearn/Died and Ways and Means Committee |
|---|

BILL ANALYSIS INFORMATION

| | |
|-----------------------------|-------------------------------|
| DATE OF ANALYSIS: | October 13, 2019 |
| LEAD AGENCY ANALYST: | Debbie Longman (850) 617-8324 |

POLICY ANALYSIS

1. ANALYSIS OF EACH SECTION THAT AFFECTS THE DEPARTMENT OF REVENUE.

PRESENT SITUATION

Taxation: assessments (pp. 1-7)

Paragraph (8) of Section 4, Article VII, of the Florida Constitution states that a person who establishes a new homestead as of January 1, 2009, or January 1 of any subsequent year and who has received a homestead exemption under Section 6 as of January 1 of either of the two years immediately preceding the establishment of the new homestead is entitled to have the new homestead assessed at less than just value. It also states that if this revision is approved in January 2008, a person who established a new homestead as of January 1, 2008, is entitled to have the new homestead assessed at less than just value only if that person received a homestead exemption on January 1, 2007.

EFFECT OF THE BILL

This resolution extends the timeframe from two years to three years for a property owner to transfer the accrued benefit from certain assessment limitations on homestead property from a previous homestead property.

The resolution also deletes obsolete provisions pertaining to 2008 homestead property assessments.

Schedule. Transfer of the accrued benefit from specified limitations on homestead property tax assessments; increased portability period (pp. 7-8):

Effective date of January 1, 2021.

Proposed Ballot Language (p. 8):

**CONSTITUTIONAL AMENDMENT
ARTICLE VII, SECTION 4
ARTICLE XII**

LIMITATIONS ON HOMESTEAD PROPERTY TAX ASSESSMENTS; INCREASED PORTABILITY PERIOD TO TRANSFER ACCRUED BENEFIT. - Proposing an amendment to the State Constitution, to increase, from 2 years to 3 years, the period of time during which accrued Save-Our-Homes benefits may be transferred from a prior homestead to a new homestead. This amendment takes effect January 1, 2021.

2. DOES THE DEPARTMENT EXPECT TO DEVELOP, ADOPT, MODIFY OR ELIMINATE ANY RULES, REGULATIONS, POLICIES, OR PROCEDURES? YES NO

| | |
|--|---|
| If yes, explain: | If this resolution and the implementing language in SB 148 are approved, we would need to amend Forms DR-490PORT, DR-501, and DR-501RVSH. Rules 12D-8.0065(2)(a) and 12D-16.002, F.A.C. |
| Rule(s) impacted (provide references to F.A.C., etc.): | See above. |

3. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS? N/A

4. DOES THE BILL REQUIRE THE DEPARTMENT TO SUBMIT, MODIFY OR DELETE ANY REPORTS, STUDIES OR PLANS? YES NO

| | |
|--------------------------------|--|
| If yes, provide a description: | |
| Date Due: | |
| Bill Section Number(s): | |

5. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? YES NO

| | |
|-------------------------|--|
| Board: | |
| Board Purpose: | |
| Who Appoints: | |
| Changes: | |
| Bill Section Number(s): | |

FISCAL ANALYSIS

6. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to local governments.

7. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

| | |
|---|--|
| Revenues: | The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to state government. |
| Expenditures: <i>(only expenditure impacts on the Department are identified)</i> | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES, BUT INSIGNIFICANT <input type="checkbox"/> UNABLE TO DETERMINE See Additional Comments section below if it is determined there is a significant operational impact to the Department. |
| Does the legislation contain an appropriation to the Department? | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO |

8. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? The Department of Revenue does not conduct this analysis.

9. DOES THE BILL INCREASE OR DECREASE TAXES, FEES OR FINES? The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact on state and local government, if any.

TECHNOLOGY IMPACT

If any, see attached Fiscal Impact Analysis.

FEDERAL IMPACT

If any, see Additional Comments section below.

ADDITIONAL COMMENTS

10. STATUTE(S) AFFECTED: Section 4, Article VII, and Article XII, Florida Constitution

11. HAS BILL LANGUAGE BEEN ANALYZED EARLIER THIS SESSION? YES NO

If no, go to #12. If yes:

A. Identify bill number or source.

B. Were issues/problems identified? YES NO

a. If yes, have they been resolved? YES NO If no, briefly explain.

C. Are new issues/problems created? YES NO If yes, briefly identify.

12. DOES THE BILL PRESENT DIFFICULTY IN IMPLEMENTATION, ADMINISTRATION OR ENFORCEMENT? YES NO

If yes, describe administrative problems, technical errors, or other difficulties:

13. OTHER:

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/4/19
Meeting Date

SSR 146
Bill Number (if applicable)

Topic _____ Amendment Barcode (if applicable) _____

Name Marty Kir

Job Title Broward Property Appraiser

Address 10971 NW 6th St Phone _____

Street Plantation City _____ State FL Zip 33324

Email _____

Speaking: For Against Information Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing Broward Property Appraisers District

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

11/14/19

SSR 146

Meeting Date

Bill Number (if applicable)

Topic PORTABILITY -

Amendment Barcode (if applicable)

Name FLORIDA ASSN OF PROPERTY APPRAISER

Job Title LAKE CO PROPERTY APPRAISER - CAREY BAKER

Address Street Phone

City

State

Zip

Email

Speaking: For Against Information

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

Representing FAPA - FL ASSN OF PROPERTY APPRAISER

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 11/4/19

Bill Number (if applicable) SSR 146

Topic 3-yr Portability

Amendment Barcode (if applicable) _____

Name Mike Twitty

Job Title Pinellas County Property Appraiser

Address 315 Court St. Phone 727-504-5188

Street Clearwater City FL State FL Zip 33756

Email mtwitty@pcpro.org

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 11/4/19

Bill Number (if applicable) 572 146

Topic 2-3 year Potability Period

Amendment Barcode (if applicable) _____

Name Loren Levy

Job Title General Counsel

Address 211 1828 Biggers Rd

Phone 850-219-0220

Street Tallahassee City FL State 32308 Zip

Email paaf@comcast.net

Speaking: For Against Information

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

Representing Property Appraisers' Assn of Florida

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 148

INTRODUCER: Community Affairs Committee and Senator Brandes

SUBJECT: Limitations on Homestead Assessments

DATE: November 5, 2019

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Toman | Yeatman | CA | Fav/CS |
| 2. | | | FT | |
| 3. | | | AP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 148 is the implementing bill for SJR 146, which proposes an amendment to the Florida Constitution to extend from two to three years the “portability” period during which a person may transfer up to \$500,000 of accumulated Save our Homes benefit from an existing or prior homestead property to a new homestead property. The bill first applies to the 2021 tax roll.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise (FLA. CONST. art VII, s. 4). Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

exemptions to determine the property's "taxable value."³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ and limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Save Our Homes Assessment Limitation and Portability

In 1992, Florida voters approved the Save Our Homes amendment to the Florida Constitution.¹¹ The Save Our Homes amendment limits the amount that the assessed value of a homestead property may increase annually to the lesser of 3 percent or the percentage increase in the Consumer Price Index.¹² The accumulated difference between the assessed value and the just value is the Save Our Homes benefit. The assessed value may increase even if the value of the home decreases; however, the assessed value of a homestead property will never be more than the just value.

In 2008, Florida voters further amended the Florida Constitution to provide for the portability of the accrued benefit under the Save Our Homes assessment limitation.¹³ This amendment allows homestead property owners who relocate to a new homestead to transfer, or "port," up to \$500,000 of the accrued Save Our Homes benefit to the new homestead. To transfer the Save Our Homes benefit, the homestead owner must establish a new homestead within 2 years of January 1 of the year he or she abandoned the old homestead (not 2 years after the sale).¹⁴

³ See s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ See FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ FLA. CONST. art. VII, s. 4(d). The Florida Legislature implemented the Saves Our Homes amendment in s. 193.155, F.S.

¹² FLA. CONST. art. VII, s. 4(d).

¹³ FLA. CONST. art VII, s. (4)(d)(8). The Florida Legislature implemented the Portability amendment in s. 193.155(8), F.S.

