

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMERCE AND TOURISM
Senator Montford, Chair
Senator Gainer, Vice Chair

MEETING DATE: Monday, December 4, 2017
TIME: 4:00—6:00 p.m.
PLACE: *Toni Jennings Committee Room, 110 Senate Office Building*

MEMBERS: Senator Montford, Chair; Senator Gainer, Vice Chair; Senators Gibson, Hutson, Latvala, Passidomo, Rodriguez, and Young

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 686 Perry	Tax on Sales, Use, and Other Transactions; Providing an exemption from the sales and use tax for the sale of certain clothing, wallets, bags, school supplies, and personal computers and related accessories during a specified period; providing exceptions to the exemption, etc. CM 12/04/2017 Favorable AFT AP	Favorable Yeas 7 Nays 0
2	SB 566 Young (Similar H 385)	Unlawful Detention by a Transient Occupant; Revising factors that establish a person as a transient occupant of residential property; authorizing a former transient occupant, under certain circumstances, to bring a civil action for damages or recovery of personal belongings, etc. CM 12/04/2017 Favorable JU RC	Favorable Yeas 8 Nays 0
3	SB 664 Young (Identical H 469)	Salvage of Pleasure Vessels; Designating the "Florida Salvage of Pleasure Vessels Act"; requiring salvors of pleasure vessels to provide a specified written disclosure statement and salvage work estimate; requiring such salvors to obtain customer permission before exceeding the written estimate by more than a specified amount; requiring salvors to post specified signage on their vessels, etc. CM 12/04/2017 Fav/CS TR RC	Fav/CS Yeas 7 Nays 1

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 Commerce and Tourism

BILL: SB 686

INTRODUCER: Senator Perry

SUBJECT: Tax on Sales, Use, and Other Transactions

DATE: December 1, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Favorable
2.			AFT	
3.			AP	

I. Summary:

SB 686 establishes a 10-day sales tax holiday beginning July 27, 2018, and ending August 5, 2018. During the holiday, specific “back to school” purchases of clothing, school supplies, and personal computers are exempt from the state sales tax and county discretionary sales surtaxes.

The bill provides the Department of Revenue (DOR) a nonrecurring General Revenue appropriation of \$225,000 in Fiscal Year 2018-2019 to administer this act.

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

II. Present Situation:

Florida levies a six percent sales and use tax on the sale or rental of most tangible personal property, admissions,¹ transient rentals,² rental of commercial real estate,³ and a limited number of services. Chapter 212, F.S., contains statutory provisions authorizing the levy and collection of Florida’s sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. There are currently more than 250 exemptions, exclusions, deductions, and credits from the sales and use tax.⁴ Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.⁵

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes. A surtax applies to “all transactions occurring in the county which

¹ Section 212.04, F.S.

² Section 212.03, F.S.

³ Section 212.031, F.S.

⁴ See Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook*, 164-170 (2017).

⁵ Florida Dept. of Revenue, *Who must pay tax? Partial list of taxable business activities*, http://dor.myflorida.com/dor/taxes/sales_tax.html (last visited Nov. 27, 2017).

transactions are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by [ch. 212, F.S.], and on communications services as defined in ch. 202, F.S.”⁶ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or are delivered into.

The “Florida Residents’ Tax Relief Act of 1998” established Florida’s first tax holiday, during which clothing purchases of \$50 or less were exempt from tax.⁷ In 1999, backpacks were added to the tax holiday;⁸ school supplies were added in 2001.⁹ In 2013, the Legislature exempted personal computers and related accessories purchased for personal use, up to \$750, from sales tax collection during the sales tax holiday.¹⁰ Since its inception, the duration of similar “back to school” sales tax holidays varied from 3 to 10 days, as have the type and value of exempt items.

III. Effect of Proposed Changes:

The bill provides for a 10-day sales tax holiday, which begins July 27, 2018, and ends August 5, 2018. During the holiday, the following items that cost \$100 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Clothing, defined as an “article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs;”
- Footwear, which does not include skis, swim fins, roller blades, and skates;
- Wallets; and
- Bags, which include handbags, backpacks, fanny packs, and diaper bags, but exclude briefcases, suitcases and other garment bags.

The bill also exempts “school supplies” that cost \$15 or less per item.

Personal computers and related accessories that have a sales price of \$1,000 or less that are purchased for noncommercial home or personal use are also exempt. This exemption includes electronic book readers, tablets, laptops, monitors, input devices, and non-recreational software. Cell phones, furniture, and devices or software intended primarily for recreational use are not exempt.

The “back to school” sales tax holiday does not apply to the following sales:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27(2), F.S.

The bill authorizes a nonrecurring appropriation of \$225,000 from the General Revenue Fund to the DOR to implement this section.

⁶ Section 212.054, F.S.

⁷ Chapter 341, Laws of Fla. (1998).

⁸ Chapter 229, Laws of Fla. (1999).

⁹ Chapter 148, Laws of Fla. (2001).

¹⁰ Chapter 42, s. 42 Laws of Fla. (2013).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenues.

Subsection (b) of article VII, section 18 of the Florida Constitution provides that, except upon approval by each house of the Legislature by two-thirds vote of its 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, these requirements do not apply to laws that have an insignificant fiscal impact, which for fiscal year 2018-2019, is \$2.08 million or less.^{11,12,13}

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet reviewed the fiscal impact of this bill. There is no recurring fiscal impact because this bill provides a sales tax holiday during Fiscal Year 2018-2019 only.

B. Private Sector Impact:

The sales tax holiday may promote retail sales at businesses that qualify under this bill.

C. Government Sector Impact:

The bill provides the DOR a nonrecurring General Revenue appropriation of \$225,000 in Fiscal Year 2018-2019 to administer this act. The Department estimates the cost of

¹¹ FLA. CONST. art. VII, s. 18(d).

¹² An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$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 Nov. 22, 2017).

¹³ Based on the Demographic Estimating Conference's population adopted on July 10, 2017. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Nov. 22, 2017).

notifying approximately 600,000 businesses of the sales tax holiday by printing and mailing of a Tax Information Publication will be \$233,150.¹⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department notes that it will be required to use funds from fiscal year 2017-2018 to give notice to businesses affected by the sales tax holiday, which occurs in fiscal year 2018-2019.¹⁵

VIII. Statutes Affected:

This bill creates an undesignated section of Florida law.

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.

¹⁴ Florida Dept. of Revenue, *SB 686 Agency Analysis* (Nov. 8, 2017) (on file with the Senate Committee on Commerce and Tourism).

¹⁵ *Id* at 6.

By Senator Perry

8-00742-18

2018686__

1 A bill to be entitled
 2 An act relating to the tax on sales, use, and other
 3 transactions; providing an exemption from the sales
 4 and use tax for the sale of certain clothing, wallets,
 5 bags, school supplies, and personal computers and
 6 related accessories during a specified period;
 7 defining terms; providing exceptions to the exemption;
 8 authorizing the Department of Revenue to adopt
 9 emergency rules; providing an appropriation; providing
 10 an effective date.

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

12 Section 1. (1) The tax levied under chapter 212, Florida
 13 Statutes, may not be collected during the period from 12:01 a.m.
 14 on July 27, 2018, through 11:59 p.m. on August 5, 2018, on the
 15 sale of:

16 (a) Clothing, wallets, or bags, including handbags,
 17 backpacks, fanny packs, and diaper bags, but excluding
 18 briefcases, suitcases, and other garment bags, having a sales
 19 price of \$100 or less per item. As used in this paragraph, the
 20 term "clothing" means:

21 1. An article of wearing apparel intended to be worn on or
 22 about the human body, excluding watches, watchbands, jewelry,
 23 umbrellas, and handkerchiefs; and

24 2. All footwear, excluding skis, swim fins, roller blades,
 25 and skates.

26 (b) School supplies having a sales price of \$15 or less per
 27 item. As used in this paragraph, the term "school supplies"
 28
 29

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

8-00742-18

2018686__

30 means pens, pencils, erasers, crayons, notebooks, notebook
 31 filler paper, legal pads, binders, lunch boxes, construction
 32 paper, markers, folders, poster board, composition books, poster
 33 paper, scissors, cellophane tape, glue or paste, rulers,
 34 computer disks, protractors, compasses, and calculators.

35 (c) Personal computers and related accessories that have a
 36 sales price of \$1,000 or less and are purchased for
 37 noncommercial home or personal use. As used in this paragraph,
 38 the term:

39 1. "Personal computer" means an electronic device that
 40 accepts information in digital or a similar form and manipulates
 41 such information for a result based on a sequence of
 42 instructions. The term includes an electronic book reader and a
 43 laptop, desktop, handheld, tablet, or tower computer, but does
 44 not include a cellular telephone, video game console, digital
 45 media receiver, or device that is not primarily designed to
 46 process data.

