

Tab 1 | **SB 132** by **Hutson**; Rental of Homestead Property

Tab 2 | **SB 510** by **Hooper (CO-INTRODUCERS) Polsky**; (Identical to H 00013) State Funds

Tab 3 | **SB 60** by **Bradley**; County and Municipal Code Enforcement

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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Bradley, Chair
Senator Garcia, Vice Chair

MEETING DATE: Tuesday, February 2, 2021
TIME: 3:30—6:00 p.m.
PLACE: *Mallory Horne Committee Room, 37 Senate Building*

MEMBERS: Senator Bradley, Chair; Senator Garcia, Vice Chair; Senators Baxley, Brodeur, Cruz, Hooper, Hutson, Polsky, and Powell

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A2 AT THE DONALD TUCKER CIVIC CENTER, 505 W. PENSACOLA STREET, TALLAHASSEE, 32301			
1	SB 132 Hutson	Rental of Homestead Property; Revising criteria under which rental of homestead property is allowed for tax exemption purposes and not considered abandoned, etc. CA 02/02/2021 Favorable FT AP	Favorable Yeas 8 Nays 0
2	SB 510 Hooper (Identical H 13)	State Funds; Exempting the State Housing Trust Fund and the Local Government Housing Trust Fund from a provision authorizing the Legislature, in the General Appropriations Act, to transfer unappropriated cash balances from specified trust funds to the Budget Stabilization Fund and the General Revenue Fund, etc. CA 02/02/2021 Favorable FT AP	Favorable Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, February 2, 2021, 3:30—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 60 Bradley	County and Municipal Code Enforcement; Prohibiting code inspectors designated by boards of county commissioners from initiating investigations of potential violations of codes and ordinances by way of anonymous complaints; prohibiting code inspectors from initiating enforcement proceedings for potential violations of codes and ordinances by way of anonymous complaints; prohibiting code enforcement officers from initiating investigations of potential violations of codes and ordinances by way of anonymous complaints; prohibiting code inspectors designated by governing bodies of municipalities from initiating investigations of potential violations of codes and ordinances by way of anonymous complaints; requiring persons who report potential violations of codes and ordinances to provide specified information to the governing body before an investigation occurs, etc.	Fav/CS Yeas 6 Nays 3
		CA 02/02/2021 Fav/CS GO RC	

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: SB 132

INTRODUCER: Senator Hutson

SUBJECT: Rental of Homestead Property

DATE: February 1, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Paglialonga	Ryon	CA	Favorable
2.	_____	_____	FT	_____
3.	_____	_____	AP	_____

I. Summary:

Section 196.061, F.S., specifies that a homestead property owner may abandon homestead property and lose homestead property tax exemptions by renting "all or substantially all of a dwelling." SB 132 amends this section of law to provide that renting a portion of homestead property does not constitute abandonment if the homestead property owner continues to occupy the dwelling physically.

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill.

The bill takes effect July 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 the property as of January 1 of each year.¹ The property appraiser annually determines the assessed or "just value"² of property within the taxing authority and then applies relevant exclusions, assessment

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).

limitations, and exemptions to determine the property's "taxable value."³ In November of each year, tax bills are mailed 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 on real estate or tangible personal property. It limits the Legislature's authority to provide 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 may 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 historical properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Homestead Tax Exemption

Every person¹¹ having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹² An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000.¹³ This exemption does not apply to ad valorem taxes levied by school districts.

Save Our Homes Assessment Limitation and Portability

In 1992, Florida voters approved the Save Our Homes amendment to the Florida Constitution.¹⁴ The Save Our Homes assessment limitation limits the amount that a homestead property's assessed value may increase annually to the lesser of 3 percent or the percentage increase in the Consumer Price Index.¹⁵ The accumulated difference between the assessed value and the just value is the Save Our Homes benefit.

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. 6(b), appears to equate a person with a family unit: "Not more than one exemption shall be allowed any individual or family unit or with respect to any residential unit.

¹² FLA. CONST. art. VII, s. 6(a).

¹³ *Id.*

¹⁴ FLA. CONST. art. VII, s. 4(d). The Florida Legislature implemented the Save Our Homes amendment in s. 193.155, F.S.

¹⁵ FLA. CONST. art. VII, s. 4(d).

The Save Our Homes assessment limitation is considered portable because a homestead property owner may transfer this benefit when moving from one homestead property to another.¹⁶

Due to the homestead exemption effects and the Save Our Homes assessment limitation, many homestead properties enjoy significant tax savings.

Commercial Use of Homestead Property

Section 196.012(13), F.S., provides that "[r]eal estate used and owned as a homestead means real property to the extent provided in s. 6(a), Art. VII of the State Constitution, but less any portion thereof used for commercial purposes, with the title of such property being recorded in the official records of the county in which the property is located. Property rented for more than 6 months is presumed to be used for commercial purposes."¹⁷

Abandonment of Homestead Property

Both the homestead property tax exemption and the Save Our Homes assessment limitation may be lost by a property owner that abandons homestead property. Failure to maintain a homestead property as a permanent residence may constitute abandonment under certain circumstances.¹⁸ Section 196.061(1), F.S., describes when renting a homestead property constitutes abandonment:

"The rental of all or substantially all of a dwelling previously claimed to be a homestead for tax purposes shall constitute the abandonment of such dwelling as a homestead, and the abandonment continues until the dwelling is physically occupied by the owner. However, such abandonment of the homestead after January 1 of any year does not affect the homestead exemption for tax purposes for that particular year unless the property is rented for more than 30 days per calendar year for 2 consecutive years."

Rental of Homestead Property Litigation

On various occasions, Florida courts have interpreted the Florida Constitution and Florida law to decide whether the circumstances surrounding the rental of claimed homestead property constitutes abandonment. Two cases that are particularly relevant to the rental of homestead property are described below.

Karayiannakis v. Nikolits (December 9, 2009)¹⁹

This case involved Anna Karayiannakis, who owned a two-story apartment building containing five units. Karayiannakis lived in one of the units and rented out the other four. In 2006 and 2007, she claimed all of her apartment building and the surrounding land as her homestead for taxation purposes. However, the Palm Beach County Property Appraiser, Gary Nikolits, measured her building's dimensions and determined that her residence represented approximately

¹⁶ See FLA. CONST. art. VII, s. 4(d)(8); see also s. 193.155, F.S.

¹⁷ See also Florida Administrative Code Rule 12D-7.013(5): "Property used as a residence and also used by the owner as a place of business does not lose its homestead character. The two uses should be separated with that portion used as a residence being granted the exemption and the remainder being taxed."

¹⁸ See s. 196.031, F.S. and s. 193.155, F.S.

¹⁹ *Karayiannakis v. Nikolits*, 23 So.3d 844 (Fla. 4th DCA 2009)

thirty-seven percent of the total building footprint. As such, the property appraiser concluded that only thirty-seven percent of the land and improvements qualified for the property tax exemptions provided by article VII, section 4(d), and section 6 of the Florida Constitution. The remaining sixty-three percent of the property did receive homestead property tax exemptions. Karayiannakis challenged this determination.

Eventually, the Fourth District Court of Appeals ruled that the property appraiser's division of the property for the application of homestead property tax exemptions was valid:

"[T]he Legislature imposed express limitations on the property tax exemption and assessment cap for homestead property. The tax exemption applies only to those parcels classified and assessed as owner-occupied residential property or only to the portion of property so classified and assessed. And only property that receives a homestead exemption is subject to section 193.155, Florida Statutes (2007), the codification of article VII, section 4(d)'s assessment cap for homestead property. The language in these statutes shows that real property is divisible for tax exemption purposes and that the special tax treatment afforded to homestead property in article VII, sections 4(d) and 6 does not apply to non-homestead property. Property used for commercial purposes, which includes rental property, is non-homestead property." (Internal quotations omitted)²⁰

Furst v. Rebholz (June 19, 2020)²¹

In this case, Rod Rebholz owned a single-family residence. Rebholz permanently resided at the dwelling and claimed the property as a homestead to receive the related tax exemptions. In late 2014, the Sarasota County Property Appraiser Bill Furst received a complaint about Rebholz and discovered that he was renting one of his upstairs bedrooms to a tenant who had been renting the room since March 1996 and that another upstairs bedroom had been rented sporadically during that same period. The property appraiser retroactively revoked the homestead property tax exemptions provided to Rebholz and claimed that the two bedrooms' rental was commercial use that rendered fifteen percent of his residence ineligible for homestead tax exemption. On November 6, 2014, the property appraiser recorded a tax lien against Rebholz's property for \$7,023.87. Rebholz challenged the property appraiser's determination about the tax-exempt status of his property.

Florida's Second District Court of Appeal eventually decided this case in favor of Rebholz. In the opinion, the court ruled that, based upon their analysis of the Florida Constitution, statutes, and administrative codes, a property appraiser is not authorized to subdivide a homeowner's permanent single-family residence to remove homestead tax exemptions when the owner rents a bedroom or any other space within their home.