¹⁴ See Department of Revenue, Save Our Homes Assessment Limitation and Portability Transfer Brochure *available at* <http://floridarevenue.com/property/Documents/pt112.pdf> (last visited Mar. 24, 2019).

III. Effect of Proposed Changes:

Section 1 amends s. 193.155, F.S., to extend from two to three years the “portability” period during which a person has the ability to transfer up to \$500,000 of accumulated Save Our Homes benefit from a prior homestead property to a new homestead property. The section also removes obsolete provisions pertaining to the 2008 homestead property assessments.

Section 2 provides that the act applies beginning with the 2021 tax roll.

Section 3 provides that the act shall take effect on the effective date of the amendment to the Florida Constitution proposed by SJR 146 or a similar joint resolution having substantially the same specific intent and purpose, if such amendment to the Florida Constitution is approved at the general election¹⁵ held in November 2020.

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:**

As of this date, the Revenue Estimating Conference (REC) has not met to consider the proposed fiscal impact of SB 148. During the 2019 Legislative Session, the REC determined that a similar bill on Save Our Homes portability timeframes, SB 324, would have zero impact if the electors did not approve the related joint resolution. However, if approved, the REC determined that SB 324 (2019) would reduce local property taxes by

¹⁵ Section 97.012(16), F.S., defines “general election” as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

\$2.1 million, beginning in Fiscal Year 2021–2022, with a recurring reduction of \$6.5 million. The fiscal impact included a \$0.8 million reduction in school taxes, beginning in Fiscal Year 2021–2022, with a \$2.4 million recurring reduction.

B. Private Sector Impact:

If the proposed amendment is approved by a 60 percent vote of the electors,¹⁶ homeowners will have an additional year to transfer their existing homestead Save Our Homes benefit to a new homestead property.

C. Government Sector Impact:

If the proposed amendment is approved by a 60 percent vote of the electors, local governments may receive less ad valorem tax revenue.

According to the Florida Department of Revenue (DOR), if SJR 146 and the implementing language in SB 148 are approved, DOR would need to amend Forms DR-490PORT, DR-501, and DR-501RVSH, and amend Rules 12D-8.0065(2)(a) and 12D-16.002, F.A.C.¹⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 193.155 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 Community Affairs on November 4, 2019:

The committee substitute made a technical amendment to reference SJR 146.

B. Amendments:

None.

¹⁶ Article XI, Section 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective after the next general election or at an earlier special election specifically authorized by law for that purpose.

¹⁷ Florida Department of Revenue, *SJR 146 Agency Analysis* (Oct. 8, 2019) (on file with the Senate Committee on Community Affairs).

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



641184

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 11/05/2019 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Community Affairs (Brandes) recommended the following:

Senate Amendment

Delete line 306
and insert:
of the amendment to the State Constitution proposed by SJR
146



2020 AGENCY LEGISLATIVE BILL ANALYSIS DEPARTMENT OF REVENUE

BILL INFORMATION

| | |
|------------------------|--|
| BILL NUMBER: | SB 148 |
| BILL TITLE: | Limitations on Homestead Assessments |
| BILL SPONSOR: | Senator Brandes |
| EFFECTIVE DATE: | On the effective date of the amendment to the State Constitution proposed by SJR 146 or a similar joint resolution having substantially the same specific intent and purpose, if such amendment to the State Constitution is approved at the general election held in November 2020 or earlier special election. |

COMMITTEES OF REFERENCE

| |
|----------------------|
| 1) Community Affairs |
| 2) Finance and Tax |
| 3) Appropriations |
| 4) |
| 5) |

CURRENT COMMITTEE

| |
|-------------------|
| Community Affairs |
|-------------------|

SIMILAR BILLS

| | |
|---------------------|-----------------|
| BILL NUMBER: | SJR 146, Linked |
| SPONSOR: | Senator Brandes |

IDENTICAL BILLS

| | |
|---------------------|-----|
| BILL NUMBER: | N/A |
| SPONSOR: | |

PREVIOUS LEGISLATION

| |
|--|
| YEAR/BILL NUMBER/SPONSOR/LAST ACTION: 2019 SB 324/Senator Brandes/Died in Appropriations 2019 SB 326/Senator Brandes/Died in Appropriations 2018 SB 454/Senator Brandes/Died in Appropriations Subcommittee on Finance and Tax 2018 SB 452/Senator Brandes/Died in Appropriations Subcommittee on Finance and Tax 2018 HB 503/Representative Ahearn/Died in Ways and Means Committee 2018 HB 501/Representative Ahearn/Died in Ways and Means Committee |
|--|

| BILL ANALYSIS INFORMATION | |
|----------------------------------|-------------------------------|
| DATE OF ANALYSIS: | October 8, 2019 |
| LEAD AGENCY ANALYST: | Debbie Longman (850) 617-8324 |

POLICY ANALYSIS

1. ANALYSIS OF EACH SECTION THAT AFFECTS THE DEPARTMENT OF REVENUE.

Section 1. Homestead assessments (pp. 1-11)

PRESENT SITUATION

Subsection 193.155(8), Florida Statutes, states that property will be assessed at less than just value when the person who establishes a new homestead has received a homestead exemption as of January 1 of either of the two immediately preceding years. It also states that a person who establishes a new homestead as of January 1, 2008, is entitled to have the new homestead assessed at less than just value only if that person received a homestead exemption on January 1, 2007, and only if this subsection applies retroactively to January 1, 2008.

EFFECT OF THE BILL

This bill extends the timeframe from two years to three years for a property owner to transfer the accrued benefit from certain assessment limitations on homestead property.

The bill also deletes obsolete provisions pertaining to 2008 homestead property assessments.

2. DOES THE DEPARTMENT EXPECT TO DEVELOP, ADOPT, MODIFY OR ELIMINATE ANY RULES, REGULATIONS, POLICIES, OR PROCEDURES? YES NO

| | |
|--|---|
| If yes, explain: | The department would modify an existing rule and associated forms to reflect the proposed amendments. |
| Rule(s) impacted (provide references to F.A.C., etc.): | Forms DR-490PORT, DR-501, and DR-501RVSH. Rules 12D-16.002 and 12D-8.0065(2)(a), F.A.C. |

3. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS? N/A

4. DOES THE BILL REQUIRE THE DEPARTMENT TO SUBMIT, MODIFY OR DELETE ANY REPORTS, STUDIES OR PLANS? YES NO

| | |
|--------------------------------|--|
| If yes, provide a description: | |
| Date Due: | |
| Bill Section Number(s): | |

5. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? YES NO

| | |
|-------------------------|--|
| Board: | |
| Board Purpose: | |
| Who Appoints: | |
| Changes: | |
| Bill Section Number(s): | |

FISCAL ANALYSIS

6. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to local governments.

7. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

| | |
|---|--|
| Revenues: | The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to state government. |
| Expenditures: <i>(only expenditure impacts on the Department are identified)</i> | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES, BUT INSIGNIFICANT <input type="checkbox"/> UNABLE TO DETERMINE See Additional Comments section below if it is determined there is a significant operational impact to the Department. |
| Does the legislation contain an appropriation to the Department? | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO |

8. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? The Department of Revenue does not conduct this analysis.

9. DOES THE BILL INCREASE OR DECREASE TAXES, FEES OR FINES? The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact on state and local government, if any.

TECHNOLOGY IMPACT

If any, see attached Fiscal Impact Analysis.

FEDERAL IMPACT

If any, see Additional Comments section below.

ADDITIONAL COMMENTS

10. STATUTE(S) AFFECTED: Section 193.155, F.S.

11. HAS BILL LANGUAGE BEEN ANALYZED EARLIER THIS SESSION? YES NO

If no, go to #12. If yes:

A. Identify bill number or source.

B. Were issues/problems identified? YES NO

a. If yes, have they been resolved? YES NO If no, briefly explain.