47 2. "Related accessories" includes keyboards, mice, personal
 48 digital assistants, monitors, other peripheral devices, modems,
 49 routers, and nonrecreational software, regardless of whether the
 50 accessories are used in association with a personal computer
 51 base unit, but does not include furniture or systems, devices,
 52 software, monitors with a television tuner, or other peripherals
 53 that are designed or intended primarily for recreational use.

54 (2) The tax exemptions provided in this section do not
 55 apply to sales within a theme park or entertainment complex as
 56 defined in s. 509.013, Florida Statutes, within a public lodging
 57 establishment as defined in s. 509.013, Florida Statutes, or
 58 within an airport as defined in s. 330.27, Florida Statutes.

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

8-00742-18

2018686__

59 (3) The Department of Revenue may, and all conditions are
60 deemed met to, adopt emergency rules pursuant to s. 120.54(4),
61 Florida Statutes, to administer this section.

62 Section 2. For the 2018-2019 fiscal year, the sum of
63 \$225,000 in nonrecurring funds is appropriated from the General
64 Revenue Fund to the Department of Revenue for the purpose of
65 implementing this act. Funds from the appropriation which remain
66 unexpended or unencumbered as of June 30, 2019, shall revert to
67 the General Revenue Fund.

68 Section 3. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Bill Montford, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: November 15, 2017

I respectfully request that **Senate Bill #686**, relating to Tax on Sales, Use, and Other Transactions, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry".

Senator Keith Perry
Florida Senate, District 8

THE FLORIDA SENATE

APPEARANCE RECORD

12/4/17

Meeting Date

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

SB 686

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Lance Lozano

Job Title Chief Operating Officer

Address 116 S. Monroe St.

Phone 850-687-6265

Tallahassee FL 32301

City State Zip

Email llozano@fuba.org

Speaking: For Against Information

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

Representing Florida United Businesses Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

12/4/17
Meeting Date

686
Bill Number (if applicable)

Topic Sales tax

X
Amendment Barcode (if applicable)

Name Melissa Ramba

Job Title VP Gov't Affairs

Address 227 S Adams St.

Phone 850-570-0269

Street

Tallahassee

Fl.

32301

Email Melissa@FRF.org

City

State

Zip

Speaking: For Against Information

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

Representing Florida Retail Federation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 566

INTRODUCER: Senator Young

SUBJECT: Unlawful Detention by a Transient Occupant

DATE: December 1, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Little	McKay	CM	Favorable
2.			JU	
3.			RC	

I. Summary:

SB 566 modifies s. 82.045, F.S., which provides a remedy for the party entitled to possession of a residential property when a transient occupant unlawfully detains the residential property.

The bill:

- Modifies the factors used to determine whether an individual is a transient occupant;
- Establishes when a transient occupancy terminates;
- Requires the party entitled to possession to allow a former transient occupant to recover his or her personal belongings;
- Establishes the reasonable timeframe and conditions by which the former transient occupant must recover his or her personal belongings;
- Allows the party entitled to possession of the dwelling to impose additional conditions on the access to the dwelling or personal belongings under specific circumstances;
- Establishes the reasonable timeframe by which the personal belongings of a formal transient occupant are presumably considered abandoned; and
- Provides that a former transient occupant has the right to bring a civil action for damages or the recovery of the property, against a person entitled to possession that unreasonably withholds access to the personal belongings of the former transient occupant. In such action, the bill directs the court to award the prevailing party reasonable attorney fees and costs.

The bill takes effect on July 1, 2018.

II. Present Situation:

Florida law provides causes of action for the removal of unwanted occupants on real property. Chapter 82, F.S., governs forcible entry and unlawful detainer proceedings, ch. 66, F.S., governs

ejection proceedings, and The Florida Residential Landlord and Tenant Act (act)¹ governs residential tenancies and eviction proceedings when there is a dispute between a landlord and a tenant regarding the rental agreement.

Unlawful detainer actions are based on the premise that no individual who has lawfully entered the property of another may continue to occupy the property without the consent of the party entitled to possession.²

Unlawful Detention by a Transient Occupant of a Residential Property

Transient Occupant

A transient occupant is an individual whose residency has occurred for a brief length of time, is not pursuant to a lease, and whose occupancy was intended as transient in nature.³ In addition, an individual may be a transient occupant if the person:

- Does not have ownership, financial, or leasehold interest in the property that entitles occupancy of the property;
- Does not have property utility subscriptions;
- Does not use the property address as an address of record with any governmental agency;⁴
- Does not receive mail at the property;
- Pays minimal or no rent for his or her stay at the property;
- Does not have a designated space of his or her own, such as a room, at the property;
- Has minimal, if any, personal belongings at the property; or
- Has an apparent permanent residence elsewhere.⁵

Unlawful Detention

In Florida, an unlawful detention of a residential property occurs when a transient occupant remains in occupancy of the residential property after the party entitled to possession has directed the transient occupant to leave.⁶

To request the assistance of law enforcement officers in removing the transient occupant, the rightful possessor must provide a sworn affidavit asserting that a transient occupant is unlawfully detaining the residential property. The affidavit must set forth any relevant facts that establish the unwanted occupant is a transient occupant, including any applicable factors listed in s. 82.045(1)(a), F.S. Upon receipt of the sworn affidavit by the party entitled to possession, a law enforcement officer is authorized to direct the transient occupant to surrender possession of the residential property.⁷

¹ Chapter 83, F.S.

² *See generally* ch. 82, F.S.

³ Section 82.045(1), F.S.

⁴ The Department of Highway Safety and Motor Vehicles and the supervisor of elections are listed as agencies included in the consideration of this factor. *See* s. 82.045(a)3., F.S.

⁵ Section 82.045(1)(a), F.S.

⁶ Section 82.045(2), F.S.

⁷ Section 82.045(3), F.S.

Unlawful Detainer Action

Within the 3 years following an unlawful detention, the rightful possessor is entitled to a cause of action against the transient occupant under s. 82.04, F.S.⁸ An action for unlawful detainer involves no question of title. Instead, unlawful detainer is an expeditious remedy in which the main issue for judicial determination is the right to immediate possession⁹ and related damages.¹⁰

Unlawful detainer actions are resolved through summary procedure under s. 51.011, F.S.,¹¹ for expedited review by the court.¹² To establish an unlawful detention, the plaintiff must allege that:

- He or she was in possession of the property at one time;
- The plaintiff was deprived rightful possession of the property by the defendant;
- The defendant withheld possession from the plaintiff without consent; and
- The action has been filed within the 3-year statute of limitation on unlawful detainer actions.¹³

Within 5 days after service of process, the defendant must file an answer to the unlawful detainer complaint. If the defendant's answer incorporates a counterclaim, the plaintiff is required to serve any answer to the counterclaim within 5 days.¹⁴

If the plaintiff prevails, the court must enter judgment that the plaintiff is entitled to recover possession of the property described in the complaint, along with damages and costs, and a writ of possession without delay and execution.¹⁵ If the defendant prevails, the court must enter judgment against plaintiff by dismissing the complaint and awarding the defendant an award of costs.¹⁶

Additional Causes of Action

Criminal Trespass

A transient occupant who fails to surrender possession of the property at the direction of a law enforcement officer in receipt of a sworn affidavit, pursuant to s. 82.045(3), F.S., is subject to the criminal charge of trespassing.¹⁷ Section 810.08, F.S., establishes the offense of trespass for anyone who:

without being authorized, licensed, or invited, willfully enters or remains in any structure or conveyance, or, having been authorized, licensed, or invited, is warned

⁸ Section 82.045(4), F.S.

⁹ *Tollius v. Dutch Ins. Of American, Inc.*, Fla.App. 1969, 218 So.2d 504

¹⁰ Section 82.05, F.S.

¹¹ A summary proceeding under s. 51.011, F.S., is applicable to actions that specifically provide for this procedure by statute or rule, including actions for forcible entry, unlawful detainer, and certain tenant evictions. Sections 51.011, 82.04, 83.59, and 83.21, F.S.

¹² Section 82.04, F.S.

¹³ *Florida Athletic & Health Club v. Royce*, 33 So. 2d 222 (Fla. 1948) and *Floro v. Parker*, 205 So. 2d 363, 367 (Fla. 2d DCA 1967).

¹⁴ Section 51.011(1), F.S.

¹⁵ Section 82.091, F.S.

¹⁶ Section 82.091, F.S.