In making their decision, the court notes several vital facts that instructed their decision. First, the court states that this case is distinguishable from *Karayiannakis v. Nikolits* because that case did not involve the division of a homeowner's personal residence:

²⁰ *Karayiannakis* at 846

²¹ *Furst v. Rebholz*, 302 So.3d 423 (Fla. 2nd DCA 2020)

"The only issue before the Fourth District in *Karayiannakis* was whether the real property surrounding the apartment building was contiguous to Karayiannakis' residence or part of the commercial purpose of running an apartment building. Karayiannakis herself conceded that the commercial portion of the apartment building could be severed from her own unit for taxation purposes, but her one unit—where she maintained her permanent residence—was never itself divided."²²

Second, although the property appraiser never alleged that Rebholz rented out "all or substantially all" of his dwelling as described in s. 196.061, F.S., the court recognized that this statute was nevertheless noteworthy:

"[Section 196.061, F.S.] illustrates that the Legislature has contemplated the effect that the rental of a dwelling has on the eligibility to claim the homestead exemption and has chosen to only effectuate a loss of the exemption if all or substantially all of the property is rented. One can reasonably infer that this is because a homeowner who rents all or substantially all of a dwelling is not maintaining that dwelling as their permanent residence as defined by section 196.012(17)."²³

Third, the court referenced that homestead protection from forced sale to satisfy a creditor's debt under article X, section 4(a)(1), of the Florida Constitution. The court noted that these debtor homestead protections applied to an entire residence regardless of the rental of portions therein. When determining whether the debtor homestead protections apply to a residence being used for commercial activity, courts consider "whether a unit or parcel is susceptible to division by perpendicular and/or horizontal lines and whether such unit or parcel is lawfully conveyable as an independent parcel under existing law."²⁴ The Second District Court of Appeal applied this geometric analysis to Rebholz's property:

"[T]he space Rebholz rented out in his home, the actual bedrooms may be outlined by specific perpendicular and horizontal lines, but the same cannot be said for the common spaces that the tenants shared with Rebholz and one another; furthermore, none of the space used by the tenants could lawfully be conveyed as an independent parcel. This analysis demonstrates the unique indivisible nature of a person's private permanent residence."²⁵

The court concluded their opinion by stating that an interpretation of the Florida Constitution and law in favor of Furst, allowing the removal of tax exemptions for space rented within a home, would "circumvent public policy and could create financial hardship for countless Florida citizens who reside within their permanent residences while renting bedrooms or working from home to make ends meet."²⁶

²² *Furst* at 431

²³ *Id.* at 432

²⁴ *Id.*

²⁵ *Id.* at 433

²⁶ *Id.* at 434

Since the issuance of this opinion, Furst has petitioned the Florida Supreme Court to review the case. However, the Florida Supreme Court has yet to grant or deny jurisdiction of the case.²⁷

III. Effect of Proposed Changes:

Section 1 amends s. 196.061, F.S., to specify that renting a homestead property portion does not constitute abandonment if the homestead property owner continues to occupy the dwelling physically.

Section 2 provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Subsection (b) of section 18 of the State Constitution, provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirements do not apply to laws having an insignificant impact,^{28, 29} which is \$2.2 million or less for Fiscal Year 2020-2021.³⁰ If the actual reduction in property tax revenue exceeds \$2.2 million, the mandates provisions may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

²⁷ Florida Supreme Court Docket, *Case Number: SC20-1479 – Active BILL FURST, ETC., ET AL. vs. ROD REBHOLZ, ETC. ET AL.*, available at: <http://onlinedocketssc.flcourts.org/DocketResults/CaseDocket?Searchtype=Case+Number&CaseTypeSelected=All&CaseYear=2020&CaseNumber=1479> (last visited Jan. 31, 2021).

²⁸ FLA. CONST. art. VII, s. 18(d).

²⁹ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 31, 2021).

³⁰ Based on the Demographic Estimating Conference’s population adopted on November 13, 2020. The conference packet is available at <http://www.edr.state.fl.us/Content/conferences/population/index.cfm> (last visited Feb. 1, 2021).

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill.

B. Private Sector Impact:

SB 132 may have an indirect positive fiscal impact for homestead property owners by affirmatively protecting their homestead property tax exemptions if they rent a portion of their permanent dwelling.

C. Government Sector Impact:

To the extent property appraisers are taxing portions of single-family homestead residences being rented by a co-habiting owner, local governments will experience decrease in property tax revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.061 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Hutson

7-00273-21

2021132__

A bill to be entitled

An act relating to the rental of homestead property;
amending s. 196.061, F.S.; revising criteria under
which rental of homestead property is allowed for tax
exemption purposes and not considered abandoned;
providing an effective date.

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

Section 1. Subsection (1) of section 196.061, Florida
Statutes, is amended to read:

196.061 Rental of homestead to constitute abandonment.—

(1) The rental of all or substantially all of a dwelling
previously claimed to be a homestead for tax purposes
constitutes ~~shall constitute~~ the abandonment of such dwelling as
a homestead, and the abandonment continues until the dwelling is
physically occupied by the owner. However, such abandonment of
the homestead after January 1 of any year does not affect the
homestead exemption for tax purposes for that particular year
unless the property is rented for more than 30 days per calendar
year for 2 consecutive years. The rental of a portion of a
dwelling claimed to be a homestead for tax purposes while the
dwelling is physically occupied by the owner does not constitute
the abandonment of the dwelling as a homestead.

Section 2. This act shall take effect July 1, 2021.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 510

INTRODUCER: Senators Hooper and Polsky

SUBJECT: State Funds

DATE: February 1, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 510 exempts the State Housing Trust Fund and the Local Government Housing Trust Fund from a provision authorizing the Legislature, in the General Appropriations Act, to transfer unappropriated cash balances from specified trust funds to the Budget Stabilization Fund and General Revenue Fund.

The bill has an effective date of July 1, 2021.

II. Present Situation:

Florida Housing Finance Corporation

The 1997 Legislature created the Florida Housing Finance Corporation (FHFC) as a public private entity to replace the Florida Housing Finance Agency, with the purpose of reducing bureaucracy and streamlining administrative processes.¹ The FHFC is now a public corporation that is housed within the Department of Economic Opportunity.² The goal of the FHFC is to increase the supply of safe, affordable housing for individuals and families with very low to moderate incomes. To do this, the FHFC uses federal and state resources to finance the development of affordable homes and rental housing and assist first-time homebuyers through various programs.³ The FHFC tries to increase affordable housing opportunities and ensure that its programs are well matched to the needs of those it serves, while working with local governments, nonprofits, elected officials, and others to help spread the importance of affordable housing in Florida's communities.

¹ Chapter 97-167, Laws of Fla.

² Section 420.504(1), F.S.

³ Further information on the FHFC's Multifamily Development, Special Programs, and Homeownership programs is available at <https://www.floridahousing.org/about-florida-housing> (last visited January 29, 2020).

The FHFC receives funding for its affordable housing programs from documentary stamp tax revenues which are distributed to the State Housing Trust Fund and the Local Government Housing Trust Fund.⁴ Pursuant to s. 420.507, F.S., the FHFC is also authorized to receive federal funding in connection with the corporation's programs directly from the Federal Government.⁵

Documentary Stamp Tax

The documentary stamp tax imposes an excise tax on deeds or other documents that convey an interest in Florida real property. The Department of Revenue classifies the documentary stamp taxes as two taxes imposed on different bases at different tax rates.⁶ The first tax rate is 70 cents on each \$100 of consideration for deeds, instruments, or writings whereby lands, tenements, or other real property or interest that are granted, assigned, transferred, conveyed or vested in a purchaser.⁷ The second tax rate is 35 cents per each \$100 of consideration for certificates of indebtedness, promissory notes, wage assignments and retail charge account agreements.⁸

Section 201.15, F.S., provides for the distribution of documentary stamp taxes, which are primarily used to fund various land and water conservation, preservation, and maintenance trust funds and certain transportation trust funds.⁹ In 1992, the William E. Sadowski Act created a dedicated source of revenue from documentary stamp tax revenues for affordable housing. This was generated from:

- Additional revenues from a 10-cent increase in the documentary stamp tax rate imposed on real estate transfers; and
- A re-allocation of ten cents of the existing documentary stamp tax revenues from general revenue to the affordable housing trust funds beginning in FY 1995-96.¹⁰

According to the FHFC, “30 percent of these revenues flow into the State Housing Trust Fund and 70 percent flow into the Local Government Housing Trust Fund.”¹¹ In 2005, the Legislature capped the rate of growth for distribution of documentary stamp tax revenues into these trust funds to \$243 million per year.¹² This cap was repealed in 2011. In the 2020-2021 fiscal year, the Legislature appropriated \$370.25 million (\$225 million of which was vetoed by the Governor) to the FHFC.¹³

⁴ Section 201.15, F.S.

⁵ See ss. 420.507(33) and 159.608, F.S.

⁶ Florida Revenue Estimating Conference, *2019 Florida Tax Handbook*, at 74 (2019) available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited January 29, 2020).

⁷ *Id.* See also s. 201.02(1), F.S.

⁸ *Id.*

⁹ Section 201.15, F.S.

¹⁰ Florida Housing Finance Corporation, *Affordable Housing Act* available at http://www.floridahousing.org/FH-ImageWebDocs/AboutUS/SadowskiAct_Outline.pdf (last visited January 29, 2020).