C. Are new issues/problems created? YES NO If yes, briefly identify.

12. DOES THE BILL PRESENT DIFFICULTY IN IMPLEMENTATION, ADMINISTRATION OR ENFORCEMENT? YES NO

If yes, describe administrative problems, technical errors, or other difficulties:

13. OTHER:

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 246

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Hooper

SUBJECT: Public Construction

DATE: October 29, 2019

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------------|----------------|-----------|------------------|
| 1. | <u>Ponder</u> | <u>McVaney</u> | <u>GO</u> | <u>Fav/CS</u> |
| 2. | <u>Paglialonga</u> | <u>Yeatman</u> | <u>CA</u> | <u>Favorable</u> |
| 3. | _____ | _____ | <u>AP</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 246 reduces the amount (referred to as retainage¹) a state or local governmental entity may withhold from payment to a contractor for any contract for construction services from 10 percent to 5 percent throughout the term of the contract. This change will have a positive fiscal impact on the private sector contractors who will receive a higher percentage of payment as work is completed for construction services.

The bill also removes the discretion of a contractor to present to the public entity a payment request for up to one-half of the retainage held by that entity after 50 percent of the project is completed.

The bill revises the requirements for the Department of Management Services' rules governing certain contracts to align with the reduced retainage cap.

The bill provides that the act does not apply to any contract for construction services entered into or pending approval by a public entity or local government, or to any construction services project advertised for bid by the public entity or local government, on or before October 1, 2020. Additionally, the provisions of the bill do not apply to Florida Department of Transportation construction projects authorized under ch. 337, F.S.

¹ The term "retainage" means a "percentage of what a landowner pays a contractor, withheld until the construction has been satisfactorily completed and all mechanic's liens are released or have expired." BLACK'S LAW DICTIONARY (10th ed. 2014).

The bill takes effect October 1, 2020.

II. Present Situation:

Public Construction Project Bonds

Section 255.05, F.S., requires that any person contracting with the state or local government or other public authority for construction or repair of a public building must provide a payment and performance bond. The bond is conditioned upon the contractor's timely performance and prompt payment to all subcontractors or materialmen.² The section was created to afford protection to the laborers and materialmen who cannot perfect a mechanic's lien on public property.³ The public, who is, in effect, the owner of the public works project, is also protected by the payment and performance bond requirements. The payment portion of the bond provides the surety insurer's undertaking to guarantee prompt payment to all subcontractors and materialmen, and the performance bond ensures full performance.⁴

Contracts for construction services⁵ with the state for \$100,000 or less are specifically exempted from the requirement of a payment and performance bond.⁶ Additionally, the Secretary of the Department of Management Services may delegate authority to state agencies to exempt payment and performance bonds for projects more than \$100,000 but not more than \$200,000.⁷ When the construction services are for a county, city, political subdivision, or public authority, the official or board awarding the contract for \$200,000 or less has the discretion to exempt such a project from the execution of the payment and performance bond.⁸

The Department of Management Services is charged with adopting rules with respect to all contracts in the amount of \$200,000 or less, to provide procedures for retainage of each request for payment submitted by a contractor for the first half of the contract and procedures for determining disbursements from the retainage for claims made by subcontractors or materialmen.⁹

Section 337.18, F.S., requires a successful bidder for a Department of Transportation construction or maintenance contract to obtain a surety. This section also provides for department project bonds. Section 337.18(1)(f), F.S., specifies that s. 255.05, F.S., does not apply to the statutory bonds issued under this section.

² Section 255.05(1)(c), F.S.

³ *American Home Assurance Co. v. Plaza Materials Corp.*, 908 So. 2d 360, 363 (Fla. 2005) (citation omitted).

⁴ *Id.*

⁵ Sections 218.72(2) and 255.072(2), F.S., define "construction services" as all labor, services, and materials provided in connection with the construction, alteration, repair, demolition, reconstruction, or any other improvements to real property. The term does not include contracts or work performed by the Department of Transportation.

⁶ Section 255.05(1)(d), F.S.

⁷ *Id.*; See Rule 60D-50041, F.A.C.

⁸ Section 255.05(1)(d), F.S.

⁹ Section 255.05(1)(f), F.S.

The Florida Prompt Payment Act and the Local Government Prompt Payment Act

Sections 255.0705 through 255.078, F.S., known as the Florida Prompt Payment Act, govern the timely payment for construction services by the state.¹⁰ Local governmental entities as defined under s. 218.72, F.S., are specifically excluded from the application of those sections.

Additionally, contracts or work performed for the Department of Transportation are specifically excluded from the definition of “construction services” under the Florida Prompt Payment Act.¹¹

Part VII of ch. 218, F.S., is known as the Local Government Prompt Payment Act and governs local governmental entities¹² in contracting for public construction projects. The stated purpose of the Local Government Prompt Payment Act is to provide for the prompt payments by local governmental entities, interest on late payments, and a dispute resolution process.¹³ The Local Government Prompt Payment Act states that it is the policy of this state that “payment for all purchases by local governmental entities be made in a timely manner.”¹⁴

Public Construction Retainage

Retainage is a common construction contracting practice whereby a certain percentage of payment is withheld by the project owner from the general contractor and, in turn, by the general contractor from the subcontractors, to ensure satisfactory completion of the project.¹⁵ Both the Florida Prompt Payment Act and Local Government Prompt Payment Act (collectively, the “Prompt Payment Acts”) provide caps on the amount of retainage that may be withheld by a state and local governmental entity. Under the Prompt Payment Acts, up to 10 percent may be withheld by the state or local governmental entity from each progress payment made to the contractor until 50-percent completion of the services.¹⁶ After 50-percent completion, the amount of retainage withheld by the state or local governmental entity may not exceed 5 percent.¹⁷ The term “50-percent completion” has the meaning provided by the contract between the state and the contractor, or, if not defined by the contract, the point at which the state has expended 50 percent of the total cost of the construction services purchased.¹⁸

The Prompt Payment Acts specifically provide that state and local governmental entities are not prohibited from contracting with a contractor to withhold a retainage of less than 10 percent of each progress payment, from incrementally reducing the retainage amount, or from releasing, at

¹⁰ Section 255.073, F.S., defines public entity to mean “the state, or any office, board, bureau, commission, department, branch, division, or institution thereof.”

¹¹ Section 255.072(2), F.S.

¹² Section 218.72, F.S., for purposes of the Local Prompt Payment Act, defines “local governmental entity” as a “county or municipal government, school board, school district, authority, special taxing district, other political subdivision, or any office, board, bureau, commission, department, branch, division, or institution thereof.”

¹³ Section 218.71, F.S.

¹⁴ *Id.*

¹⁵ See OPPAGA *Special Review: Inflexibility in Contracting and Retainage Practices Could Hurt Construction Industry*, Report No. 00-26, December 2000. Available online at <http://www.oppaga.state.fl.us/reports/pdf/0026rpt.pdf>. (Last visited September 24, 2019.)

¹⁶ Sections 278.078(1) and 218.735(8)(a), F.S.

¹⁷ Sections 255.078(2) and 218.735(8)(b), F.S.

¹⁸ *Id.*

any point, any portion of retainage held that is attributable to labor, services, or materials supplied for the project.¹⁹

Under bond requirements found in s. 255.05(1)(f), F.S., Department of Management Services Rule 60D-50041(2), FAC., provides for procedures in instances where a payment and performance bond is not required for a public construction project and requires, in a case where the contractor defaults, the claims made for unpaid bills by laborers, materialmen, and subcontractors of the project be paid from the ten percent (10%) retainage on a pro rata basis.

III. Effect of Proposed Changes:

The bill modifies the retainage cap for public construction projects.

Section 1 amends s. 218.735, F.S., to reduce the retainage cap a local governmental entity may withhold from payment for construction services from 10 percent to 5 percent throughout the entire term of the contract for construction services and makes conforming changes. Additionally, this bill eliminates provisions governing retainage after 50 percent completion of the services and removes the discretion of a contractor to present to the public entity a payment request for up to one-half of the retainage held by that entity after 50 percent completion of the services.

Section 2 amends s. 255.05, F.S., to align with the new lower retainage amounts provided in section 4 of the bill. The change in the retainage cap revises requirements for the Department of Management Services' rules for contracts less than \$200,000.

Section 3 amends s. 255.077, F.S., to update a cross-reference consistent with the changes included in section 4.