¹⁷ Section 82.045(3)(a), F.S.

by the owner or lessee of the premises, or by a person authorized by the owner or lessee, to depart and refuses to do so, commits the offense of trespass in a structure or conveyance.¹⁸

Criminal trespassing charges range from a second degree misdemeanor for simple trespass to a first degree misdemeanor if a person is in the structure or conveyance at the time the offender trespassed or attempted to trespass.¹⁹

Wrongful Removal of an Individual

A person who is wrongfully removed from a property under s. 82.045, F.S., has a cause of action for wrongful removal against the person that requested the removal, excluding the law enforcement officer and its employing agency.²⁰ If the court finds that a wrongful removal occurred, the court can award the plaintiff injunctive relief and compensatory damages.²¹

Eviction

If the court, in examining an action for unlawful detainer, finds the defendant is a tenant rather than a transient occupant, the court must allow the plaintiff to provide adequate notice to the defendant as required under the act and to amend the complaint to pursue an eviction.²²

Generally, in eviction proceedings, a landlord is required to provide the tenant written notice of any violation of the rental agreement and must allow the tenant an opportunity to correct the problem.²³ If the tenant fails to correct the problem, the landlord may bring an action in the county court where the property is located.²⁴ The filing fee for the removal of a tenant is \$180.²⁵ If the court enters a judgment for the landlord, the clerk will issue a writ of possession to the sheriff.²⁶ After the sheriff provides 24 hours' notice to the tenant, through a posting on the premises, the landlord may remove the tenant's property and change the locks.²⁷

Ejectment and Trespass

A judgment rendered in a cause of action for unlawful detainer does not bar any action of trespass for injury to the property or ejectment between the same parties with respect to the same

¹⁸ Section 810.08(1), F.S.

¹⁹ Section 810.08(2)(a) and (b), F.S.; A second degree misdemeanor is punishable by a jail term of up to 60 days. A first degree misdemeanor is punishable by a jail term of up to 1 year. A third degree felony is punishable by a term of imprisonment of up to 5 years. Section 775.082 (4)(a) and (b), F.S. Section 775.083(1)(d) and (e), F.S., authorizes fines of up to \$500 for a second degree misdemeanor and up to \$1,000 for a first degree misdemeanor.

²⁰ However, the wrongfully removed individual may bring an action against a law enforcement officer or its employing agency upon a showing of bad faith. *See* s. 82.045(3)(b), F.S.

²¹ *Id.*

²² Section 82.045(4), F.S.

²³ Section 83.56(2), F.S.; *3618 Lantana Road Partners, LLC v. Palm Beach Pain Management, Inc.*, 57 So. 3d 966, 968 (Fla. 4th DCA 2011).

²⁴ Section 83.59(2), F.S.

²⁵ Section 34.041(1)(a)7., F.S.

²⁶ Section 83.62(1), F.S.

²⁷ Section 83.62(2), F.S.

property. Additionally, the verdict in an action for unlawful detainer is not conclusive of the facts found in any subsequent proceeding.²⁸

Recovery and Abandonment of Personal Belongings

Current law does not address the recovery or abandonment of personal belongings after an unlawful detention by a former transient occupant.

Under landlord-tenant regulations, a landlord is required to provide written notice to a former tenant of the right to reclaim abandoned property when personal property remains on the premises after the tenancy has terminated or expired and the premises has been vacated by the tenant.²⁹ The written notice is required to include a description of the property at issue, state where the property may be claimed, and the date before which the claim must be made.³⁰ The notice must also advise the former tenant that reasonable costs of storage may be charged before the property is returned.³¹

III. Effect of Proposed Changes:

Transient Occupancy

The bill modifies the list of factors used to establish that a person is a transient occupant by:

- Providing a 12-month timeframe for the factor related to the person's address of record; and
- Removing the factor related to whether the person receives mail at the property.

The bill provides that a transient occupancy terminates under the following circumstances:

- When a transient occupant begins to reside elsewhere;
- When a transient occupant surrenders the key to the dwelling; or
- When a transient occupant agrees to leave the dwelling when directed by a law enforcement officer, the party entitled to possession, or a court.

The bill also specifies that a transient occupancy is not extended by the presence of personal belongings of a former transient occupant.

Recovery of Former Transient Occupant's Personal Belongings

The bill provides a mechanism by which a former transient occupant is able to recover his or her personal belongings. The bill requires the party entitled to possession of the dwelling to allow the former transient occupant to recover his or her personal belongings at reasonable times and under reasonable conditions.

²⁸ Section 82.101, F.S.

²⁹ Section 715.104, F.S.

³⁰ The date specified in the notice cannot be fewer than 10 days after the notice is personally delivered or no less than 15 days after the notice is deposited in the mail. Section 715.104(2), F.S.

³¹ *Id.*

The bill provides that a reasonable time for the recovery of the personal belongings includes a convenient time when the party entitled to possession of the dwelling or a trusted third party can be present at the dwelling to supervise the recovery of the belongings.

The bill establishes that it is reasonable for the party entitled to possession of the dwelling to impose additional conditions on access to the dwelling or personal belongings if the party entitled to possession reasonably believes the former transient occupant has engaged in misconduct or has a history of violence or drug or alcohol abuse.

Misconduct includes, but is not limited to:

- Intentional damage to the dwelling, to the property owned by the party entitled to possession of the dwelling, or to property owned by another occupant of the dwelling;
- Physical or verbal abuse directed at the party entitled to possession of the dwelling or another occupant of the dwelling; or
- Theft of property belonging to the party entitled to possession of the dwelling or property of another occupant of the dwelling.

The bill identifies additional conditions that may be imposed on access to the dwelling or personal belongings. These conditions include, but are not limited to, the presence of a law enforcement officer, the use of a mover registered with the Department of Agriculture and Consumer Services (DACs),³² or the use of a trusted third party to recover the personal belongings.

Abandonment of Former Transient Occupant's Personal Belongings

The bill provides that the person entitled to possession of a dwelling can presume the former transient occupant has abandoned any personal belongings left at the dwelling if the former transient occupant does not seek to recover the belongings within a reasonable time after surrendering occupancy of the dwelling.

The bill deems that a reasonable time for a former transient occupant to recover personal belongings is 5 days after the termination of the transient occupancy, unless specific circumstances require a reasonable time to be shorter or longer than 5 days.

Circumstances that extend the length of reasonable time include:

- An agreement to hold the property for longer than 5 days; or
- The unavailability of the party entitled to possession of the property to supervise the recovery of the personal belongings.

Circumstances that shorten the length of reasonable time include, but are not limited to:

- The poor condition of or the perishable or hazardous nature of the personal belongings;
- The intent of the former transient occupant to abandon or discard the belongings; or
- The significant impairment of the use of the dwelling by the storage of the former transient occupant's personal belongings.

³² Ch. 507, F.S. requires any person engaged in intrastate moving to register with the DACs.

Unreasonably Withheld Access to Personal Belongings

The bill provides that a former transient occupant may bring a civil action for damages against a person entitled to possession of the dwelling if that person unreasonably withholds access to the former transient occupant's personal belongings. In such action, the bill directs the court to award reasonable attorney fees and costs to the prevailing party.

Effective Date

The bill provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The State Constitution addresses the property rights of citizens in two pertinent provisions. Article 1, section 2 provides that all natural persons have the right to acquire, possess, and protect property. Article 1, section 9 provides that "No person shall be deprived of life, liberty or property without due process of law..."

The bill requires the party entitled to possession of the dwelling to allow a former transient occupant to recover his or her personal belongings and provides that such belongings are presumed abandoned if the former transient occupant does not seek to recover the personal belongings within 5 days of surrendering occupancy of the dwelling. However, the bill does not address whether the former transient occupant will receive notice of his or her opportunity to recover the personal belongings, making it unclear whether the bill, by establishing a presumption of abandonment, allows property rights to be taken in violation of the State Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 82.045, F.S., more frequently refers to “property” or “residential property” when describing transient occupancy, while the bill uses the term “dwelling.”

The bill authorizes the party entitled to possession of the property to impose additional conditions on access to the dwelling or personal belongings, including the use of a mover registered with the DACS. The bill does not address whether the party entitled to possession of the dwelling or the former transient occupant is responsible for the cost of the mover services.

VIII. Statutes Affected:

This bill substantially amends section 82.045 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Young

18-00472B-18

2018566__

A bill to be entitled

An act relating to unlawful detention by a transient occupant; amending s. 82.045, F.S.; revising factors that establish a person as a transient occupant of residential property; specifying circumstances when a transient occupancy terminates; providing that a transient occupancy is not extended by the presence of personal belongings of a former transient occupant; requiring the party entitled to possession of a dwelling to allow a former transient occupant to recover personal belongings at certain reasonable times and under reasonable conditions; authorizing a party entitled to possession of the dwelling, under certain circumstances, to impose additional conditions on access to the dwelling or personal belongings; providing a presumption of when a former transient occupant has abandoned his or her personal belongings; specifying a reasonable time to recover personal belongings and circumstances that may extend or shorten the time; authorizing a former transient occupant, under certain circumstances, to bring a civil action for damages or recovery of personal belongings; requiring a court to award the prevailing party reasonable attorney fees and costs; providing construction; providing an effective date.

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

Section 1. Section 82.045, Florida Statutes, is amended to

Page 1 of 6

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

18-00472B-18

2018566__

read:

82.045 Remedy for unlawful detention by a transient occupant of residential property.—

(1) As used in this section, the term "transient occupant" means a person whose residency in a dwelling intended for residential use has occurred for a brief length of time, is not pursuant to a lease, and whose occupancy was intended as transient in nature.