¹¹ *Id.*, see also s. 201.15, F.S.

¹² Senate Bill 1110 (2005).

¹³ Chapter 2020-111, s. 6 Laws of Fla.

The following chart describes the yearly funds collected and funds appropriated:

Historical Financial Summary of Florida's State and Local Government Housing Trust Funds¹⁴

Year	Total Housing Trust Funds			
	Collections	Appropriations	Legislative Sweep	Cap Sweep / SEED
1992 / 1993	41,006,550	36,200,000	-	-
1993 / 1994	51,033,448	47,000,000	-	-
1994 / 1995	45,536,407	50,666,438	-	-
1995 / 1996	108,049,916	112,916,468	-	-
1996 / 1997	121,471,040	127,369,767	-	-
1997 / 1998	145,209,025	121,033,630	-	-
1998 / 1999	169,882,688	169,389,410	-	-
1999 / 2000	176,464,510	186,576,276	-	-
2000 / 2001	191,415,135	186,671,276	-	-
2001 / 2002	228,117,990	195,521,212	12,000,000	-
2002 / 2003	294,552,125	246,600,168	-	-
2003 / 2004	390,167,300	192,171,717	120,896,937	-
2004 / 2005	502,045,358	192,892,623	220,800,000	-
2005 / 2006	606,244,598	442,892,623	-	-
2006 / 2007	452,308,119	433,000,000	-	-
2007 / 2008	^A 243,000,000	390,400,000	-	46,506,007
2008 / 2009	^B 167,581,340	69,304,577	440,000,000	-
2009 / 2010	159,088,774	31,279,989	91,900,000	-
2010 / 2011	170,713,220	37,500,000	174,310,000	-
2011 / 2012	186,756,959	-	189,531,109	-
2012 / 2013	^C 168,122,265	10,000,000	96,660,000	75,000,000
2013 / 2014	^C 193,073,850	-	204,130,000	75,000,000
2014 / 2015	^C 238,951,609	167,660,000	106,151,367	75,000,000
2015 / 2016	^C 262,033,614	175,000,000	81,000,000	75,000,000
2016 / 2017	^{C, D} 282,850,943	184,330,428	116,914,438	75,000,000
2017 / 2018	^C 296,912,132	137,000,000	154,400,000	75,000,000
2018 / 2019	^C 318,003,831	123,605,000	182,000,000	75,000,000
2019 / 2020	^C 351,308,269	192,600,000	125,000,000	75,000,000
2020 / 2021	^{C, E, F} 361,000,000	115,000,000	-	75,000,000
Totals	6,922,901,016	4,374,581,602	2,315,693,851	721,506,007

Notes:

^A The 2005 Legislature adopted a cap restricting the amount of revenue that could flow into the trust funds to \$243 million/year, with a mechanism for a small increase over time. Collections in excess of the cap amount were swept to general revenue. The cap went into effect in 2007 and was repealed in 2011. Collections shown are funds deposited into the trust funds; they do not include the amounts swept to General Revenue.

^B As a result of the economic recession, the Legislature held a special session in early 2009, adopting SB 2A to address the state budget shortfall. Appropriations are net of SB 2A reductions & collections a shortfall in collections. The \$190 million payback of prior appropriations required by SB 2A is included as a reduction of Appropriations and as an increase in Leg. Sweep.

^C The State Economic Enhancement and Development (SEED) Trust Fund was created in 2011, with funds transferred to it beginning with FY 12/13. SEED funding may be used for infrastructure, job creation, affordable housing in accordance with chapter 420, economic development incentives for job creation and capital investment; and other purposes. The amounts in the Cap Sweep / SEED column represent doc stamp amounts deposited to SEED that would have otherwise been deposited to the housing trust funds.

^D Deposits to the trust funds were less than the full appropriation amount. The appropriation amount on this chart has been reduced to reflect this shortfall in available funds.

^E Collections amount is the August 2019 Revenue Estimating Conference estimate.

^F SHIP appropriation of \$225 million was vetoed by the Governor. These funds remain in the Local Government Housing Trust Fund and have not been swept.

¹⁴ Email from the Florida Housing and Finance Corporation, *Collections Appropriations & Sweeps Summary*, (January 22, 2021). On file with the Senate Committee on Community Affairs.

The Legislature's Authority to Transfer Unappropriated Trust Fund Balances

Section 215.32(2)(b)4.a., F.S., specifically grants authority to the Legislature to transfer unappropriated cash balances of state trust funds to either the General Revenue Fund or the Budget Stabilization Fund in the General Appropriations Act. The Budget Stabilization Fund is required by the State Constitution and must be maintained at not less than 5 percent of the previous year's General Revenue collections.¹⁵ Moneys in the fund may only be used to cover revenue shortfalls in the General Revenue Fund and for emergencies as defined in s. 252.34, F.S.¹⁶

Currently, the funds listed below are exempt from the trust fund transfer provision in s. 215.32, F.S.:

- Trust funds required by federal programs or mandates;
- Trust funds established for bond covenants, indentures, or resolutions whose revenues are legally pledged by the state or public body to meet debt service or other financial requirements of any debt obligations of the state or any public body;
- The Division of Licensing Trust Fund in the Department of Agriculture and Consumer Services;
- The State Transportation Trust Fund;
- The trust fund containing the net annual proceeds from the Florida Education Lotteries;
- The Florida Retirement System Trust Fund;
- Trust funds under the management of the State Board of Education or the Board of Governors of the State University System, where such trust funds are for auxiliary enterprises, self-insurance, contracts, grants, and donations, as those terms are defined by general law;
- Trust funds that serve as clearing funds or accounts for the Chief Financial Officer or state agencies;
- Trust funds that account for assets held by the state in a trustee capacity as an agent or fiduciary for individuals, private organizations, or other governmental units; and
- Other trust funds authorized by the State Constitution.¹⁷

It should be noted that the Legislature may not bind a future Legislature by prohibiting statutory law changes.¹⁸ In the past, the Legislature has passed legislation that transferred funds from trust funds listed in s. 215.32, F.S., to the General Revenue Fund or the Budget Stabilization Fund as part of the state budget process.

III. Effect of Proposed Changes:

The bill amends s. 215.32, F.S., to add the State Housing Trust Fund and the Local Government Housing Trust Fund to the exemptions from a provision authorizing the Legislature, in the General Appropriations Act, to transfer unappropriated cash balances from specified trust funds to the Budget Stabilization Fund and General Revenue Fund.

¹⁵ Section 215.32(2)(c)1., F.S.

¹⁶ Section 216.222, F.S.

¹⁷ Section 215.32(2)(b)4.b., F.S.

¹⁸ *Neu v. Miami Herald Pub. Co.*, 462 So.2d 821 (Fla. 1985).

The bill provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Entities that build, construct or finance affordable housing in the state may see an increase in funding since the State Housing Trust Fund and the Local Government Housing Trust Fund could no longer have funds transferred to the Budget Stabilization Fund and the General Revenue Fund.

C. Government Sector Impact:

The state would have less flexibility in available funding since the State Housing Trust Fund and the Local Government Housing Trust Fund could no longer have funds transferred to the Budget Stabilization Fund and the General Revenue Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 215.32

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.

Historical Financial Summary of Florida's State and Local Government Housing Trust Funds

Year	Total Housing Trust Funds			
	Collections	Appropriations	Legislative Sweep	Cap Sweep / SEED
1992 / 1993	41,006,550	36,200,000	-	-
1993 / 1994	51,033,448	47,000,000	-	-
1994 / 1995	45,536,407	50,666,438	-	-
1995 / 1996	108,049,916	112,916,468	-	-
1996 / 1997	121,471,040	127,369,767	-	-
1997 / 1998	145,209,025	121,033,630	-	-
1998 / 1999	169,882,688	169,389,410	-	-
1999 / 2000	176,464,510	186,576,276	-	-
2000 / 2001	191,415,135	186,671,276	-	-
2001 / 2002	228,117,990	195,521,212	12,000,000	-
2002 / 2003	294,552,125	246,600,168	-	-
2003 / 2004	390,167,300	192,171,717	120,896,937	-
2004 / 2005	502,045,358	192,892,623	220,800,000	-
2005 / 2006	606,244,598	442,892,623	-	-
2006 / 2007	452,308,119	433,000,000	-	-
2007 / 2008	A 243,000,000	390,400,000	-	46,506,007
2008 / 2009	B 167,581,340	69,304,577	440,000,000	-
2009 / 2010	159,088,774	31,279,989	91,900,000	-
2010 / 2011	170,713,220	37,500,000	174,310,000	-
2011 / 2012	186,756,959	-	189,531,109	-
2012 / 2013	C 168,122,265	10,000,000	96,660,000	75,000,000
2013 / 2014	C 193,073,850	-	204,130,000	75,000,000
2014 / 2015	C 238,951,609	167,660,000	106,151,367	75,000,000
2015 / 2016	C 262,033,614	175,000,000	81,000,000	75,000,000
2016 / 2017	C, D 282,850,943	184,330,428	116,914,438	75,000,000
2017 / 2018	C 296,912,132	137,000,000	154,400,000	75,000,000
2018 / 2019	C 318,003,831	123,605,000	182,000,000	75,000,000
2019 / 2020	C 351,308,269	192,600,000	125,000,000	75,000,000
2020 / 2021	C, E, F 361,000,000	115,000,000	-	75,000,000
Totals	6,922,901,016	4,374,581,602	2,315,693,851	721,506,007