Section 4 amends s. 255.078, F.S., to reduce the retainage cap the state may withhold from payment for construction services from 10 percent to 5 percent throughout the entire term of the contract for construction services and makes conforming changes. Additionally, this bill eliminates provisions governing retainage after 50 percent completion of the services and removes the discretion of a contractor to present to the public entity a payment request for up to one-half of the retainage held by that entity after 50 percent completion of the services.

Section 5 specifies that the act does not apply to any contract which is entered into or pending approval by a public entity or local government, or to any construction services project advertised for bid by the public entity or local government, on or before October 1, 2020. This section also provides that the changes made in ss. 255.05 and 255.078, F.S., by this act, do not apply to contracts executed under ch. 337, F.S.

Section 6 provides that the bill takes effect October 1, 2020.

¹⁹ Sections 255.078(5) and 218.735(8)(e), F.S.

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

Not applicable. This bill does not require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of a 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:

The bill does not impose, authorize, or raise a state tax or fee.

E. Other Constitutional Issues:

None identified.

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

This bill does not impact state or local taxes or fees.

B. Private Sector Impact:

The reduction in the retainage cap will likely provide a positive fiscal impact for contractors and subcontractors because it provides more timely payment of a larger percentage of work performed and invoiced.

C. Government Sector Impact:

The state or local governmental entity may incur additional costs as a result of the reduced retainage cap if a contractor or subcontractor fails to adequately perform construction services as contracted. The state or local governmental entity is not required to withhold retainage for construction services; rather, retainage, in most instances, functions as a secondary security device, supplementing the payment and performance bond. For construction services contracts where a payment or performance bond is not required, the lowered retainage cap potentially may not provide adequate leverage to protect the investment by the state or local governmental entity. However, the state or local governmental entity may still pursue damages caused by contractor or subcontractor performance failures in court.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 218.735, 255.05, 255.077, and 255.078.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Governmental Oversight and Accountability on October 14, 2019:

The CS corrects a scrivener’s error on line 68.

B. Amendments:

None.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 11-4-19

Bill Number (if applicable) 246

Topic Public Construction Amendment Barcode (if applicable) _____

Name KART HEBRANK

Job Title SR GOVERNMENT CONSULTANT, CARLTON FIELDS

Address 215 S MONROE ST, SUITE 500 Phone 850-566-7824
Street

City TALLAHASSEE State FL Zip 32301

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

Representing NATIONAL UTILITY ~~OWNERS~~ CONTRACTORS OF FLORIDA

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 11/4/19

Bill Number (if applicable) SB 246

Topic Public Construction Retainage Amendment Barcode (if applicable)

Name Deborah Lawson

Job Title _____

Address P.O. Box 12277

Phone 850-570-0033

Street Taller City FL State 32317 Zip

Email lawson.deborah@qmail.com

Speaking: For Against Information

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

Representing NAAM - Improved Construction Practices Committee

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date 11/4/19

Bill Number (if applicable) 246

Topic Public Construction

Amendment Barcode (if applicable)

Name Chris Dawson

Job Title _____

Address 301 E. Pine Street Se. 1405

Phone 402-843-8880

Street Orlando City FL State 32801 Zip

Email chris.dawson@gray-robison.com

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

Representing FL Roofing & Sheet Metal Contractors Association

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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Meeting Date 11/19/2019

Bill Number (if applicable) 246

Topic Public Construction

Amendment Barcode (if applicable) _____

Name Chris Dawson

Job Title _____

Address 301 E. Pine Street Suite 1400

Phone 407 843 8880

Street

Orlando

FL

32801

Email

chris.dawson@greg-robison.com

City

State

Zip

Speaking: For Against Information

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

Representing Associated Builders & Contractors of FL

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

SAIL Program

Presentation to
Senate Community Affairs
November 4, 2019

State Apartment Incentive Loan Program (SAIL)

What is a SAIL Loan and how are SAIL Loans Used?

- Non-amortizing, low-interest loan financing, allows developers to leverage 4% Low Income Housing Tax Credit equity and tax-exempt bond financing, to obtain the full financing and feasibility needed to construct affordable multifamily units.
- Also paired with 9% Low Income Housing Tax Credit equity to finance permanent supportive housing for persons with disabilities, or used on its own to finance small rental developments for special needs or homeless households.
- As SAIL loans are repaid to Florida Housing, funding is re-loaned.

SAIL

How Much of the Total Development Cost Does the SAIL Loan Cover?

- Traditional SAIL Loans cover up to 25% of total development cost.
- Developments produced by nonprofit organizations and public bodies, and developments serving Extremely Low Income (ELI) tenants are up to 35% of total development cost.
- Loans for developments serving persons with special needs may exceed 35% of total development cost.

SAIL

How Are SAIL Loans Made Available?

- SAIL funds must be made available using the most recent 3 year statewide low-income rental housing market study published by University of Florida, Shimberg Center for Housing Studies.
- SAIL allocations are made available to counties based on small, medium and large category apportionments.
- SAIL allocations are made available for specified demographic groups such as Family, Elderly, Persons with Special Needs, Homeless and Commercial Farm or Fishing Workers.

2019 Statewide Rental Market Study

What is the rental housing need?

Florida has 795,605 low-income, cost burdened renter households.

The 2019 Rental Market Study found:

- 69 % of renters with incomes below 60 % AMI are cost burdened.
- 33 % of above 60 to 80 % AMI renters are cost burdened.
- 11 % above 80 to 120 % of AMI renters are cost burdened.

Additionally, cost burdened renters with incomes above 60 percent of AMI are heavily concentrated in a few high cost counties, mostly in southeast Florida.

2019 Statewide Rental Market Study

What is the rental housing need?

Based on the 2019 Rental Market Study, Florida Housing makes SAIL Funds available with the following geographic and demographic designations:

- 47.4 % Family
 - 24.6 % Elderly
 - 13 % Homeless
 - 10 % Persons with Special Needs
 - 5 % Commercial Farm/Fish Workers
-
- 53.2 % Large Counties
 - 36.8 % Medium Counties
 - 10 % Small Counties



SAIL RFA Process

How do we make sure SAIL funding meets the rental housing need?

- Florida Housing allocates SAIL funding to applicants through a yearly competitive Request for Application (RFA) Process.
- Applicants commit to designate a certain number of units as affordable, at or below 60 % AMI.
- Applicants also designate a certain portion of units as extremely low income (ELI) units; ELI limits are county-specific and range between 28- 40 % AMI. Florida Housing provides special forgivable loan funding for a certain portion of these ELI units.
- Applicants also set aside half of the ELI units as LINK units for persons with special needs.

SAIL RFA Process

How do we make sure SAIL funding meets the rental housing need?

- Most applications for SAIL funding also request low income housing tax credit funding, which carries its own minimum affordability set aside requirements.
- Florida Housing's RFA requirements exceed those federal set-aside minimums, including requiring applicants to waive their right to seek a Qualified Contract.
- Applicants are required to maintain unit set-aside commitments for 50 years. After developments are placed in service, they are subject to periodic compliance monitoring by Florida Housing.

SAIL RFA Process

How do we make sure the right amount of SAIL funding is awarded?

- Florida Housing implements cost control measures to ensure SAIL funds are not over-leveraged in a property, such as total development cost per unit limitations.
- Applications are reviewed and assigned ranking based on the SAIL request amount compared to the number of units proposed. Applicants needing less SAIL funding per set aside unit rank higher.
- Once Applicants are awarded funding, they enter a rigorous credit underwriting process, and must receive a positive recommendation to proceed.