(a) Factors that establish that a person is a transient occupant include, but are not limited to:

1. The person does not have an ownership interest, financial interest, or leasehold interest in the property entitling him or her to occupancy of the property.

2. The person does not have any property utility subscriptions.

3. Within the previous 12 months, the person did ~~does~~ not use the property address as an address of record with any governmental agency, including, but not limited to, the Department of Highway Safety and Motor Vehicles or the supervisor of elections.

~~4. The person does not receive mail at the property.~~

4.5- The person pays minimal or no rent for his or her stay at the property.

5.6- The person does not have a designated space of his or her own, such as a room, at the property.

6.7- The person has minimal, if any, personal belongings at the property.

7.8- The person has an apparent permanent residence elsewhere.

Page 2 of 6

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

18-00472B-18

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59 (b) Minor contributions made for the purchase of household
60 goods, or minor contributions towards other household expenses,
61 do not establish residency.

62 (2) A transient occupant unlawfully detains a residential
63 property if the transient occupant remains in occupancy of the
64 residential property after the party entitled to possession of
65 the property has directed the transient occupant to leave. A
66 transient occupancy terminates when a transient occupant begins
67 to reside elsewhere, surrenders the key to the dwelling, or
68 agrees to leave the dwelling when directed by a law enforcement
69 officer, the party entitled to possession, or a court. A
70 transient occupancy is not extended by the presence of personal
71 belongings of a former transient occupant.

72 (3) Any law enforcement officer may, upon receipt of a
73 sworn affidavit of the party entitled to possession that a
74 person who is a transient occupant is unlawfully detaining
75 residential property, direct a transient occupant to surrender
76 possession of residential property. The sworn affidavit must set
77 forth the facts, including the applicable factors listed in
78 paragraph (1) (a), which establish that a transient occupant is
79 unlawfully detaining residential property.

80 (a) A person who fails to comply with the direction of the
81 law enforcement officer to surrender possession or occupancy
82 violates s. 810.08. In any prosecution of a violation of s.
83 810.08 related to this section, whether the defendant was
84 properly classified as a transient occupant is not an element of
85 the offense, the state is not required to prove that the
86 defendant was in fact a transient occupant, and the defendant's
87 status as a permanent resident is not an affirmative defense.

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88 (b) A person wrongfully removed pursuant to this subsection
89 has a cause of action for wrongful removal against the person
90 who requested the removal, and may recover injunctive relief and
91 compensatory damages. However, a wrongfully removed person does
92 not have a cause of action against the law enforcement officer
93 or the agency employing the law enforcement officer absent a
94 showing of bad faith by the law enforcement officer.

95 (4) A party entitled to possession of a dwelling has a
96 cause of action for unlawful detainer against a transient
97 occupant pursuant to s. 82.04. The party entitled to possession
98 is not required to notify the transient occupant before filing
99 the action. If the court finds that the defendant is not a
100 transient occupant but is instead a tenant of residential
101 property governed by part II of chapter 83, the court may not
102 dismiss the action without first allowing the plaintiff to give
103 the transient occupant the notice required by that part and to
104 thereafter amend the complaint to pursue eviction under that
105 part.

106 (5) The party entitled to possession of a dwelling shall
107 allow a former transient occupant to recover his or her personal
108 belongings at reasonable times and under reasonable conditions.

109 (a) A reasonable time for the recovery of the former
110 transient occupant's personal belongings includes a convenient
111 time when the party entitled to possession of the dwelling or a
112 trusted third party can be present at the dwelling to supervise
113 the recovery of the belongings.

114 (b) If the party entitled to possession of the dwelling
115 reasonably believes that the former transient occupant has
116 engaged in misconduct or has a history of violence or drug or

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117 alcohol abuse, it is reasonable for the party entitled to
 118 possession of the dwelling to impose additional conditions on
 119 access to the dwelling or the personal belongings. These
 120 conditions may include, but are not limited to, the presence of
 121 a law enforcement officer, the use of a mover registered with
 122 the Department of Agriculture and Consumer Services, or the use
 123 of a trusted third party to recover the personal belongings. For
 124 purposes of this paragraph, misconduct includes, but is not
 125 limited to:

126 1. Intentional damage to the dwelling, to property owned by
 127 the party entitled to possession of the dwelling, or to property
 128 owned by another occupant of the dwelling;

129 2. Physical or verbal abuse directed at the party entitled
 130 to possession of the dwelling or another occupant of the
 131 dwelling; or

132 3. Theft of property belonging to the party entitled to
 133 possession of the dwelling or property of another occupant of
 134 the dwelling.

135 (c) The person entitled to possession of a dwelling may
 136 presume that the former transient occupant has abandoned
 137 personal belongings left at the dwelling if the former transient
 138 occupant does not seek to recover them within a reasonable time
 139 after the transient occupant surrenders occupancy of the
 140 dwelling. A reasonable time to recover personal belongings is
 141 deemed to be 5 days after the termination of the transient
 142 occupancy, but may be longer or shorter depending on the
 143 specific circumstances. Circumstances that may extend the time
 144 include an agreement to hold the property for longer than 5 days
 145 or the unavailability of the party entitled to possession of the

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146 dwelling to supervise the recovery of the personal belongings.
 147 Circumstances that may shorten the time include, but are not
 148 limited to, the poor condition of or the perishable or hazardous
 149 nature of the personal belongings, the intent of the former
 150 transient occupant to abandon or discard the belongings, or the
 151 significant impairment of the use of the dwelling by the storage
 152 of the former transient occupant's personal belongings.

153 (d) If the person entitled to possession of the dwelling
 154 unreasonably withholds access to a former transient occupant's
 155 personal belongings, the former transient occupant may bring a
 156 civil action for damages or the recovery of the property. The
 157 court shall award the prevailing party reasonable attorney fees
 158 and costs.

159 (6) This section is construed in recognition of the right
 160 to exclude others as one of the most essential components of
 161 property rights.

162 Section 2. This act shall take effect July 1, 2018.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy, *Chair*
Appropriations Subcommittee on Pre-K - 12
Education, *Vice Chair*
Commerce and Tourism
Communications, Energy, and Public Utilities
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DANA YOUNG

18th District

November 2, 2017

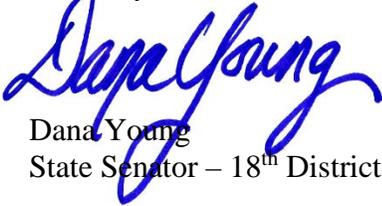
Senator Bill Montford, Chair
Commerce and Tourism Committee
310 Knott Building
404 S. Monroe Street
Tallahassee, Florida 32399-1100

Dear Chair Montford,

My Senate Bill 566 relating to Unlawful Detention by a Transient Occupant has been referred to your committee for a hearing. I respectfully request that this bill be placed on your next available agenda.

Should you have any questions, please do not hesitate to reach out to me.

Sincerely,



Dana Young
State Senator – 18th District

cc: Todd McKay, Staff Director – Commerce and Tourism Committee

REPLY TO:

- 1211 N. Westshore Blvd, Suite 409, Tampa, Florida 33607 (813) 281-5507
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

12.4.17

Meeting Date

566

Bill Number (if applicable)

Topic Unlawful Detention

Amendment Barcode (if applicable)

Name Ken "Cope-CHEN-ski" Koczynski

Job Title Lobbyist

Address 300 East Brevard St
Street

Phone 222-3329

Tallah FL 32301
City State Zip

Email Ken@flpb.org

Speaking: For Against Information

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

Representing FLA PBA Inc

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 664

INTRODUCER: Commerce and Tourism Committee and Senators Young and Steube

SUBJECT: Salvage of Pleasure Vessels

DATE: December 4, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Little</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
2.	_____	_____	<u>TR</u>	_____
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 664 creates the “Florida Salvage of Pleasure Vessels Act” (act) to provide certain consumer protections for salvage work performed on pleasure vessels, similar to those contained in part IX, ch. 559, F.S., relating to the repair of motor vehicles.

The bill establishes the circumstances in which a salvor must provide a customer or potential customer with a written disclosure statement and salvage work estimate for services. If a salvor’s charges exceed the written estimate by more than 20 percent, the salvor is required to promptly notify the customer of the additional estimated charge and allow the customer to authorize, modify, or cancel the order for salvage.

The bill also requires vessels doing salvage work to post readable signs in a conspicuous manner that inform the customer that the salvors are professional salvors that charge for their services and that the customer has a right to a written estimate for the services offered.

The bill establishes the unlawful acts and practices that constitute a violation of the act and provides a legal remedy for customers injured by such violations. The bill directs the court to award a prevailing customer damages in the amount of three times that charged by the salvor, plus actual damages, court costs, and reasonable attorney fees. The bill also provides that a customer may bring an action for injunctive relief in the circuit court.

The bill takes effect on July 1, 2018.