Notes:

- A The 2005 Legislature adopted a cap restricting the amount of revenue that could flow into the trust funds to \$243 million/year, with a mechanism for a small increase over time. Collections in excess of the cap amount were swept to general revenue. The cap went into effect in 2007 and was repealed in 2011. Collections shown are funds deposited into the trust funds; they do not include the amounts swept to General Revenue.
- B As a result of the economic recession, the Legislature held a special session in early 2009, adopting SB 2A to address the state budget shortfall. Appropriations are net of SB 2A reductions & collections a shortfall in collections. The \$190 million payback of prior appropriations required by SB 2A is included as a reduction of Appropriations and as an increase in Leg. Sweep.
- C The State Economic Enhancement and Development (SEED) Trust Fund was created in 2011, with funds transferred to it beginning with FY 12/13. SEED funding may be used for infrastructure, job creation, affordable housing in accordance with chapter 420, economic development incentives for job creation and capital investment; and other purposes. The amounts in the Cap Sweep / SEED column represent doc stamp amounts deposited to SEED that would have otherwise been deposited to the housing trust funds.
- D Deposits to the trust funds were less than the full appropriation amount. The appropriation amount on this chart has been reduced to reflect this shortfall in available funds.
- E Collections amount is the August 2020 Revenue Estimating Conference estimate.
- F SHIP appropriation of \$225 million was vetoed by the Governor. These funds remain in the Local Government Housing Trust Fund and have not been swept.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Feb 2

Meeting Date

510

Bill Number (if applicable)

Topic Housing Trust Funds

Amendment Barcode (if applicable)

Name Jaimie Ross

Job Title CEO

Address 1311 N. Paul Russell Rd

Phone 850-212-0587

Street

Tall FL 32301

City

State

Zip

Email ross@flhousing.org

Speaking: For Against Information

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

Representing Florida Housing Coalition

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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02/02/2021
Meeting Date

SB 510
Bill Number (if applicable)

Topic State Funds

Amendment Barcode (if applicable)

Name Tonnette Graham

Job Title Associate Director of Public Policy

Address 100 S. Monroe Street
Street

Phone 850.509.5333

Tallahassee, FL 32301
City State Zip

Email tgraham@fl-counties.com

Speaking: For Against Information

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

Representing Florida Association of Counties

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/2/21
Meeting Date

5B
510

Bill Number (if applicable)

Topic Affordable Housing Trust Funds

Amendment Barcode (if applicable)

Name Nancy Stewart

Job Title Legislative Counsel

Address 1400 Village Square Blvd

Phone 850-385-7805

Street

Tallahassee

FL

32312

City

State

Zip

Email nancy.stewart@nancyblackstewart.com

Speaking: For Against Information

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

Representing FMO - Federation of Manufactured Home Owners of FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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02/02/2021

Meeting Date

SB 510

Bill Number (if applicable)

Topic State Funds

Name Jeff Branch

Amendment Barcode (if applicable)

Job Title Senior Legislative Advocate

Address 301 S. Bronough St. #300

Street

Tallahassee

City

FL

State

32302

Zip

Phone 850-701-3655

Email jbranch@flcities.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.

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2/2/2021

Meeting Date

THE FLORIDA SENATE

APPEARANCE RECORD

510

Bill Number (if applicable)

Topic State Trust Funds

Name Christopher Emmanuel

Amendment Barcode (if applicable)

Job Title Policy Director

Address 136 South Bronough Street

Street

Phone 8509331223

Tallahassee

Florida

32301

City

State

Zip

Email cemmanuel@flchamber.com

Speaking: For Against Information

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

Representing Florida Chamber of Commerce

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

2/2/21
Meeting Date

SB 510
Bill Number (if applicable)

Topic SB 510 - State Funds

Amendment Barcode (if applicable)

Name Bryan Cherry

Job Title VP

Address 150 S. Monroe Street, STE, 303

Phone (850) 544-5673

Street

Tallahassee

FL

32301

City

State

Zip

Email bryan@pinpointresults.com

Speaking: For Against Information

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

Representing Florida Coalition to End Homelessness

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

2/2/2021

Meeting Date

SB 510

Bill Number (if applicable)

Topic State Funds - Sadowski

Name Elizabeth Berglin

Amendment Barcode (if applicable)

Job Title Director, Public Policy

Address 3250 Southwest Third Avenue

Street

Phone 305-646-7093

Miami

Florida

33129

City

State

Zip

Email bergline@unitedwaymiami.org

Speaking: For Against Information

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

Representing United Way of Miami-Dade

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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Reset Form

2/2/2021
Meeting Date

THE FLORIDA SENATE
APPEARANCE RECORD

SB 510
Bill Number (if applicable)

Topic States Funds - Sadowski

Name Alejandro D. González

Amendment Barcode (if applicable)

Job Title Director of Public Policy

Address 1300 S. Andrews Avenue

Phone 954.308.9277

Ft. Lauderdale FL 33316
City State Zip

Email agonzalez@unitedwaybroward.org

Speaking: For Against Information

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

Representing United Way of Broward County

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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Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

2-2-2021

Meeting Date

510

Bill Number (if applicable)

Topic State Funds

Name Rick Owen

Amendment Barcode (if applicable)

Job Title President & CEO

Address 307 E. 7th Ave

Street

Phone 850-488-8276

Tallahassee

FL

32303

City

State

Zip

Email rick@uwof.org

Speaking: For Against Information

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

Representing United Way 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.

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Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

02/02/2021

Meeting Date

510

Bill Number (if applicable)

Topic State Funds- Sadowski

Name Kaitlyn Bailey

Amendment Barcode (if applicable)

Job Title RSA Consulting

Address 113 E College Avenue

Phone 850 585 0523

Street

Tallahassee

Florida

32301

Email kaitlyn@rsaconsultingllc.com

City

State

Zip

Speaking: [] For [] Against [] Information

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

Representing United Way Suncoast

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

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

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2/2/21
Meeting Date

510
Bill Number (if applicable)

Topic State Funds

Name Ida V. Eskamani

Job Title Leg Director

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 Florida Rising + Florida Housing Justice Alliance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2-2-2025

Meeting Date

SB 510

Bill Number (if applicable)

Topic STATE HOUSING TRUST FUNDS

Amendment Barcode (if applicable)

Name MARI HEBRAUK

Job Title _____

Address 215 S. Monroe Street

Phone 566-7824

Street

JACKSONVILLE

FL

32301

City

State

Zip

Email khebrauk@caltonfields.com

Speaking: For Against Information

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

Representing FLORIDA HOME BUILDERS ASSOC

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: 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.

By Senator Hooper

16-00425-21

2021510__

1 A bill to be entitled
2 An act relating to state funds; amending s. 215.32,
3 F.S.; exempting the State Housing Trust Fund and the
4 Local Government Housing Trust Fund from a provision
5 authorizing the Legislature, in the General
6 Appropriations Act, to transfer unappropriated cash
7 balances from specified trust funds to the Budget
8 Stabilization Fund and the General Revenue Fund;
9 providing an effective date.

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

11 Section 1. Upon the expiration and reversion of the
12 amendments made to section 215.32, Florida Statutes, pursuant to
13 section 102 of chapter 2020-114, Laws of Florida, paragraph (b)
14 of subsection (2) of section 215.32, Florida Statutes, is
15 amended to read:
16

17 215.32 State funds; segregation.-

18 (2) The source and use of each of these funds shall be as
19 follows:
20

21 (b)1. The trust funds shall consist of moneys received by
22 the state which, under law or under trust agreement, are
23 segregated for a purpose authorized by law. The state agency or
24 branch of state government receiving or collecting such moneys
25 ~~is shall be~~ responsible for their proper expenditure as provided
26 by law. Upon the request of the state agency or branch of state
27 government responsible for the administration of the trust fund,
28 the Chief Financial Officer may establish accounts within the
29 trust fund at a level considered necessary for proper

Page 1 of 4

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

16-00425-21

2021510__

30 accountability. Once an account is established ~~within a trust~~
31 ~~fund~~, the Chief Financial Officer may authorize payment from
32 that account only upon determining that there is sufficient cash
33 and releases at the level of the account.

34 2. In addition to other trust funds created by law, each
35 agency, to the extent possible, ~~each agency~~ shall use the
36 following trust funds as described in this subparagraph for day-
37 to-day operations:

38 a. An operations or operating trust fund, for use as a
39 depository for funds to be used for program operations funded by
40 program revenues, with the exception of administrative
41 activities when the operations or operating trust fund is a
42 proprietary fund; ~~-~~

43 b. An operations and maintenance trust fund, for use as a
44 depository for client services funded by third-party payors; ~~-~~

45 c. An administrative trust fund, for use as a depository
46 for funds to be used for management activities that are
47 departmental in nature and funded by indirect cost earnings and
48 assessments against trust funds; ~~however, -~~ proprietary funds are
49 not required to use ~~excluded from the requirement of using~~ an
50 administrative trust fund; ~~-~~

51 d. A grants and donations trust fund, for use as a
52 depository for funds to be used for allowable grant or donor
53 agreement activities funded by restricted contractual revenue
54 from private and public nonfederal sources; ~~-~~

55 e. An agency working capital trust fund, for use as a
56 depository for funds to be used pursuant to s. 216.272; ~~-~~

57 f. A clearing funds trust fund, for use as a depository for
58 funds to account for collections pending distribution to lawful

Page 2 of 4

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16-00425-21 2021510__

59 recipients; ~~and~~.