FHFC Portfolio Resident Profiles



WHO LIVES HERE: RESIDENT PROFILE

HEALTH CARE

Bay Area Neuropsychology - Receptionist
Bay Care Health Systems - Patient Care Services
Brandon Hospital - Nurse's Aide
First Care Medical - Receptionist
Florida Department of Health - Records Technician
Florida Health Science Center - Administrative
Florida Hospital - Nursing Assistant
Humana - Insurance Representative
Laser Spine Institute - Health Tech
Moffitt Cancer Center - Medical Assistant
Quest Diagnostic - Lab Tech
Tampa General Hospital - Nursing Assistant
Tampa Women's Health Center - Nursing Assistant

EDUCATION

Hillsborough County Schools - Cafeteria worker
University of South Florida - Instructor
University of Tampa - Admissions

PUBLIC SERVICE

Tampa Police Department - Police Officer

HOSPITALITY AND RETAIL

Claire's - Store Manager
Finish Line Shoes - Sales Associate
Hotel Bar - Server
Long Ash Cigars - Sales Associate
Macy's - Sales Representative
Marriott Waterside - Assistant Manager
Nordstrom - Sales Associate
Nutrition Solutions - Sales Associate
Old Navy - Sales Associate
Pizza Hut - Floor Manager
Plato's Closet - Sales Associate
Posh Salon and Spa - Hair Stylist
Publix - Cashier
Winn Dixie - Cashier
Red Lobster - Cook
Seminole Hard Rock - Food Prep Service
Stadium Toyota - Sales
The Portico - Floor Manager

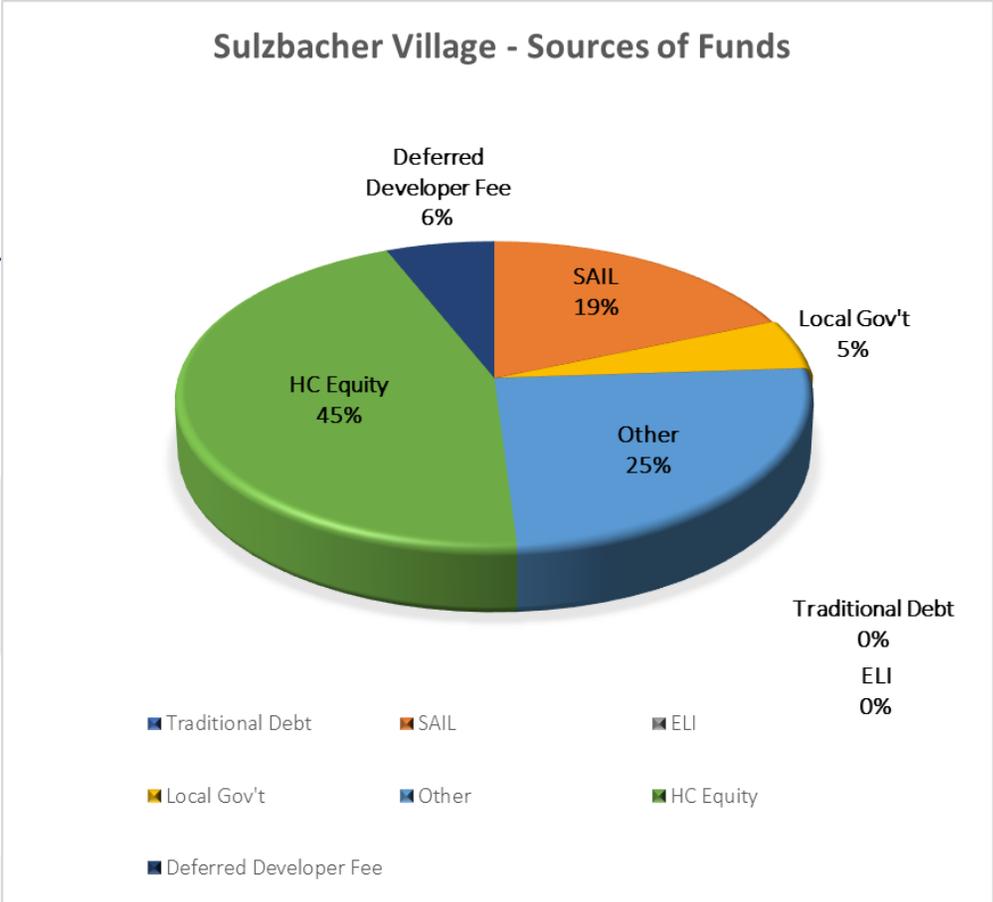
AVERAGE AGE - 27 years old

CORPORATE

Bay Area Legal Service - Paralegal
Choice Legal - Paralegal
Directions of Living - Family Specialist
Diversified Management Construction - Conservation Specialist
Ernst Construction - Assistant Construction Supervisor
Freedom Insurance - Receptionist
K Force - Account Manager
Lifestyle Realty - Real Estate Agent Support
Maids, Inc. - Cleaner
Oakwood Church - Administrative Assistant
Progressive Insurance - Claims Admin Support
Support.com - Computer Specialist
Wells Fargo - Teller

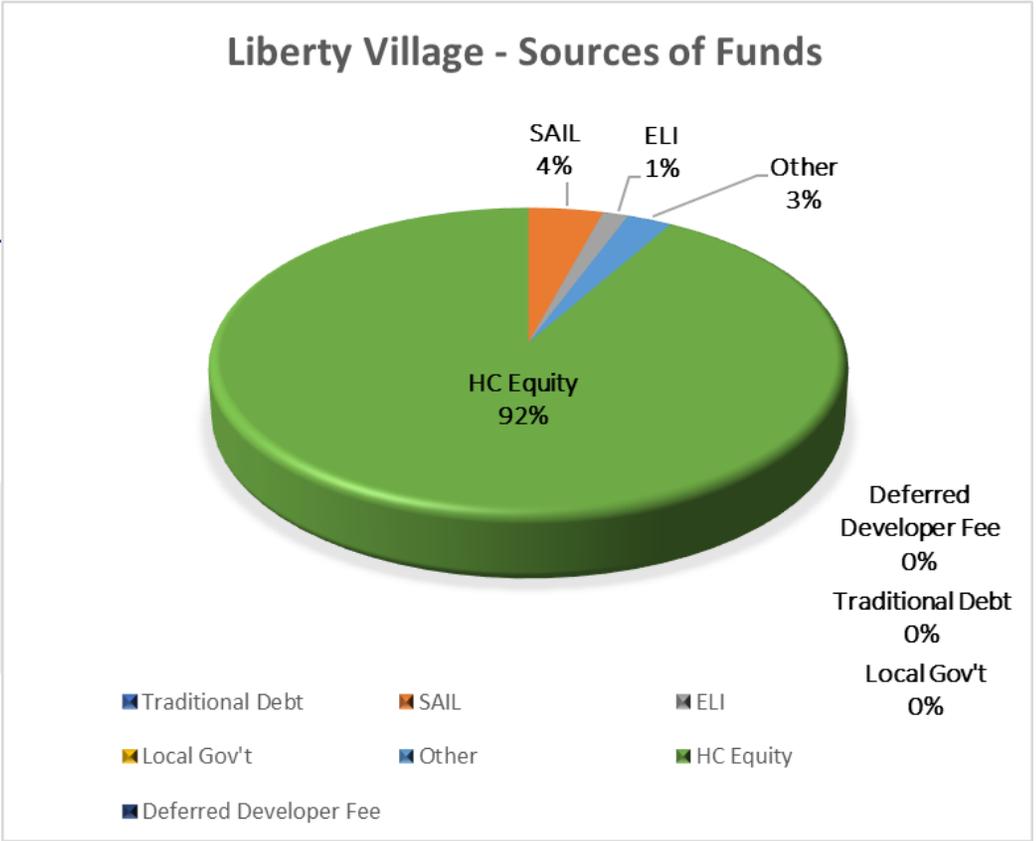
OTHER

Property Manager
Retired Banker
Retired from School System
Artist
Author
Tampa Bay Symphony (cellist and violinist)
Youth Aging Out of Foster Care