II. Present Situation:

Salvage of Vessels

Admiralty law encourages seamen to render prompt aid to vessels and property in peril at sea by authorizing vessels of the United States and numbered motorboats owned by citizens to engage in any salvage operation within the territorial waters of the United States.¹

An award for salvage is “the compensation allowed to persons by whose voluntary assistance a ship at sea or her cargo or both have been saved in whole or in part from impending sea peril.”²

To assert a valid salvage claim, a salvor must establish three necessary elements:

- That a marine peril³ existed;
- That the salvage service was rendered voluntarily and was not required as an existing duty or from a special contract; and
- That the salvage service rendered contributed to success, in whole or in part, in saving the ship from the marine peril.⁴

Federal district courts have original jurisdiction of “any civil case of admiralty or maritime jurisdiction, saving to suitors in all cases all other remedies to which they are otherwise entitled.”^{5,6} The amount of an award for salvage can vary greatly.⁷ Traditionally, courts have considered the following factors in determining an award for salvage:

- The labor expended by the salvors in rendering the salvage service;
- The promptitude, skill, and energy displayed in rendering the salvage service;
- The value of the property employed by the salvors in rendering the service; and
- The danger to which such property was exposed;
- The risk incurred by the salvors in securing the property from the impending peril;
- The value of the property employed by the salvors in rendering the service and the danger to which such property was exposed;
- The risk incurred by the salvors in securing the property from the impending peril;
- The value of the property saved; and
- The degree of danger from which the property was rescued.⁸

¹ 19 C.F.R. s. 4.97(a) (1969).

² *The Sabine*, 101 U.S. 384, 384 (1879).

³ Marine peril does not necessarily require immediate or actual danger so long as at the time the assistance was rendered the ship was in a situation that might expose her to loss or destruction. *Fine v. Rockwood*, 895 F. Supp. 306, 309 (S.D. Fla 1995).

⁴ *Id.* See also *Klein v. Unidentified Wreck & Abandoned Sailing Vessel*, 785 F.2d 1511, 1515 (11th Cir. 1985).

⁵ 28 U.S.C. s. 1333.

⁶ The “saving to suitors clause” has been interpreted to allow state courts concurrent jurisdiction over common law claims arising in connection with admiralty claims. See *Sebastian Tow Boat & Salvage, Inc. v. Vernon Slavens & Allstate Floridian Insurance Co.*, 16 FLW Fed, D187 (M.D. Fla. 2002) (holding that the state court has concurrent jurisdiction, so long as the case proceeded *in personam* rather than *in rem*, and the cause of action arose from a contract entered into by both parties).

⁷ *Biscayne Towing & Salvage, Inc. v. Kilo Alfa Ltd.*, 2004 WL 3310573 (S.D. Fla 2004).

⁸ *The Blackwell*, 77 U.S. 1 (1869).

In an effort to establish uniformity in determining the amount of a salvage award, The 1989 International Convention on Salvage⁹ added additional factors to consider in determining the amount of a salvage award. The additional factors include consideration for the prevention or minimization of environmental damage.¹⁰

Written Motor Vehicle Repair Estimate and Disclosure Statement

Under current law, motor vehicle repair shops are required to provide a written repair estimate if the cost of the repair work will exceed \$100, unless the customer waives in writing his or her right to receive a written estimate. The estimate must include the estimated cost of repair work and the following information:

- The name, address, and telephone number of the motor vehicle repair shop;
- The name, address, and telephone number of the customer;
- The date and time of the written repair estimate;
- The year, make, model, odometer reading, and license tag number of the motor vehicle;
- The proposed work completion date;
- A general description of the customer's problem or request for repair work or service;
- A statement as to whether the customer is being charged according to a flat rate or an hourly rate, or both;
- The estimated cost of repair, including any charge for shop supplies or for hazardous or other waste removal;
- The customer's intended method of payment;
- The name and telephone number of another person who may authorize repair work;
- A statement indicating any guarantees offered in connection with the repair work;
- A statement allowing the customer to indicate whether replaced parts should be saved for inspection or return; and
- A statement indicating the daily charge for storing the customer's motor vehicle after the repair work has been completed.¹¹

III. Effect of Proposed Changes:

Section 1 creates a new part of ch. 559, F.S., entitled "Salvage of Pleasure Vessels."

Section 2 provides a short title for the "Florida Salvage of Pleasure Vessels Act" (act).

Section 3 applies the act to all salvors operating in Florida, with the exception of:

- Any person who performs salvage work while employed by a municipal, county, state, or federal government when carrying out the functions of that government;
- Any person who engages solely in salvage work for:

⁹ United Nations, *International Convention on Salvage*, available at <https://treaties.un.org/doc/Publication/UNTS/Volume%201953/v1953.pdf> (last visited Dec. 1, 2017).

¹⁰ *International Convention on Salvage, 1989*, <http://treaties.fco.gov.uk/docs/pdf/1996/TS0093.pdf> (last visited Dec. 1, 2017); International Maritime Organization, *International Convention on Salvage*, available at <http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-Salvage.aspx>, (last visited Dec. 1, 2017).

¹¹ Section 559.905, F.S.

- Pleasure vessels that are owned, maintained, and operated exclusively by such person and for the person's own use; or
- For-hire pleasure vessels that are rented for periods of 30 days or less;
- Any person who owns or operates a marina or shore-based repair facility and is in the business of repairing pleasure vessels, where the salvage work takes place exclusively at the person's facility;
- Any person who is in the business of repairing pleasure vessels who performs the repair work at a landside or shoreside location designated by the customer; or
- Any person who is in the business of recovering, storing, or selling pleasure vessels on behalf of insurance companies that insure the vessels.

Section 4 provides the definitions for the customer,¹² employee,¹³ pleasure vessel,¹⁴ salvage work,¹⁵ and salvor.¹⁶

Section 5 provides the circumstances in which a written disclosure statement and salvage work estimate must be provided to a customer. If the cost of salvage work might exceed \$500 and the customer is present on the vessel, the salvor is required to provide the customer with a written notice conspicuously disclosing in a separate, blocked section the following information in at least 12-point type:

- A statement asking the customer to read carefully and check one of the statements below and sign;
- A statement that the customer understands that, under state law, the customer is entitled to a written estimate if the final bill might exceed \$500;
- An option to check a box to indicate the customer requests a written estimate;
- An option to check a box to indicate the customer does not request a written estimate as long as the salvage charges do not exceed an unassigned amount of money, as designated by the customer. The salvor cannot exceed the amount designated by the customer without the written or oral approval of the customer;
- An option to check a box to indicate the customer does not request a written estimate; and
- An area for the customer to provide a signature and date.

The salvor is also required to prepare a written estimate for the cost of its services when a customer requests such estimate any time before or during the rendering of any salvage work by

¹² "Customer" means the person who requests or signs the written salvage estimate or is entitled to receive a written salvage estimate, or any other person whom the person who requests, signs, or is entitled to receive the written salvage estimate designates on the written salvage estimate as a person who may authorize salvage work.

¹³ "Employee" means an individual who is employed full-time or part-time by a salvor and performs salvage work.

¹⁴ "Pleasure vessel" means any watercraft no more than 60 feet in length which is used solely for personal pleasure, family use, or the transportation of executives, persons under the employment of, and other guests of the owner.

¹⁵ "Salvage work" means any assistance, services, repairs, or other efforts rendered by a salvor relating to saving, preserving, or rescuing a pleasure vessel or its passengers and crew which are in marine peril. Salvage work does not include towing a vessel.

¹⁶ "Salvor" means a person in the business of voluntarily providing assistance, services, repairs, or other efforts related to saving, preserving, or rescuing a pleasure vessel or the vessel's passengers and crew which are in marine peril in exchange for compensation.

a salvor. This written salvage estimate must state the estimated cost of salvage work, including the cost of any inspections or diagnostic work, and must also include the following items:

- The name, address, and telephone number of the salvor's business;
- The name, address, and telephone number of the customer;
- The date and time of the written salvage estimate;
- A general description of the pleasure vessel;
- A general description of the customer's problem or request for repair work or service relating to the pleasure vessel;
- A statement as to the basis on which the customer is being charged, such as a flat rate, an hourly rate, or both;
- The estimated cost of the salvage work, unless the salvor does not possess sufficient information concerning the marine peril to formulate an estimate, in which case the salvor must provide the customer an estimate for the effort required to determine the source, cause, or nature of the marine peril. Once the salvor has sufficient information regarding the marine peril, the salvor must provide an estimate for the salvage work;
- A statement indicating the daily charge for storing the customer's pleasure vessel if it is to be towed or otherwise transported to a different location from where the salvor performs the work;
- The cancellation fee determined by the salvor in the event the customer cancels the order for services in accordance with s. 559.9605(1), F.S.; and
- A copy of any required disclosure statement, which may be provided on the same form as the written estimate.

The bill specifies that a salvor is not required to give a written estimated price if the salvor does not agree to provide any assistance, service, repairs, or other effort to a potential customer.