60 g. A federal grant trust fund, for use as a depository for
61 funds to be used for allowable grant activities funded by
62 restricted program revenues from federal sources.

63
64 To the extent possible, each agency must adjust its internal
65 accounting to use existing trust funds consistent with the
66 requirements of this subparagraph. If an agency does not have a
67 trust fund specified ~~trust funds listed~~ in this subparagraph and
68 cannot make such adjustment, the agency must recommend the
69 creation of the necessary trust fund funds to the Legislature no
70 later than the next scheduled review of the agency's trust funds
71 pursuant to s. 215.3206.

72 3. All such moneys are hereby appropriated to be expended
73 in accordance with the law or trust agreement under which they
74 were received, subject ~~always~~ to the provisions of chapter 216
75 relating to the appropriation of funds and to the applicable
76 laws relating to the deposit or expenditure of moneys in the
77 State Treasury.

78 4.a. Notwithstanding any provision of law restricting the
79 use of trust funds to specific purposes, unappropriated cash
80 balances from selected trust funds may be authorized by the
81 Legislature for transfer to the Budget Stabilization Fund and
82 the General Revenue Fund in the General Appropriations Act.

83 b. This subparagraph does not apply to trust funds required
84 by federal programs or mandates; trust funds established for
85 bond covenants, indentures, or resolutions whose revenues are
86 legally pledged by the state or public body to meet debt service
87 or other financial requirements of any debt obligations of the

16-00425-21 2021510__

88 state or any public body; the Division of Licensing Trust Fund
89 in the Department of Agriculture and Consumer Services; the
90 State Transportation Trust Fund; the trust fund containing the
91 net annual proceeds from the Florida Education Lotteries; the
92 Florida Retirement System Trust Fund; trust funds under the
93 management of the State Board of Education or the Board of
94 Governors of the State University System, ~~when where~~ such trust
95 funds are for auxiliary enterprises, self-insurance, and
96 contracts, grants, and donations, as those terms are defined by
97 general law; trust funds that serve as clearing funds or
98 accounts for the Chief Financial Officer or state agencies;
99 trust funds that account for assets held by the state in a
100 trustee capacity as an agent or fiduciary for individuals,
101 private organizations, or other governmental units; the State
102 Housing Trust Fund; the Local Government Housing Trust Fund; and
103 other trust funds authorized by the State Constitution.

104 Section 2. This act shall take effect July 1, 2021.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 60

INTRODUCER: Community Affairs Committee and Senator Bradley

SUBJECT: County and Municipal Code Enforcement

DATE: February 2, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	Fav/CS
2.			GO	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 60 prohibits county and municipal code inspectors from starting an investigation into violations of city or county codes or ordinances based upon an anonymous complaint. It also requires that individuals making complaints of potential violations provide their name and address to the local government body before an investigation may occur.

The prohibition does not apply if the code inspector has reason to believe the alleged violation presents an imminent threat to public health, safety, or welfare or imminent destruction of habitat or sensitive resources.

The bill takes effect July 1, 2021.

II. Present Situation:

County and Municipal Code Enforcement

Code enforcement is a function of local government and affects people's daily lives. Its purpose is to enhance the quality of life and economy of local government by protecting the health, safety, and welfare of the community.¹ Local governments possess a constitutional right to self-

¹ Section 162.02, F.S.

government.² Local codes and ordinances allow local governments to enforce regulations on a variety of matters ranging from zoning, tree cutting, nuisances, and excessive noise.³

Four areas of Florida Statutes⁴ create mechanisms counties and cities may utilize for code and ordinance enforcement, discussed in detail below. In each statutory mechanism a local government designates code inspectors or code enforcement officers, tasked with investigating potential code violations, providing notice of violations, and issuing citations for noncompliance, but not holding police powers. These statutes are offered as permissible code enforcement mechanisms, but are not binding to local governments, which may use any enforcement mechanism they choose, or combination thereof.⁵

Code Enforcement Boards Act (Part I, Ch. 162, F.S.)

The Local Government Code Enforcement Boards Act, located in Part I of ch. 162, F.S., allows each county and municipality to create by ordinance one or more local government code enforcement board. A code enforcement board is an administrative board made up of members appointed by the governing body of a county or municipality with the authority to hold hearings and impose administrative fines and other noncriminal penalties for violations of county or municipal codes or ordinances. Members of the enforcement boards⁶ must be residents of the respective municipality or county and, whenever possible, must include an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor.⁷

Code enforcement boards have the power to:

- Adopt rules for the conduct of its hearings.
- Subpoena alleged violators, witnesses, and evidence to its hearings.
- Take testimony under oath.
- Issue orders that have the force of law to command steps necessary to bring a violation into compliance.⁸

Section 162.06, F.S., establishes the procedures for local governments to address violations of various codes using a code enforcement board. It begins with the county or municipal code inspector⁹ who initiates code enforcement procedures by notifying the violator and giving him or her reasonable time to correct the violation. If the violation continues to exist after such time

² Art. VIII, Fla. Const.

³ Violations of the Florida Building Code, however, are enforced pursuant to ss. 553.79 and 553.80, F.S., and not within the scope of this bill or the sections of law analyzed herein. *See* s. 125.69(g), F.S.

⁴ Chapter 125 Part II (county self-government), Chapter 162 Part 1 (the Code Enforcement Boards Act), Chapter 162 Part 2 (supplemental procedures), and s. 166.0415, F.S. (city ordinance enforcement).

⁵ Sections 125.69(4)(i), 162.13, 162.21(8), and 166.0415(7), F.S.

⁶ Code enforcement boards are either five-member or seven-member boards. If a local government has a population over 5,000 persons, the board must be a seven-member board.

⁷ Section 162.05(2), F.S.

⁸ Section 162.08, F.S.

⁹ Section 162.04(2), F.S., defines the term “code inspector” to mean “any authorized agent or employee of the county or municipality whose duty it is to assure code compliance.”

period as specified by the code inspector,¹⁰ then the inspector will notify the code enforcement board and request a hearing.¹¹

In each case heard before a code enforcement board, the case is presented, and testimony is taken from both the code inspector and alleged violator.¹² At the conclusion of the hearing, the board issues findings of fact and provides an order stating the proper relief granted.¹³ If a violator fails to abide by an order of the code enforcement board, the board may order the violator to pay a fine for each day that the repeat violation occurs.¹⁴ All final administrative orders of the code enforcement board may be appealed to the circuit court 30 days after execution of the order.¹⁵

As an alternative to a code enforcement board, the act allows counties and municipalities to adopt an alternate code enforcement system that gives code enforcement officials or special magistrates the authority to hold hearings and assess fines against violators of respective codes or ordinances.¹⁶ Each of these methods are offered by statute as devices to be used at the local governments' discretion, but a local government may use any method they choose to enforce codes and ordinances.¹⁷

Supplemental Code Enforcement Procedures (Part II, Ch. 162, F.S.)

Part II of ch. 162, F.S., presents local governments with supplemental methods for enforcing codes and ordinances without establishing a code enforcement board. The statutes allow counties and municipalities to designate some of its employees or agents as code enforcement officers¹⁸ authorized to enforce county or municipal codes or ordinances.

A code enforcement officer may issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance and that the county court will hear the charge.¹⁹ However, prior to issuing a citation, a code enforcement officer must provide notice to the person that the person has committed a violation of a code or ordinance and provide a reasonable time period, no more than 30 days, within which the person must correct the

¹⁰ The code inspector does not need to provide the violator reasonable time to remedy the violation if it is a repeat violation; the violation presents a serious threat to the public health, safety, and welfare; or the violation is irreparable or irreversible in nature.

¹¹ A hearing may also be called by written notice signed by at least three members of a seven-member enforcement board or signed by at least two members of a five-member enforcement board.

¹² Section 162.07(2)-(3), F.S.

¹³ Section 162.07(4), F.S.

¹⁴ Section 162.09(1), F.S. Such fines may not exceed \$250 per day for a first violation and may not exceed \$500 per day for a repeat violation. However, a county or municipality may pass an ordinance to increase the fine thresholds if approved by a majority plus one vote.

¹⁵ Section 162.11, F.S.

¹⁶ Section 162.03, F.S.

¹⁷ The Attorney General has opined that "once a municipality has adopted the procedures of ch. 162, F.S., to enforce its municipal codes and ordinances, it may not alter or amend those statutorily prescribed procedures but must utilize them as they are set forth in the statutes." Opp. Atty Gen. 2000-53. A local government may, however, maintain a chapter 162 code enforcement board and still decide to enforce a particular violation by bringing a charge in county court, or any other means provided by law. *Goodman v. County Court in Broward County, Fla.* 711 So.2d 587 (Fla 4th DCA 1998).