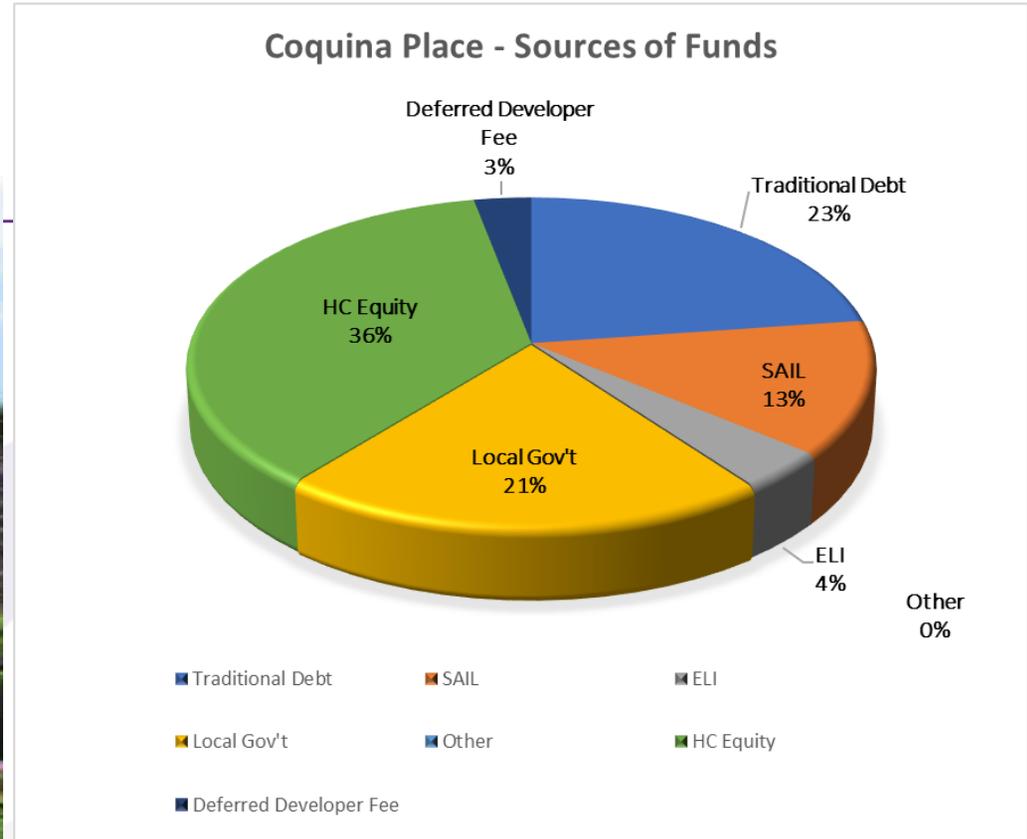
Sulzbacher Village for Women and Families - Jacksonville

Sulzbacher Village is permanent supportive housing for homeless women and families with children consisting of 70 rental units at 5455 Springfield Boulevard, Jacksonville. 16% of the units will serve households with incomes at or below 33% AMI, and the remainder will serve households with incomes at or below 60% AMI. The development also provides emergency and respite care housing, as well as a pediatric primary care unit that were financed with other resources.



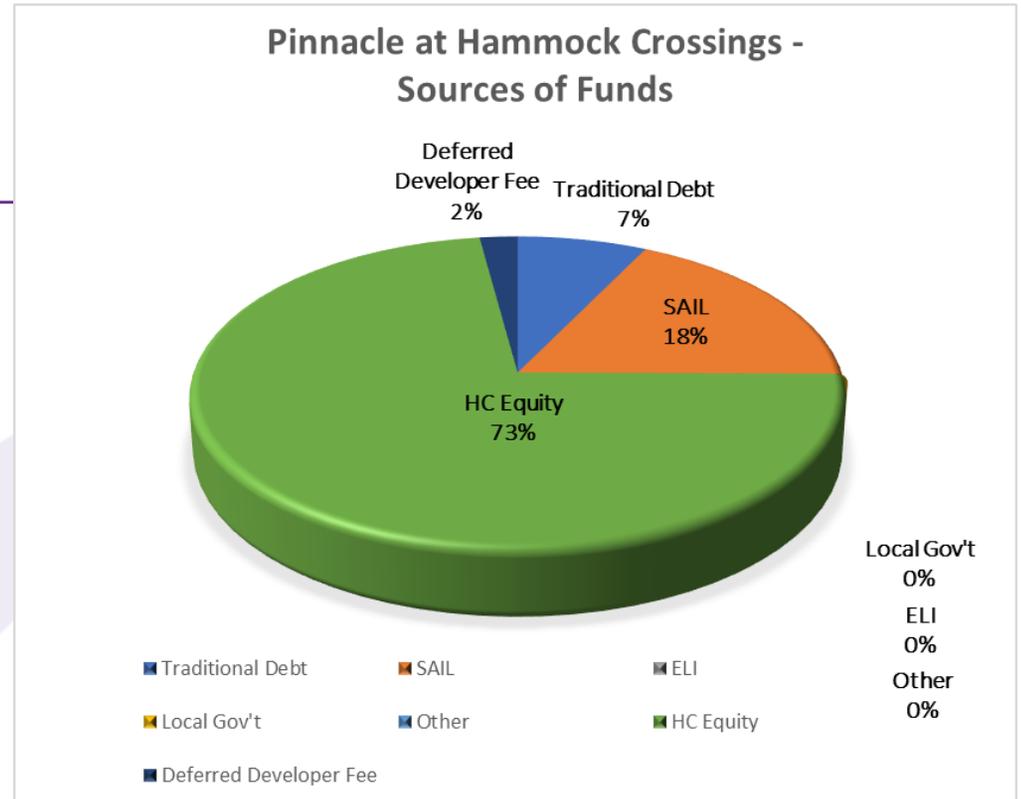
Liberty Village - Miami

Liberty Village is permanent supportive rental housing consisting of 60 units at 5329 NW 17th Avenue in Miami's Liberty City neighborhood. 48 of the units are designated for formerly homeless Veterans and their families. 25% of units are provided to residents earning 33% or less of the AMI, with the remainder provided to households earning 60% or less of the AMI. The development also has common space for education and training, counseling and other supportive services.



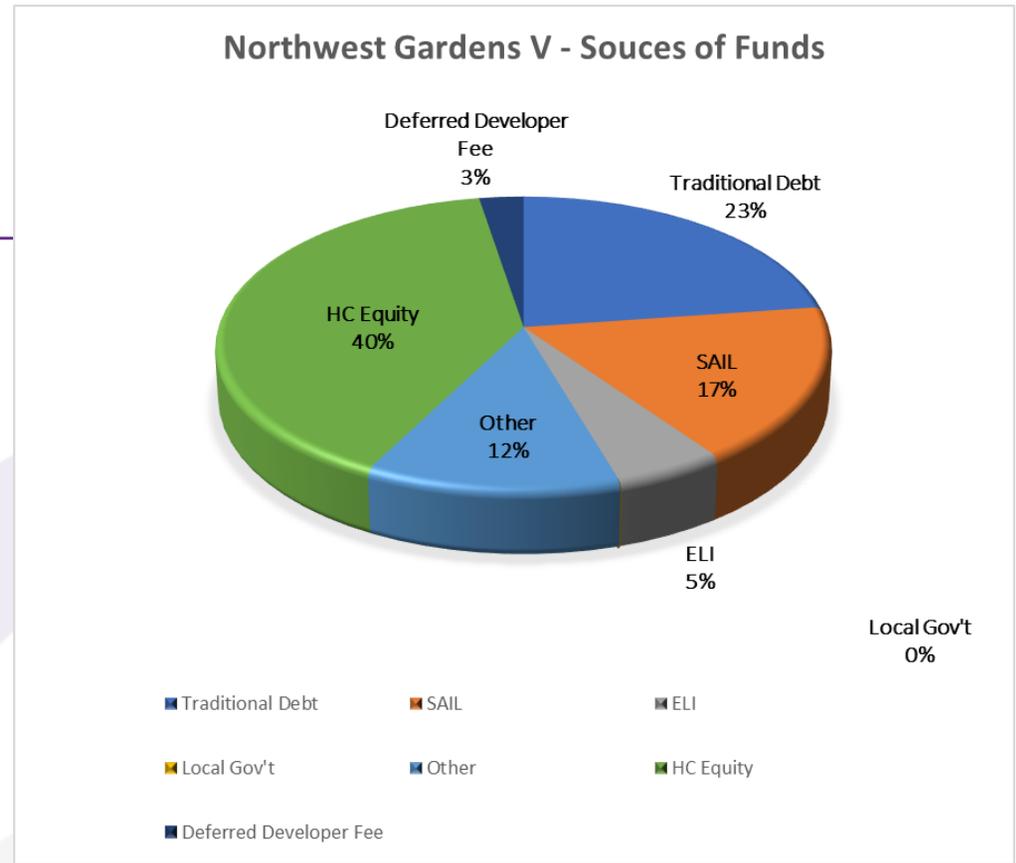
Coquina Place - Miami

Coquina Place is a family rental development at 21451 SW 113th Avenue in Miami. Located near Goulds Park, the 96 unit development consists of one, two and three bedroom apartments.