The bill also provides that a customer may cancel the salvage work at any time.

Section 6 requires a salvor to promptly, verbally notify a customer of an additional charge if the salvor determines the actual charges for the assistance, service, or repair work will exceed the written estimate by more than 20 percent. After notification, the bill authorizes a customer to authorize, modify, or cancel the order for salvage. The salvor can only continue to work on the pleasure vessel upon authorization from the customer and the work must continue only within the scope authorized by the customer.

If a customer cancels the order for salvage after being advised that the salvage work cannot be accomplished within the previously authorized estimate, the salvor is required to expeditiously place the pleasure vessel back into a condition reasonably similar to the condition in which it was received, unless the customer waives that effort or doing so would be unsafe.

The bill provides that the salvor may charge for salvage work provided up to the point of cancellation, but the charge may not exceed the previously agreed upon cancellation fee. The salvor is only authorized to charge for any work undertaken on the agreed-upon basis.

Section 7 requires vessels used by salvors in connection with performing salvage work to have signs posted in a manner conspicuous to customers and potential customers, readable from the

pleasure vessel of the customer or potential customer. The signs must inform customers and potential customers that:

- The salvors are professional salvors that charge for their services; and
- Customers and potential customers have a right to a written estimate for the services offered.

Section 8 establishes that it is unlawful for a salvor or its employees to:

- Provide or charge for services that have not been expressly or implicitly authorized by the customer when the customer is present on the pleasure vessel;
- Misrepresent that a pleasure vessel being inspected is in a dangerous condition or that the customer's continued use of the pleasure vessel may be hazardous to the customer or cause great damage to, or loss of, the vessel;
- Fraudulently alter any customer contract, estimate, invoice, or other document;
- Fraudulently misuse any customer's credit card;
- Make or authorize in any manner any written or oral statement which is known, or should be known by the exercise of reasonable care, to be untrue, deceptive, or misleading;
- Make false statements of a character likely to influence, persuade, or induce a customer to authorize salvage work for a pleasure vessel;
- Require any customer to waive these rights as a precondition to performing salvage work;
- Charge a customer more than 20 percent over the written estimate provided to the customer without obtaining proper authorization; or
- Perform any other act that violates the act or that constitutes fraud or misrepresentation.

Section 9 authorizes a customer injured by a violation of the act to bring an action for relief in the appropriate court. The bill provides that a customer that prevails in such action should be entitled to:

- Damages in the amount of three times that charged by the salvor;
- Actual damages;
- Court costs; and
- Reasonable attorneys fees.

The bill provides that the customer may also bring an action for injunctive relief in the circuit court and that the remedies provided in the act are in addition to any other remedy provided by law.

Section 10 provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The U.S. Constitution grants federal district courts judicial power over of any civil case of admiralty or maritime jurisdiction.¹⁷ While it is established that federal courts have exclusive jurisdiction over *in rem* actions,¹⁸ courts are split as to whether states can handle admiralty or maritime *in personam* claims for *quantum meruit*.¹⁹ Generally, state courts may apply state law to maritime actions so long as there is no conflict with federal law.²⁰

The bill provides a legal remedy for injured customers and directs the court to award damages to a prevailing customer, including reasonable attorney fees. Federal maritime law does not award attorneys fees to a prevailing party.²¹ It is unclear whether a federal court or state court would have jurisdiction over a dispute arising from the written estimate for services required by the bill. If the dispute is considered an *in personam* claim concerning a contractual agreement, it may fall within the jurisdiction of a state court. However, if a dispute arising from the written estimate is considered to fall within federal maritime jurisdiction, the language in the bill directing the court to award attorney fees to the prevailing party may be preempted.

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

None.

B. Private Sector Impact:

Individuals in need of salvage work for a pleasure vessel may see a reduction in the cost of salvage work if they are afforded an opportunity to receive written estimates from multiple salvors.

C. Government Sector Impact:

Indeterminate.

¹⁷ U.S. Const. Art. III, ss. 1 and 2.

¹⁸ *Madruga v. Superior Court of State of California ex. Rel San Diego County*, 346 U.S. 556 (1954).

¹⁹ See *Metropolitan Dade County v. One (1) Bronze Cannon*, 537 F.Supp. 923 (S.D. Fla. 1982) (explaining the “saving to suitors” clause affords litigants a choice of remedies but not forums) and *Lewis v. JPI Corp.*, Case No. 07-20103-CIV-TORRES (S.D. Fla. 2009) (“The salvage award, which is unique to maritime and admiralty law, is not one of *quantum meruit* as compensation for work performed”). Compare *Sebastian Tow Boat & Salvage*, *supra* note 6 and *Phillips v. Sea Tow/ Sea Spill of Savannah*, 578 S.E.2d 846 (Ga. 2002).

²⁰ *Madruga*, 346 U.S. 556 (1954).

²¹ *Garan Inc. v. MV Aivik*, 907 F.Supp. 397 (S.D. Fla. 1995) (holding that absent specific federal statutory authorization, federal maritime law does not entitle a prevailing party an award of attorney fees).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 559.9601, 559.9608, 559.9602, 559.9603, 559.9604, 559.9605, 559.9606, 559.9607.

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 Commerce and Tourism Committee on December 4, 2017:

The bill is amended to:

- Clarify that the bill does not apply to any person who is in the business of recovering, storing, or selling pleasure vessels on behalf of insurance companies that insure the vessels;
- Make a technical change to correct the sequential order of the parts and statutes within ch. 559, F.S.; and
- Make a technical change to ensure the term “employee” is used consistently throughout the bill.

- B. **Amendments:**

None.



888344

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/04/2017	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Young) recommended the following:

Senate Amendment

Delete lines 26 - 68
and insert:
directed to change the title of part XII of chapter 559, Florida Statutes, from "Miscellaneous Provisions" to "Internet Sales,"
and to create a new part XIII of chapter 559, Florida Statutes,
consisting of ss. 559.9601-559.9608, Florida Statutes, to be
entitled "Salvage of Pleasure Vessels."

Section 1. Section 559.9601, Florida Statutes, is created



888344

11 to read:

12 559.9601 Short title.—Sections 559.9601-559.9608 may be
13 cited as the “Florida Salvage of Pleasure Vessels Act.”

14 Section 2. Section 559.9602, Florida Statutes, is created
15 to read:

16 559.9602 Scope and application.—This part shall apply to
17 all salvors operating in Florida, except:

18 (1) Any person who performs salvage work while employed by
19 a municipal, county, state, or federal government when carrying
20 out the functions of that government.

21 (2) Any person who engages solely in salvage work for:

22 (a) Pleasure vessels that are owned, maintained, and
23 operated exclusively by such person and for that person’s own
24 use; or

25 (b) For-hire pleasure vessels that are rented for periods
26 of 30 days or less.

27 (3) Any person who owns or operates a marina or shore-based
28 repair facility and is in the business of repairing pleasure
29 vessels, where the salvage work takes place exclusively at that
30 person’s facility.

31 (4) Any person who is in the business of repairing pleasure
32 vessels who performs the repair work at a landside or shoreside
33 location designated by the customer.

34 (5) Any person who is in the business of recovering,
35 storing, or selling pleasure vessels on behalf of insurance
36 companies that insure the vessels.

37 Section 3. Section 559.9603, Florida Statutes, is created
38 to read:

39 559.9603 Definitions.—As used in this part, the term:



888344

40 (1) "Customer" means the person who requests or signs the
41 written salvage estimate or is entitled to receive a written
42 salvage estimate, or any other person whom the person who
43 requests, signs, or is entitled to receive the written salvage
44 estimate designates on the written salvage estimate as a person
45 who may authorize salvage work.

46 (2) "Employee" means an individual who is employed full-
47 time or part-time by a salvor and performs salvage work.

48 (3) "Pleasure vessel" means any watercraft no more than 60
49 feet in length which is used solely for personal pleasure,
50 family use, or the transportation of executives, persons under
51 the employment, and

By Senator Young

18-00374C-18

2018664__

1 A bill to be entitled
 2 An act relating to the salvage of pleasure vessels;
 3 providing a directive to the Division of Law Revision
 4 and Information; creating s. 559.9601, F.S.; providing
 5 a short title; creating s. 559.9602, F.S.; providing
 6 scope and applicability; creating s. 559.9603, F.S.;

7 providing definitions; creating s. 559.9604, F.S.;

8 requiring salvors of pleasure vessels to provide a
 9 specified written disclosure statement and salvage
 10 work estimate; creating s. 559.9605, F.S.; requiring
 11 such salvors to obtain customer permission before
 12 exceeding the written estimate by more than a
 13 specified amount; specifying salvor responsibilities
 14 and rights to certain fees in the event that a
 15 customer cancels the order for salvage; creating s.
 16 559.9606, F.S.; requiring salvors to post specified
 17 signage on their vessels; creating s. 559.9607, F.S.;

18 specifying violations; creating s. 559.9608, F.S.;

19 providing remedies; specifying that such remedies are
 20 in addition to others provided by law; providing an
 21 effective date.