¹⁸ Section 162.21(1), F.S., defines the term "code enforcement officer" to mean "any designated employee or agent of a county or municipality whose duty it is to enforce codes and ordinances enacted by the county or municipality."

¹⁹ Section 162.21(3)(a), F.S.

violation. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, the officer may issue a citation.²⁰

Counties and municipalities that choose to enforce codes or ordinances under the provisions of Part II must enact an ordinance establishing the code enforcement procedures. The ordinance, among other requirements, must provide procedures for the issuance of a citation by a code enforcement officer. A violation of a code or an ordinance enforced under Part II is a civil infraction and carries a maximum civil penalty of \$500.²¹

Part II further allows counties and municipalities to enforce code violations by filing a civil action in the county or circuit court, in the absence of a magistrate or code enforcement board.

Enforcement of County Ordinance Violations (s. 125.69, F.S.)

Section 125.69, F.S., provides a mechanism counties may use to enforce county ordinances. Under this statute violations of ordinances shall be prosecuted in the same manner as misdemeanors: in county court, punishable by a fine up to \$500, imprisonment up to 60 days, or both. The statute also allows counties to designate code enforcement officers, who may investigate violations and issue citations in a manner similar to s. 162.21, F.S., discussed above.

Enforcement of City Ordinance Violations (s. 166.0415, F.S.)

Section 166.0415, F.S. provides a mechanism specific to municipalities wishing to enforce their ordinances and codes using code inspectors. This statute is functionally identical to s. 162.21, F.S., discussed above. The statute allows municipalities to designate code enforcement officers authorized to enforce municipal codes or ordinances, following the investigation, notice, and citation scheme set out in s. 162.21, F.S.

Anonymous and Identified Complaints

Investigations usually begin with a complaint or tip from the public - typically by phone or online form - or a code enforcement officer personally observing an alleged violation while performing his or her duties. As code enforcement is inherently an exercise in home rule by local governments, procedures for collecting complaints vary throughout the state. In most areas, said complaints may be made anonymously, while in some a complainant must identify themselves.²² Code inspectors accept any information given to them in the complaints and, generally using their own judgment, may investigate the allegations made.

²⁰ Section 162.21(3)(b), F.S.

²¹ Section 162.21(5), F.S.

²² For one such example, Collier County changed their code enforcement regulations to require that a name and phone number must be provided along with a complaint “unless the concern is an emergency that immediately threatens the public health and safety or could cause catastrophic consequences.” Collier County, Report a Code Violation <https://www.colliercountyfl.gov/your-government/divisions-a-e/code-enforcement/report-a-code-violation> (accessed December 28, 2020).

Florida has extensive public records laws, known as Sunshine Laws.²³ Any document held by an agency, including local governments, is public record and therefore must be produced for inspection upon request by anyone. Any information given by a complainant to the local government, including their name, address, and contact information, is public record barring an individual's exercise of an exemption that applies to them, such as those for judges or servicemembers.²⁴

III. Effect of Proposed Changes:

The bill amends the county and municipal code enforcement statutes to address the transparency of complaints made to code inspectors working for local governments and local code enforcement boards alleging violations of city and county codes and ordinances. Specifically, the bill prohibits code inspectors and code enforcement officers from initiating a code enforcement investigation based upon an anonymous complaint. Additionally, individuals making complaints of potential violations must provide their name and address to the local government body before an investigation may occur.

The prohibition in the bill does not apply if the code inspector has reason to believe the alleged violation presents an imminent threat to public health, safety, or welfare or imminent destruction of habitat or sensitive resources.

The bill provides an effective date of July 1, 2021.

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.

²³ See, generally, s. 119.01(1), F.S., the Public Records Act. “[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.”

²⁴ See ss. 119.071(4) and (5), F.S.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Local governments may experience a minor cost in updating codes and ordinance enforcement mechanisms to comply with this bill, but this cost will in most cases be absorbed by current operations.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 125.69, 162.06, 162.13, 162.21, and 166.0415 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 February 2, 2021:

The amendment provides that the prohibition does not apply if the code inspector has reason to believe the alleged violation presents an imminent threat to public health, safety, or welfare or imminent destruction of habitat or sensitive resources.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/03/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 54 - 205
and insert:
before an investigation occurs. This paragraph does not apply if the person designated as a code inspector has reason to believe that the violation presents an imminent threat to public health, safety, or welfare or imminent destruction of habitat or sensitive resources.

(c)~~(a)~~ Prior to issuing a citation, a code inspector shall



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11 provide notice to the violator that the violator has committed a
12 violation of a code or ordinance and shall establish a
13 reasonable time period within which the violator must correct
14 the violation. Such time period shall be no more than 30 days.
15 If, upon personal investigation, a code inspector finds that the
16 violator has not corrected the violation within the time period,
17 a code inspector may issue a citation to the violator. A code
18 inspector does not have to provide the violator with a
19 reasonable time period to correct the violation prior to issuing
20 a citation and may immediately issue a citation if the code
21 inspector has reason to believe that the violation presents a
22 serious threat to the public health, safety, or welfare, or if
23 the violation is irreparable or irreversible.

24 (d)~~(b)~~ A citation issued by a code inspector shall state
25 the date and time of issuance, name and address of the person in
26 violation, date of the violation, section of the codes or
27 ordinances, or subsequent amendments thereto, violated, name of
28 the code inspector, and date and time when the violator shall
29 appear in county court.

30 (e)~~(e)~~ If a repeat violation is found subsequent to the
31 issuance of a citation, the code inspector is not required to
32 give the violator a reasonable time to correct the violation and
33 may immediately issue a citation. For purposes of this
34 subsection, the term "repeat violation" means a violation of a
35 provision of a code or ordinance by a person who has previously
36 been found to have violated the same provision within 5 years
37 prior to the violation, notwithstanding the violations occurred
38 at different locations.

39 (f)~~(d)~~ If the owner of property which is subject to an



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40 enforcement proceeding before county court transfers ownership
41 of such property between the time the initial citation or
42 citations are issued and the date the violator has been summoned
43 to appear in county court, such owner shall:

44 1. Disclose, in writing, the existence and the nature of
45 the proceeding to the prospective transferee.

46 2. Deliver to the prospective transferee a copy of the
47 pleadings, notices, and other materials relating to the county
48 court proceeding received by the transferor.

49 3. Disclose, in writing, to the prospective transferee that
50 the new owner will be responsible for compliance with the
51 applicable code and with orders issued in the county court
52 proceeding.

53 4. File a notice with the code enforcement official of the
54 transfer of the property, with the identity and address of the
55 new owner and copies of the disclosures made to the new owner,
56 within 5 days after the date of the transfer.

57
58 A failure to make the disclosure described in subparagraphs 1.,
59 2., and 3. before the transfer creates a rebuttable presumption
60 of fraud. If the property is transferred before the date the
61 violator has been summoned to appear in county court, the
62 proceeding shall not be dismissed but the new owner will be
63 substituted as the party of record and thereafter provided a
64 reasonable period of time to correct the violation before the
65 continuation of proceedings in county court.

66 (g)~~(e)~~ If the code inspector has reason to believe a
67 violation or the condition causing the violation presents a
68 serious threat to the public health, safety, and welfare or if



69 the violation is irreparable or irreversible in nature, or if
70 after attempts under this section to bring a repeat violation
71 into compliance with a provision of a code or ordinance prove
72 unsuccessful, the local governing body may make all reasonable
73 repairs which are required to bring the property into compliance
74 and charge the owner with the reasonable cost of the repairs
75 along with the fine imposed pursuant to this section. Making
76 such repairs does not create a continuing obligation on the part
77 of the local governing body to make further repairs or to
78 maintain the property and does not create any liability against
79 the local governing body for any damages to the property if such
80 repairs were completed in good faith.

81 (h)~~(f)~~ Nothing in this subsection shall be construed to
82 authorize any person designated as a code inspector to perform
83 any function or duties of a law enforcement officer other than
84 as specified in this subsection. A code inspector shall not make
85 physical arrests or take any person into custody and shall be
86 exempt from requirements relating to the Special Risk Class of
87 the Florida Retirement System, bonding, and the Criminal Justice
88 Standards and Training Commission, as defined and provided by
89 general law.

90 (i)~~(g)~~ The provisions of this subsection shall not apply to
91 the enforcement pursuant to ss. 553.79 and 553.80 of the Florida
92 Building Code adopted pursuant to s. 553.73 as applied to
93 construction, provided that a building permit is either not
94 required or has been issued by the county.

95 (j)~~(h)~~ The provisions of this subsection may be used by a
96 county in lieu of the provisions of part II of chapter 162.

97 (k)~~(i)~~ The provisions of this subsection are additional or



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98 supplemental means of enforcing county codes and ordinances.
99 Except as provided in paragraphs (b) and (j) ~~paragraph (h)~~,
100 nothing in this subsection shall prohibit a county from
101 enforcing its codes or ordinances by any other means.

102 Section 1. Subsection (1) of section 162.06, Florida
103 Statutes, is amended to read:

104 162.06 Enforcement procedure.—

105 (1) (a) It shall be the duty of the code inspector to
106 initiate enforcement proceedings of the various codes; however,
107 no member of a board shall have the power to initiate such
108 enforcement proceedings.