Pinnacle at Hammock Crossings – Lynn Haven

Pinnacle at Hammock Crossings is a family rental development at 2206 Hammock Square Drive in Lynn Haven near Panama City. The 92 unit family rental development consists of one, two and three bedroom apartments. It is located next to a Publix shopping center and near a Walmart Supercenter.

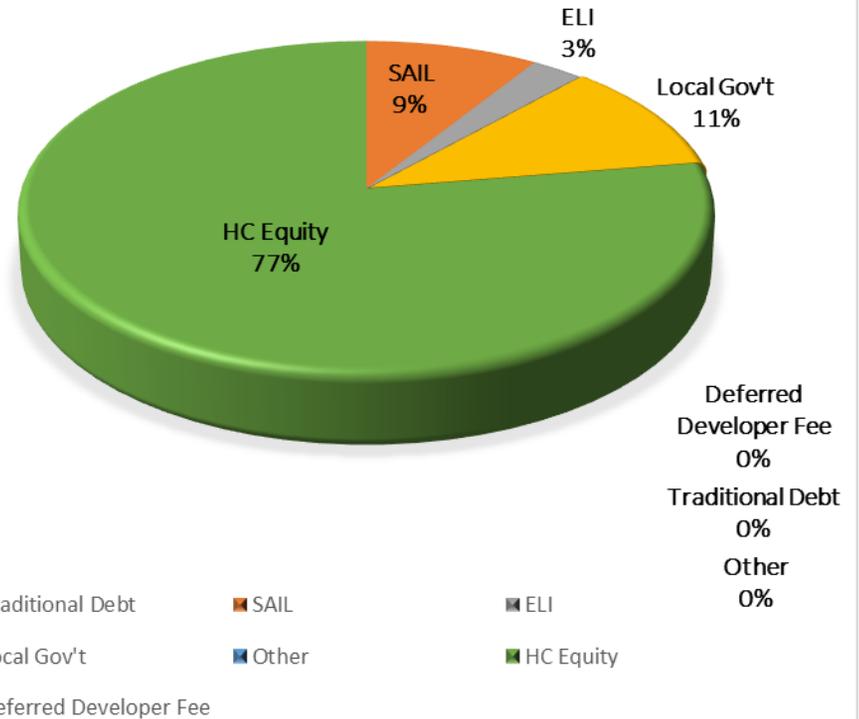


Northwest Gardens V – Fort Lauderdale

Northwest Gardens V is an elderly rental development at 645 NW 10th Avenue, Ft. Lauderdale. The 200 unit rental development consists of 175 one, 10 two and 15 three bedroom apartments.



Dr. Barbara Carey-Shuler Manor - Sources of Funds



Dr. Barbara Carey-Shuler Manor - Miami

Dr. Barbara Carey-Shuler Manor is a family rental development at 1400 NW 54th Street in Miami. The 100 unit rental development sets aside half of the units for formerly homeless families and half for elderly persons and low-income families.

New SAIL Concept

Self-Sourced Applicant Concept

Florida Housing recently initiated a new approach for SAIL Applicants that agree to commit a significant amount of their own funding to a proposed development and request considerably less than the maximum amount of per-unit SAIL funding.

In this RFA, a percentage of designated family funding is set aside for Self-Sourced Applicants. Self-Sourced Applicants will be permitted to retain their right to seek a qualified contract, which would potentially result in the development's affordability restrictions being extinguished in 15 years on the condition that the Self-Sourced Applicant repay its SAIL loan in full.

New SAIL Concept

Increase Production and Accelerate Repayment

The self-sourced proposal is based on the concept that Florida Housing will increase the volume of production of affordable family units because it will allocate less SAIL funding per development. In addition, the loans may be repaid in an earlier time-frame allowing quicker re-issuance of funding.

The concept is also predicated on the understanding that Applicants will invest self-sourced financing to a development where they have the least amount of risk and the best potential to exit. The concept will only work in certain areas and is dependent on market conditions.

Chapter 420 currently provides Florida Housing with the sufficient level of flexibility to administer the self-sourced concept, to determine whether the proposed benefits of increased production outweigh the long term risks of implementation with regard to the preservation of affordable units.

New SAIL Concept

Monitoring Potential Impacts of Self-Sourced Concept

According to the 2019 Rental Market Study the greatest statewide need for cost burdened households is at and below 60 % AMI. Statistics show that Florida's 15-29 year old multifamily stock generally provides units affordable to households in the 80-120% AMI group and above, while providing few units for households below 60% AMI.

The 2019 Rental Market Study also found that renters at all income levels - including at and below 60 % AMI - participate in the workforce. Seventy-six percent of renter households include at least one person employed outside the home. Most of the rest are elder or disabled households.

It is apparent that any concept that risks losing affordable units at and below 60 % AMI will impact the population with the greatest cost burdened need. Accordingly, the self-sourced concept will be closely monitored and analyzed through the implementation process.

Thank you!

Questions?

THE FLORIDA SENATE
APPEARANCE RECORD

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Panelist ✓

11/4/19
Meeting Date

Bill Number (if applicable)

Topic Multifamily Affordable Housing Program

Amendment Barcode (if applicable)

Name Marisa Button

Job Title Director Multifamily Programs

Address 227 N. Bronwyn St.

Phone (850) 388-9217

Street Tallahassee, FL
City State Zip

Email marisa.button@floridahousing.org

Speaking: For Against Information

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

Representing Florida Housing Finance Corporation

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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11-4-19

Meeting Date

Bill Number (if applicable)

Amendist

Amendment Barcode (if applicable)

Topic Housing

Name Harold Terry Price

Job Title Executive Director

Address 227 N Brimough St

Street

LaDelaware FL 32301

City

State

Zip

Phone 488-4197

Email

Speaking: For Against

Information

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

Representing Florida Housing Finance Corp

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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Panelist ✓

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Meeting Date

Bill Number (if applicable)

Topic Panel Discussion

Amendment Barcode (if applicable)

Name Ana Castilla

Job Title VP Community Development Mgr - TD Bank

Address 255 Alhambra Circle Ste 200

Phone 86-566-1793

City Coral Gables State FL Zip 33134

Email ana.castilla@td.com

Speaking: For Against Information

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

Representing Chamixones for All

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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APPEARANCE RECORD

Panelist

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11/19/19

Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Affordable Housing

Name Steve Anger

Job Title CEO, Birdsong Housing Partners

Address 1631 E. Vine Street, Suite 300

Street Kissimmee, FL City 34744 State FL Zip

Phone 850-897-0851

Email Steve.anger@birdsonghousing.com

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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Meeting Date 11/4/19

Bill Number (if applicable) _____

Topic Housing Panel Discussion on Affordable Housing Amendment Barcode (if applicable)

Name Alice Moore Armany

Job Title Retired

Address 8416 N Eto Cheva Lier Ave 571

Phone _____

Street Tampa City Florida State 33604 Zip

Email alice.moore7045@gmail.com

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

Representing Self

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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APPEARANCE RECORD



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Meeting Date 11-04-19

Bill Number (if applicable) _____

Topic Panel Discussion on Affordable Housing Amendment Barcode (if applicable) _____

Name Shamisa M Grier

Job Title _____

Address 236 E Stafford Ave Phone 813-850-6156

Street _____
City Tampa State FL Zip 33603

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

Representing Self

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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11/04/19
Meeting/Date

Bill Number (if applicable)

Topic Panel Discussion on Affordable Housing Amendment Barcode (if applicable)