22

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

24

25 Section 1. The Division of Law Revision and Information is
 26 directed to redesignate s. 559.951, Florida Statutes, as part
 27 XIII of chapter 559, Florida Statutes, entitled "Miscellaneous
 28 Provisions," and create a new part XII of chapter 559, Florida
 29 Statutes, consisting of ss. 559.9601-559.9608, Florida Statutes,

Page 1 of 8

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

18-00374C-18

2018664__

30 to be entitled "Salvage of Pleasure Vessels."
 31 Section 2. Section 559.9601, Florida Statutes, is created
 32 to read:
 33 559.9601 Short title.—Sections 559.9601-559.9608 may be
 34 cited as the "Florida Salvage of Pleasure Vessels Act."
 35 Section 3. Section 559.9602, Florida Statutes, is created
 36 to read:
 37 559.9602 Scope and application.—This part shall apply to
 38 all salvors operating in Florida, except:
 39 (1) Any person who performs salvage work while employed by
 40 a municipal, county, state, or federal government when carrying
 41 out the functions of that government.
 42 (2) Any person who engages solely in salvage work for:
 43 (a) Pleasure vessels that are owned, maintained, and
 44 operated exclusively by such person and for that person's own
 45 use; or
 46 (b) For-hire pleasure vessels that are rented for periods
 47 of 30 days or less.
 48 (3) Any person who owns or operates a marina or shore-based
 49 repair facility and is in the business of repairing pleasure
 50 vessels, where the salvage work takes place exclusively at that
 51 person's facility.
 52 (4) Any person who is in the business of repairing pleasure
 53 vessels who performs the repair work at a landside or shoreside
 54 location designated by the customer.
 55 Section 4. Section 559.9603, Florida Statutes, is created
 56 to read:
 57 559.9603 Definitions.—As used in this part, the term:
 58 (1) "Customer" means the person who requests or signs the

Page 2 of 8

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

18-00374C-18 2018664

59 written salvage estimate or is entitled to receive a written
 60 salvage estimate, or any other person whom the person who
 61 requests, signs, or is entitled to receive the written salvage
 62 estimate designates on the written salvage estimate as a person
 63 who may authorize salvage work.
 64 (2) "Employee" means an individual who is employed full-
 65 time or part-time by a salvor and performs salvage work.
 66 (3) "Pleasure vessel" means any watercraft no more than 60
 67 feet in length which is used solely for personal pleasure,
 68 family use, or the transportation of executives, employees, and
 69 guests of the owner.
 70 (4) "Salvage work" means any assistance, services, repairs,
 71 or other efforts rendered by a salvor relating to saving,
 72 preserving, or rescuing a pleasure vessel or its passengers and
 73 crew which are in marine peril. Salvage work does not include
 74 towing a pleasure vessel.
 75 (5) "Salvor" means a person in the business of voluntarily
 76 providing assistance, services, repairs, or other efforts
 77 relating to saving, preserving, or rescuing a pleasure vessel or
 78 the vessel's passengers and crew which are in marine peril, in
 79 exchange for compensation.
 80 Section 5. Section 559.9604, Florida Statutes, is created
 81 to read:
 82 559.9604 Written disclosure statement and salvage work
 83 estimate.—
 84 (1) If the cost of salvage work may exceed \$500 and the
 85 customer is present on the vessel, the salvor must present to
 86 the customer a written notice conspicuously disclosing in a
 87 separate, blocked section only the following statement, in

18-00374C-18 2018664

88 capital letters of at least 12-point type:
 89
 90 PLEASE READ CAREFULLY, CHECK ONE OF THE STATEMENTS BELOW, AND
 91 SIGN:
 92 I UNDERSTAND THAT, UNDER STATE LAW, I AM ENTITLED TO A
 93 WRITTEN ESTIMATE IF MY FINAL BILL MAY EXCEED \$500.
 94
 95 I REQUEST A WRITTEN ESTIMATE.
 96
 97 I DO NOT REQUEST A WRITTEN ESTIMATE AS LONG AS THE
 98 SALVAGE CHARGES DO NOT EXCEED \$..... THE SALVOR MAY NOT EXCEED
 99 THIS AMOUNT WITHOUT MY WRITTEN OR ORAL APPROVAL.
 100
 101 I DO NOT REQUEST A WRITTEN ESTIMATE.
 102
 103 SIGNED DATE
 104
 105 (2) When a customer requests an estimate for the cost of
 106 salvage work any time before or during the rendering of any
 107 salvage work by a salvor, the salvor shall prepare a written
 108 estimate for the costs of its services, in a form stating the
 109 estimated cost of salvage work, including the cost of any
 110 inspections or diagnostic work. The written salvage estimate
 111 must also include the following items:
 112 (a) The name, address, and telephone number of the salvor's
 113 business.
 114 (b) The name, address, and telephone number of the
 115 customer.
 116 (c) The date and time of the written salvage estimate.

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117 (d) A general description of the pleasure vessel.
 118 (e) A general description of the customer's problem or
 119 request for repair work or service relating to the pleasure
 120 vessel.
 121 (f) A statement as to the basis on which the customer is
 122 being charged, such as a flat rate, an hourly rate, or both.
 123 (g) The estimated cost of the salvage work. If the salvor
 124 does not possess sufficient information concerning the source,
 125 cause, or nature of the marine peril to formulate an estimate
 126 for the salvage work, the salvor must provide the customer an
 127 estimate for the effort required to determine the source, cause,
 128 or nature of the marine peril in accordance with this section.
 129 At such time that the salvor has sufficient information to
 130 provide an estimate for the cost of the salvage work, the salvor
 131 shall provide that estimate according to this section.
 132 (h) A statement indicating the daily charge for storing the
 133 customer's pleasure vessel if it is to be towed or otherwise
 134 transported to a different location than where the salvor
 135 performs the salvage work.
 136 (i) A cancellation fee, as determined by the salvor, in the
 137 event a customer cancels the order for services in accordance
 138 with s. 559.9605(1).
 139 (3) A copy of the disclosure statement required by
 140 subsection (1) and, if requested, the written salvage estimate
 141 required by subsection (2) must be given to the customer before
 142 salvage work begins. The disclosure statement may be provided on
 143 the same form as the written estimate.
 144 (4) This section may not be construed to require a salvor
 145 to give a written estimated price if the salvor does not agree

Page 5 of 8

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146 to provide any assistance, service, repairs, or other effort to
 147 a potential customer.
 148 (5) A customer may cancel the salvage work at any time.
 149 Section 6. Section 559.9605, Florida Statutes, is created
 150 to read:
 151 559.9605 Notification of charges in excess of salvage
 152 estimate; unlawful charges.—
 153 (1) If a determination is made by a salvor that the actual
 154 charges for the assistance, service, or repair work will exceed
 155 the written estimate by more than 20 percent, the customer must
 156 be promptly verbally notified of the additional estimated
 157 charge. A customer so notified may, orally or in writing,
 158 authorize, modify, or cancel the order for salvage. Except as
 159 specified in this section, the salvor may only continue work on
 160 the pleasure vessel upon authorization from the customer and
 161 work must continue only within the scope the customer
 162 authorized.
 163 (2) If a customer cancels the order for salvage after being
 164 advised that salvage work which she or he has authorized cannot
 165 be accomplished within the previously authorized estimate, the
 166 salvor must expeditiously place the pleasure vessel back into a
 167 condition reasonably similar to the condition in which it was
 168 received unless:
 169 (a) The customer waives that effort; or
 170 (b) To do so would be unsafe.
 171
 172 After cancellation of the salvor's service, the salvor may
 173 charge for salvage work provided up to the point of
 174 cancellation, but the salvor's charge may not exceed the

Page 6 of 8

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175 cancellation fee agreed to by the salvor pursuant to s.
 176 559.9604(2)(i). The salvor may only charge for any work
 177 undertaken on the agreed-upon basis.

178 Section 7. Section 559.9606, Florida Statutes, is created
 179 to read:

180 559.9606 Required disclosure; signs; notice to customers.-
 181 All vessels used by salvors in connection with performing
 182 salvage work shall have signs posted in a manner conspicuous to
 183 customers and potential customers and that can be read from
 184 customers' and potential customers' pleasure vessels. Those
 185 signs must inform customers and potential customers that the
 186 salvors are professional salvors that charge for their services
 187 and that customers and potential customers have a right to a
 188 written estimate for the services offered.

189 Section 8. Section 559.9607, Florida Statutes, is created
 190 to read:

191 559.9607 Unlawful acts and practices.-It is a violation of
 192 this act for a salvor or its employees to:

193 (1) Provide or charge for services that have not been
 194 expressly or implicitly authorized by the customer when the
 195 customer is present on the pleasure vessel.