109 (b) A code inspector may not initiate enforcement
110 proceedings for a potential violation of a duly enacted code or
111 ordinance by way of an anonymous complaint. A person who reports
112 a potential violation of a code or an ordinance must provide his
113 or her name and address to the respective local government
114 before an enforcement proceeding may occur. This paragraph does
115 not apply if the code inspector has reason to believe that the
116 violation presents an imminent threat to public health, safety,
117 or welfare or imminent destruction of habitat or sensitive
118 resources.

119 Section 2. Section 162.13, Florida Statutes, is amended to
120 read:

121 162.13 Provisions of act supplemental.—It is the
122 legislative intent of ss. 162.01-162.12 to provide an additional
123 or supplemental means of obtaining compliance with local codes.
124 Except as provided in s. 162.06(1)(b), nothing contained in ss.
125 162.01-162.12 shall prohibit a local governing body from
126 enforcing its codes by any other means.



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127 Section 3. Present paragraphs (b) and (c) of subsection (3)
128 of section 162.21, Florida Statutes, are redesignated as
129 paragraphs (c) and (d), respectively, a new paragraph (b) is
130 added to that subsection, and subsection (8) of that section is
131 amended, to read:

132 162.21 Enforcement of county or municipal codes or
133 ordinances; penalties.—

134 (3)

135 (b) A code enforcement officer may not initiate an
136 investigation of a potential violation of a duly enacted code or
137 ordinance by way of an anonymous complaint. A person who reports
138 a potential violation of a code or an ordinance must provide his
139 or her name and address to the respective local government
140 before an investigation may occur. This paragraph does not apply
141 if the code enforcement officer has reason to believe that the
142 violation presents an imminent threat to public health, safety,
143 or welfare or imminent destruction of habitat or sensitive
144 resources.

145 (8) The provisions of this section are additional and
146 supplemental means of enforcing county or municipal codes or
147 ordinances and may be used for the enforcement of any code or
148 ordinance, or for the enforcement of all codes and ordinances.
149 Except as provided in paragraph (3) (b), nothing contained in
150 this section shall prohibit a county or municipality from
151 enforcing its codes or ordinances by any other means.

152 Section 4. Subsections (1) and (7) of section 166.0415,
153 Florida Statutes, are amended to read:

154 166.0415 Enforcement by code inspectors; citations.—

155 (1) (a) The governing body of each municipality may



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156 designate its agents or employees as code inspectors whose duty
157 it is to assure code compliance. Any person designated as a code
158 inspector may issue citations for violations of municipal codes
159 and ordinances, respectively, or subsequent amendments thereto,
160 when such code inspector has actual knowledge that a violation
161 has been committed.

162 (b) A person designated as a code inspector may not
163 initiate an investigation of a potential violation of a duly
164 enacted code or ordinance by way of an anonymous complaint. A
165 person who reports a potential violation of a code or an
166 ordinance must provide his or her name and address to the
167 governing body of the municipality before an investigation
168 occurs. This paragraph does not apply if the person designated
169 as a code inspector has reason to believe that the violation
170 presents an imminent threat to public health, safety, or welfare
171 or imminent destruction of habitat or sensitive resources.

172
173 ===== T I T L E A M E N D M E N T =====

174 And the title is amended as follows:

175 Delete lines 10 - 33

176 and insert:

177 investigation occurs; providing applicability;
178 providing construction; amending s. 162.06, F.S.;
179 prohibiting code inspectors from initiating
180 enforcement proceedings for potential violations of
181 codes and ordinances by way of anonymous complaints;
182 requiring persons who report potential violations of
183 codes and ordinances to provide specified information
184 to the respective local government before an



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185 investigation occurs; providing applicability;
186 amending s. 162.13, F.S.; providing construction;
187 amending s. 162.21, F.S.; prohibiting code enforcement
188 officers from initiating investigations of potential
189 violations of codes and ordinances by way of anonymous
190 complaints; requiring persons who report potential
191 violations of codes and ordinances to provide
192 specified information to the respective local
193 government before an investigation occurs; providing
194 applicability; providing construction; amending s.
195 166.0415, F.S.; prohibiting code inspectors designated
196 by governing bodies of municipalities from initiating
197 investigations of potential violations of codes and
198 ordinances by way of anonymous complaints; requiring
199 persons who report potential violations of codes and
200 ordinances to provide specified information to the
201 governing body before an investigation occurs;
202 providing applicability; providing

THE FLORIDA SENATE

APPEARANCE RECORD

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

02/2/2021

Meeting Date

SB 60

Bill Number (if applicable)

* 877556

Amendment Barcode (if applicable)

Topic County and Municipal Code Enforcement

Name Tara Taggart

Job Title Legislative Policy Analyst

Address 301 S. Bronough St. #300

Street

Phone 850-701-3603

Tallahassee

FL

32302

Email ttaggart@flcities.com

City

State

Zip

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.

By Senator Bradley

5-00497-21

202160__

1 A bill to be entitled
 2 An act relating to county and municipal code
 3 enforcement; amending s. 125.69, F.S.; prohibiting
 4 code inspectors designated by boards of county
 5 commissioners from initiating investigations of
 6 potential violations of codes and ordinances by way of
 7 anonymous complaints; requiring persons who report
 8 potential violations of codes and ordinances to
 9 provide specified information to the board before an
 10 investigation occurs; providing construction; amending
 11 s. 162.06, F.S.; prohibiting code inspectors from
 12 initiating enforcement proceedings for potential
 13 violations of codes and ordinances by way of anonymous
 14 complaints; requiring persons who report potential
 15 violations of codes and ordinances to provide
 16 specified information to the respective local
 17 government before an investigation occurs; amending s.
 18 162.13, F.S.; providing construction; amending s.
 19 162.21, F.S.; prohibiting code enforcement officers
 20 from initiating investigations of potential violations
 21 of codes and ordinances by way of anonymous
 22 complaints; requiring persons who report potential
 23 violations of codes and ordinances to provide
 24 specified information to the respective local
 25 government before an investigation occurs; providing
 26 construction; amending s. 166.0415, F.S.; prohibiting
 27 code inspectors designated by governing bodies of
 28 municipalities from initiating investigations of
 29 potential violations of codes and ordinances by way of

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30 anonymous complaints; requiring persons who report
 31 potential violations of codes and ordinances to
 32 provide specified information to the governing body
 33 before an investigation occurs; providing
 34 construction; providing an effective date.
 35

36 Be It Enacted by the Legislature of the State of Florida:
 37

38 Section 1. Subsection (4) of section 125.69, Florida
 39 Statutes, is amended to read:

40 125.69 Penalties; enforcement by code inspectors.—

41 (4) (a) The board of county commissioners of each county may
 42 designate its agents or employees as code inspectors whose duty
 43 it is to assure code compliance. Any person designated as a code
 44 inspector may issue citations for violations of county codes and
 45 ordinances, respectively, or subsequent amendments thereto, when
 46 such code inspector has actual knowledge that a violation has
 47 been committed.

48 (b) A person designated as a code inspector may not
 49 initiate an investigation of a potential violation of a duly
 50 enacted code or ordinance by way of an anonymous complaint. A
 51 person who reports a potential violation of a code or an
 52 ordinance must provide his or her name and address to the
 53 governing body of the respective board of county commissioners
 54 before an investigation occurs.

55 (c)-(a) Prior to issuing a citation, a code inspector shall
 56 provide notice to the violator that the violator has committed a
 57 violation of a code or ordinance and shall establish a
 58 reasonable time period within which the violator must correct

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59 the violation. Such time period shall be no more than 30 days.
 60 If, upon personal investigation, a code inspector finds that the
 61 violator has not corrected the violation within the time period,
 62 a code inspector may issue a citation to the violator. A code
 63 inspector does not have to provide the violator with a
 64 reasonable time period to correct the violation prior to issuing
 65 a citation and may immediately issue a citation if the code
 66 inspector has reason to believe that the violation presents a
 67 serious threat to the public health, safety, or welfare, or if
 68 the violation is irreparable or irreversible.

69 (d)~~(b)~~ A citation issued by a code inspector shall state
 70 the date and time of issuance, name and address of the person in
 71 violation, date of the violation, section of the codes or
 72 ordinances, or subsequent amendments thereto, violated, name of
 73 the code inspector, and date and time when the violator shall
 74 appear in county court.

75 (e)~~(e)~~ If a repeat violation is found subsequent to the
 76 issuance of a citation, the code inspector is not required to
 77 give the violator a reasonable time to correct the violation and
 78 may immediately issue a citation. For purposes of this
 79 subsection, the term "repeat violation" means a violation of a
 80 provision of a code or ordinance by a person who has previously
 81 been found to have violated the same provision within 5 years
 82 prior to the violation, notwithstanding the violations occurred
 83 at different locations.

84 (f)~~(d)~~ If the owner of property which is subject to an
 85 enforcement proceeding before county court transfers ownership
 86 of such property between the time the initial citation or
 87 citations are issued and the date the violator has been summoned

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88 to appear in county court, such owner shall:

89 1. Disclose, in writing, the existence and the nature of
 90 the proceeding to the prospective transferee.