Name Denise Smartey Rental Development

Job Title Attorney - Justice Catalyst Fellow

Address 3000 Biscayne Blvd #106 Phone 617.417.7720

City Miami State FL Zip 33137

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

Representing Community Justice Project Email denise@communityjusticeproject.com

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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CourtSmart Tag Report

Room: SB 301

Case No.:

Type:

Caption: Senate Community Affairs Committee

Judge:

Started: 11/4/2019 4:03:40 PM

Ends: 11/4/2019 5:35:41 PM Length: 01:32:02

4:03:39 PM Meeting called to order by Chair Flores
4:03:43 PM Roll call by Administrative Assistant Shirlyne Everett
4:03:54 PM Quorum present
4:03:57 PM Chair Flores announces that Senator Broxson is excused
4:04:08 PM Introduction of Tab 1, SB 140 by Chair Flores
4:04:12 PM Explanation of SB 140, Fireworks by Senator Hutson
4:04:32 PM Introduction of Barcode Amendment No. 563010
4:04:43 PM Explanation of Amendment Barcode No. 563010 by Senator Hutson
4:05:04 PM Comments from Chair Flores
4:05:12 PM Amendment Barcode No. 563010 adopted
4:05:15 PM Question from Senator Pizzo
4:05:21 PM Response from Senator Hutson
4:05:56 PM Comments from Chair Flores
4:06:02 PM Speaker Casey Cook , Legislative Advocate, Florida League of Cities
4:06:35 PM Question from Senator Pizzo
4:06:41 PM Response from Mr. Cook
4:07:24 PM Cesar Grajales, Coalitions Director, Americans for Prosperity waives in support
4:07:33 PM Comments from Chair Flores
4:07:38 PM Closure by Senator Hutson
4:07:42 PM Roll call by Administrative Assistant Shirlyne Everett
4:07:56 PM CS/SB 140 reported favorably
4:08:06 PM Introduction of Tab 4, CS/SB 246 by Chair Flores
4:08:15 PM Explanation of CS/SB 246, Public Construction by Senator Hooper
4:09:12 PM Comments from Chair Flores
4:09:14 PM Kart Hebrank, Sr. Government Consultant, National Utility Contractors of Florida waives in support
4:09:16 PM Chris Dawson, FL Roofing & Sheet Metal Contractors Association waives in support
4:09:34 PM Chris Dawson, Associated Builders & Contractors of FL waives in support
4:09:39 PM Deborah Lawson, NACM - Improved Construction Practices Committee waives in support
4:09:47 PM Comments from Chair Flores
4:09:53 PM Closure waived
4:09:57 PM Roll call by Administrative Assistant Shirlyne Everett
4:10:01 PM CS/SB 246 reported favorably
4:10:04 PM Introduction of Tab 3 by Chair Flores
4:10:11 PM Senator Brandes requests Tab 2 be taken up before Tab 3
4:11:36 PM Comments from Chair
4:11:43 PM Speaker Marty Kiar, Broward Property Appraiser, Broward Property Appraisal's office in support
4:14:14 PM Comment by Senator Pizzo
4:14:19 PM Speaker Mike Twitty, Pinellas County Property Appraiser in support
4:15:34 PM Loren Levy, General Counsel, Property Appraisers Association of Florida waives in

support

4:15:49 PM Closure waived
4:15:52 PM Roll call by Administrative Assistant, Shirlyne Everett
4:15:58 PM SJR 146 reported favorably
4:16:05 PM Introduction of Tab 3 by Chair Flores
4:16:10 PM Explanation of SB 148, Limitations on Homestead Assesments by Senator Brandes
4:16:15 PM Explanation of Amendment Barcode No. 641184 by Senator Brandes
4:16:22 PM Amendment Barcode No. 641184 adopted
4:16:26 PM Comments from Chair Flores
4:16:30 PM Closure waived
4:16:32 PM Roll call by Administrative Assistant Shirlyne Everett
4:16:36 PM CS/SB 148 reported favorably
4:16:43 PM Introduction of Tab 5 by Chair Flores
4:17:40 PM Trey Price, Florida Housing Finance Corporation on Multifamily Affordable Housing Rental
4:22:10 PM Presentation by Marisa Button, Director Multi Family Programs, Florida Housing Finance Corporation
4:38:35 PM Comments from Chair Flores
4:38:41 PM Question from Senator Pizzo
4:38:52 PM Response from Ms. Button
4:39:03 PM Follow-up question from Senator Pizzo
4:39:10 PM Response from Ms. Button
4:39:44 PM Additional question from Senator Pizzo
4:39:51 PM Response from Mr. Price
4:40:13 PM Additional question from Senator Pizzo
4:40:24 PM Response from Ms. Button
4:40:30 PM Additional question from Senator Pizzo
4:40:38 PM Response from Ms. Button
4:40:55 PM Follow-up from Senator Pizzo
4:41:01 PM Response from Ms. Button
4:41:10 PM Follow-up question from Senator Pizzo
4:41:22 PM Response from Ms. Button
4:42:06 PM Additional question from Senator Pizzo
4:42:15 PM Response from Ms. Button
4:43:09 PM Additional question from Senator Pizzo
4:43:18 PM Response from Ms. Button
4:43:33 PM Additional question from Senator Pizzo
4:43:42 PM Response from Ms. Button
4:44:04 PM Comments from Senator Pizzo
4:44:15 PM Question from Senator Simmons
4:44:37 PM Response from Mr. Price
4:45:39 PM Follow-up question from Senator Simmons
4:45:51 PM Response from Mr. Price
4:47:55 PM Question from Senator Farmer
4:48:01 PM Response from Ms. Button
4:49:05 PM Comments from Senator Farmer
4:49:19 PM Response from Mr. Price
4:49:38 PM Comments from Senator Farmer
4:49:50 PM Comments from Chair Flores
4:50:03 PM Introduction of Tab 6 by Chair Flores, Panel Discussion
4:50:30 PM Comments from Senator Pizzo
4:51:23 PM Speaker Ana Castilla, VP Community Development Manager, Miami Homes for All

4:51:55 PM Speaker Steve Auger, CEO, Birdsong Housing Partners
4:52:46 PM Speaker Ana Castilla
4:56:49 PM Comments from Senator Pizzo
4:57:35 PM Question from Senator Pizzo
4:57:43 PM Response from Ms. Castilla
4:58:37 PM Continued presentation by Ms. Castilla
5:00:49 PM Question from Senator Pizzo
5:00:57 PM Response from Mr. Auger
5:01:41 PM Continued presentation by Ms. Castilla
5:03:26 PM Question from Senator Simmons
5:03:36 PM Response from Ms. Castilla
5:05:13 PM Follow-up question from Senator Simmons
5:05:24 PM Response from Ms. Castilla
5:05:57 PM Additional question from Senator Simmons
5:06:08 PM Response from Ms. Castilla
5:06:47 PM Response from Mr. Auger
5:07:12 PM follow-up question from Senator Simmons
5:07:19 PM Response from Mr. Auger
5:08:42 PM Additional question from Senator Simmons
5:08:50 PM Response from Mr. Auger
5:09:39 PM Additional question from Senator Simmons
5:10:07 PM Response from Mr. Auger
5:15:10 PM Question from Senator Pizzo
5:16:02 PM Response from Mr. Auger
5:17:10 PM Question from Senator Pizzo
5:17:14 PM Response from Mr. Auger
5:18:45 PM Continued presentation by Ms. Castilla
5:20:04 PM Question from Senator Simmons
5:21:52 PM Response from Ms. Castilla
5:25:24 PM Comments from Senator Pizzo
5:25:54 PM Question from Senator Pizzo
5:27:15 PM Response from Ms. Castilla
5:27:50 PM Comments from Senator Pizzo
5:28:30 PM Response from Ms. Castilla
5:29:13 PM Follow-up question from Senator Pizzo
5:30:05 PM Response from Mr. Auger
5:31:32 PM Follow-up question from Senator Pizzo
5:31:41 PM Response from Mr. Auger
5:32:49 PM Comments from Chair Flores
5:35:19 PM Senator Pizzo moves to adjourn, meeting adjourned