91 2. Deliver to the prospective transferee a copy of the
 92 pleadings, notices, and other materials relating to the county
 93 court proceeding received by the transferor.

94 3. Disclose, in writing, to the prospective transferee that
 95 the new owner will be responsible for compliance with the
 96 applicable code and with orders issued in the county court
 97 proceeding.

98 4. File a notice with the code enforcement official of the
 99 transfer of the property, with the identity and address of the
 100 new owner and copies of the disclosures made to the new owner,
 101 within 5 days after the date of the transfer.

102 A failure to make the disclosure described in subparagraphs 1.,
 103 2., and 3. before the transfer creates a rebuttable presumption
 104 of fraud. If the property is transferred before the date the
 105 violator has been summoned to appear in county court, the
 106 proceeding shall not be dismissed but the new owner will be
 107 substituted as the party of record and thereafter provided a
 108 reasonable period of time to correct the violation before the
 109 continuation of proceedings in county court.

110 (g)~~(e)~~ If the code inspector has reason to believe a
 111 violation or the condition causing the violation presents a
 112 serious threat to the public health, safety, and welfare or if
 113 the violation is irreparable or irreversible in nature, or if
 114 after attempts under this section to bring a repeat violation
 115 into compliance with a provision of a code or ordinance prove
 116

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117 unsuccessful, the local governing body may make all reasonable
 118 repairs which are required to bring the property into compliance
 119 and charge the owner with the reasonable cost of the repairs
 120 along with the fine imposed pursuant to this section. Making
 121 such repairs does not create a continuing obligation on the part
 122 of the local governing body to make further repairs or to
 123 maintain the property and does not create any liability against
 124 the local governing body for any damages to the property if such
 125 repairs were completed in good faith.

126 (h) ~~(f)~~ Nothing in this subsection shall be construed to
 127 authorize any person designated as a code inspector to perform
 128 any function or duties of a law enforcement officer other than
 129 as specified in this subsection. A code inspector shall not make
 130 physical arrests or take any person into custody and shall be
 131 exempt from requirements relating to the Special Risk Class of
 132 the Florida Retirement System, bonding, and the Criminal Justice
 133 Standards and Training Commission, as defined and provided by
 134 general law.

135 (i) ~~(g)~~ The provisions of this subsection shall not apply to
 136 the enforcement pursuant to ss. 553.79 and 553.80 of the Florida
 137 Building Code adopted pursuant to s. 553.73 as applied to
 138 construction, provided that a building permit is either not
 139 required or has been issued by the county.

140 (j) ~~(h)~~ The provisions of this subsection may be used by a
 141 county in lieu of the provisions of part II of chapter 162.

142 (k) ~~(i)~~ The provisions of this subsection are additional or
 143 supplemental means of enforcing county codes and ordinances.
 144 Except as provided in paragraphs (b) and (j) ~~paragraph (h)~~,
 145 nothing in this subsection shall prohibit a county from

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146 enforcing its codes or ordinances by any other means.

147 Section 2. Subsection (1) of section 162.06, Florida
 148 Statutes, is amended to read:

149 162.06 Enforcement procedure.—

150 (1) (a) It shall be the duty of the code inspector to
 151 initiate enforcement proceedings of the various codes; however,
 152 no member of a board shall have the power to initiate such
 153 enforcement proceedings.

154 (b) A code inspector may not initiate enforcement
 155 proceedings for a potential violation of a duly enacted code or
 156 ordinance by way of an anonymous complaint. A person who reports
 157 a potential violation of a code or an ordinance must provide his
 158 or her name and address to the respective local government
 159 before an enforcement proceeding may occur.

160 Section 3. Section 162.13, Florida Statutes, is amended to
 161 read:

162 162.13 Provisions of act supplemental.—It is the
 163 legislative intent of ss. 162.01-162.12 to provide an additional
 164 or supplemental means of obtaining compliance with local codes.
 165 Except as provided in s. 162.06(1)(b), nothing contained in ss.
 166 162.01-162.12 shall prohibit a local governing body from
 167 enforcing its codes by any other means.

168 Section 4. Present paragraphs (b) and (c) of subsection (3)
 169 of section 162.21, Florida Statutes, are redesignated as
 170 paragraphs (c) and (d), respectively, a new paragraph (b) is
 171 added to that subsection, and subsection (8) of that section is
 172 amended, to read:

173 162.21 Enforcement of county or municipal codes or
 174 ordinances; penalties.—

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175 (3)
 176 (b) A code enforcement officer may not initiate an
 177 investigation of a potential violation of a duly enacted code or
 178 ordinance by way of an anonymous complaint. A person who reports
 179 a potential violation of a code or an ordinance must provide his
 180 or her name and address to the respective local government
 181 before an investigation may occur.

182 (8) The provisions of this section are additional and
 183 supplemental means of enforcing county or municipal codes or
 184 ordinances and may be used for the enforcement of any code or
 185 ordinance, or for the enforcement of all codes and ordinances.
 186 Except as provided in paragraph (3)(b), nothing contained in
 187 this section shall prohibit a county or municipality from
 188 enforcing its codes or ordinances by any other means.

189 Section 5. Subsections (1) and (7) of section 166.0415,
 190 Florida Statutes, are amended to read:

191 166.0415 Enforcement by code inspectors; citations.—

192 (1) (a) The governing body of each municipality may
 193 designate its agents or employees as code inspectors whose duty
 194 it is to assure code compliance. Any person designated as a code
 195 inspector may issue citations for violations of municipal codes
 196 and ordinances, respectively, or subsequent amendments thereto,
 197 when such code inspector has actual knowledge that a violation
 198 has been committed.

199 (b) A person designated as a code inspector may not
 200 initiate an investigation of a potential violation of a duly
 201 enacted code or ordinance by way of an anonymous complaint. A
 202 person who reports a potential violation of a code or an
 203 ordinance must provide his or her name and address to the

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204 governing body of the municipality before an investigation
 205 occurs.

206 (7) The provisions of this section are additional or
 207 supplemental means of enforcing municipal codes and ordinances.
 208 Except as provided in paragraph (1)(b) and subsection (6),
 209 nothing in this section shall prohibit a municipality from
 210 enforcing its codes or ordinances by any other means.

211 Section 6. This act shall take effect July 1, 2021.

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CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Community Affairs Committee Judge:

Started: 2/2/2021 3:32:12 PM

Ends: 2/2/2021 3:51:14 PM Length: 00:19:03

3:30:24 PM Meeting called to order
3:30:38 PM Roll Call- Quorum present
3:30:50 PM Pledge of Allegiance
3:31:18 PM Comments from Chair Bradley
3:32:11 PM Tab 1 SB 132
3:32:39 PM Sb 132 explained by Sen. Hutson
3:32:50 PM No questions
3:33:02 PM No appearance forms
3:33:08 PM No debate
3:33:12 PM Sen. Hutson waives close
3:33:26 PM SB 132 reported favorably
3:33:38 PM Chair Bradley passed gavel to Vice Chair Garcia to present her bill
3:33:54 PM Tab 3 SB 60
3:34:03 PM Sen. Bradley explains bill
3:34:58 PM No questions
3:35:05 PM Take up amendment 877556
3:35:15 PM Sen. Bradley explains amendment
3:35:37 PM No questions on amendment
3:35:45 PM Speaker Tara Taggart, Florida League of Cities
3:36:21 PM No debate
3:36:40 PM Sen. Bradley waives close
3:36:50 PM Amendment is adopted
3:36:56 PM Back on the bill as amended
3:37:04 PM Questions from Sen. Powell
3:37:21 PM Sen. Bradley answers
3:38:31 PM No appearance forms
3:38:44 PM Debate from Sen. Cruz
3:39:31 PM Sen. Bradley closes on bill as amended
3:39:55 PM CS/SB 60 reported favorably
3:40:28 PM Return gavel to Chair Bradley
3:40:36 PM Tab 2 SB 510
3:40:45 PM Sen. Hooper explains bill
3:42:25 PM Question from Sen. Polsky
3:42:37 PM Sen. Hooper responds to question
3:43:44 PM Speaker Jamie Ross, Florida Housing Coalition
3:48:28 PM Tonnette Graham, FL Assoc of Counties waived in support
3:48:38 PM Nancy Stewart, FMO, waived in support
3:48:42 PM Jeff Branch, FL League of Cities waived in support
3:48:50 PM Christopher Emmanuel, FL Chamber of Commerce waived in support
3:48:54 PM Bryan Cherry, FL Coalition to End Homelessness waived in support
3:49:00 PM Elizabeth Berglin, United Way of Miami-Dade waived in support
3:49:12 PM Alejandro Gonzalez, United Way of Broward Co. waived in support
3:49:16 PM Rick Owen, United Way of FL waived in support
3:49:22 PM Kaitlyn Bailey, United Way Suncoast waived in support
3:49:27 PM Ida Eskamani, FL Rising & FL Housing Justice Alliance waived in support
3:49:34 PM Kari Hebrank, FL Home Builders Assoc waived in support
3:49:49 PM Debate by Sen. Polsky
3:50:15 PM Sen. Hooper closes on bill
3:50:27 PM SB 510 reported favorably
3:50:54 PM Sen. Polsky moves to adjourn
3:51:01 PM Meeting is adjourned