196 (2) Misrepresent that a pleasure vessel being inspected is
 197 in a dangerous condition or that the customer's continued use of
 198 the pleasure vessel may be hazardous to the customer or cause
 199 great damage to, or loss of, the vessel.

200 (3) Fraudulently alter any customer contract, estimate,
 201 invoice, or other document.

202 (4) Fraudulently misuse any customer's credit card.

203 (5) Make or authorize in any manner or by any means

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204 whatsoever any written or oral statement which is untrue,
 205 deceptive, or misleading, and which is known, or which by the
 206 exercise of reasonable care the salvor should know, to be
 207 untrue, deceptive, or misleading.

208 (6) Make false statements of a character likely to
 209 influence, persuade, or induce a customer to authorize salvage
 210 work for a pleasure vessel.

211 (7) Require that any customer waive her or his rights
 212 provided in this part as a precondition to performing salvage
 213 work.

214 (8) Charge a customer more than 20 percent over the written
 215 estimate provided to the customer pursuant to s. 559.9604,
 216 unless the salvor has obtained authorization to exceed the
 217 written estimate in accordance with s. 559.9605(1).

218 (9) Perform any other act that violates this part or that
 219 constitutes fraud or misrepresentation.

220 Section 9. Section 559.9608, Florida Statutes, is created
 221 to read:

222 559.9608 Remedies.-

223 (1) Any customer injured by a violation of this part may
 224 bring an action in the appropriate court for relief. A customer
 225 who prevails in such an action shall be entitled to damages in
 226 the amount of three times that charged by the salvor, plus
 227 actual damages, court costs, and reasonable attorney fees. The
 228 customer may also bring an action for injunctive relief in the
 229 circuit court.

230 (2) The remedies provided for in this section shall be in
 231 addition to any other remedy provided by law.

232 Section 10. This act shall take effect July 1, 2018.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy, *Chair*
Appropriations Subcommittee on Pre-K - 12
Education, *Vice Chair*
Commerce and Tourism
Communications, Energy, and Public Utilities
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DANA YOUNG

18th District

November 8, 2017

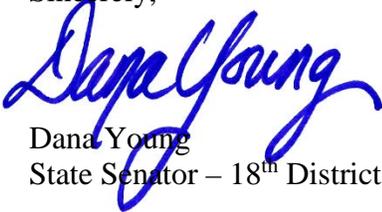
Senator Bill Montford, Chair
Commerce and Tourism Committee
310 Knott Building
404 S. Monroe Street
Tallahassee, Florida 32399-1100

Dear Chair Montford,

My Senate Bill 664 relating to Salvage of Pleasure Vessels has been referred to your committee for a hearing. I respectfully request that this bill be placed on your next available agenda.

Should you have any questions, please do not hesitate to reach out to me.

Sincerely,



Dana Young
State Senator – 18th District

cc: Todd McKay, Staff Director – Commerce and Tourism Committee

REPLY TO:

- 1211 N. Westshore Blvd, Suite 409, Tampa, Florida 33607 (813) 281-5507
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

12/4/17
Meeting Date

664
Bill Number (if applicable)

Topic SALVAGE

Amendment Barcode (if applicable)

Name BONNIE BASTAM

Job Title

Address 133 OAK ST, #15
Street

Phone 933-7277

TLH
City State Zip

Email

Speaking: For Against Information

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

Representing BOAT V. S.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

12/14/17 Meeting Date

664 Bill Number (if applicable)

Topic Salvage Reform

Amendment Barcode (if applicable)

Name Paul Parrish

Job Title Partner

Address 101 E. Kennedy Blvd Suite 3400

Phone 813 387 0267

Tampa FL 33602

Email paul.parrish@quarks.com

Speaking: For Against Information

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

Representing FL Public Advocacy

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)

12-4-17
Meeting Date

664
Bill Number (if applicable)

Topic SALVAGE REFORM ✓

Amendment Barcode (if applicable)

Name ~~PAUL~~ ERIC HULL

Job Title EFFECTED CITIZEN

Address 1616 LIMONA RD
Street

Phone 813 643 8401

BRANDON FL 33510
City State Zip

Email ERIC@MBCALEX.COM

Speaking: For Against Information

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

Representing SELF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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)

12/4/17

Meeting Date

664

Bill Number (if applicable)

Topic Salvage of Pleasure Vessels

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St

Phone 224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: For Against Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

12-4-17
Meeting Date

SB 664
Bill Number (if applicable)

Topic SB 664

Amendment Barcode (if applicable)

Name Terry Gibson

Job Title Principal, North Swell Media

Address 4394 NE Skyline Dr.

Phone 772-285-7683

Street

Densen Beach, FL 34957

City

State

Zip

Email Terry.Gibson@northswellmedia.com

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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)

12/4/17
Meeting Date

664

Bill Number (if applicable)

888344

Amendment Barcode (if applicable)

Topic _____

Name Ron LaFace

Job Title _____

Address 101 E College Ave

Phone 222-9075

Street

Tall

FL

32301

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Insurance Auto Auctions

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.

PLEASE OPPOSE
SB 664 – Senator Young

Senate Bill 664, by Young, will result in only negative consequences for recreational boat owners and should be dropped from consideration. BoatU.S., on behalf of its over 125,000 Florida members has serious concerns with the bill including:

- SB 664 does not recognize the dynamic nature of an on the water salvage which is *vastly different* than towing a motor vehicle from the side of the road.
- Requiring a boat operator to review and sign a contract while their boat is taking on water or is in other distress puts the boater and boat at greater peril.
- Requiring a written estimate before undertaking a salvage operation will lead to unnecessary delays in saving the boat and boater and potentially increase the severity of the loss.
- The requirement that if service is halted the boat must be returned its “original” condition could lead to environmental damage of the water and loss of the boat, and as a practical matter is simply not possible.
- SB 664 throws aside a well-established arbitration process already in place to ensure a fair review of any disputed salvage claim. The goal of the process is to make an equitable settlement between the salvor and the boater in the rare number of cases heard by the panel.
- Due to multiple federal statutes and case law (including one from Florida), this *legislation cannot apply in any water body except a land-locked lake wholly within the state of Florida.*
- This is a solution seeking a problem to fix and runs counter to federal pre-emption, an established legal framework and regulations already in place by the U.S. Coast Guard and international treaties.

BoatUS cannot support this legislation that fails to recognize how the well-established process of vessel salvage, its perils, the significant risk for harm to the environment, the cost shifting to the public and the bill’s direct conflict with established federal maritime law.

CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Commerce and Tourism C ommittee

Judge:

Started: 12/4/2017 4:06:31 PM

Ends: 12/4/2017 4:47:52 PM

Length: 00:41:22

4:06:44 PM Roll Call
4:06:56 PM Pledge to Flag
4:07:27 PM Chair Comments
4:07:54 PM Introduction of Chelsea Swift new staff
4:08:21 PM Tab 2 -- SB 566 by Senator Young - Unlawful Dentention by a Transient Occupant
4:08:33 PM Senator Young explaining the bill
4:10:02 PM Senator Latvala with a question
4:10:14 PM Senator Young responding
4:10:22 PM Senator Gibson with a question
4:11:00 PM Senator Young responding
4:11:30 PM Senator Gibson with follow up
4:11:37 PM Senator Young responding
4:12:17 PM Senator Gibson with follow up
4:13:00 PM Senator Young responding
4:14:06 PM Senator Gibson with follow up question
4:14:42 PM Senator Young responding
4:15:51 PM Senator Young closing on bill
4:16:14 PM SB 566 passes favorably
4:16:44 PM Tab 3 Senate Bill 664, Salvage of Pleasure Vessels
4:16:58 PM Senator Young explaining SB 664
4:18:02 PM Senator Latvala with a question
4:18:13 PM Senator Young responding
4:18:21 PM Senator Latvala with follow up
4:19:06 PM Senator Young responding
4:20:13 PM Senator Latvala with follow up
4:20:36 PM Senator Young responding
4:21:43 PM Senator Young responding
4:22:07 PM Senator Gainer with a question
4:23:29 PM Amendment 888344 by Senator Young
4:24:05 PM Ron Laface waives time
4:24:22 PM Amendment 888344 passes
4:24:34 PM Back on SB 664 as amended
4:25:23 PM Terry Gibson, Principal, North Swell Media, Jenson Beach, Florida
4:29:34 PM Senator Latvala commenting on why Associated Industries for the bill
4:29:47 PM Brewster Bevis responding to Sen. Latvala
4:30:34 PM Senator Latvala with follow up
4:31:26 PM Brewster Bevis responding
4:31:54 PM Eric Hull, Affected Citizen
4:36:06 PM Senator Montford with a question
4:36:28 PM Mr. Hull responding
4:37:19 PM Paul Parrish, Florida Public Advocacy
4:39:08 PM Bonnie Basham, Boat U.S.
4:41:00 PM Debate on bill
4:41:12 PM Senator Hutson in debate against bill
4:41:58 PM Senator Latvala in debate
4:42:26 PM Senator Passidomo in debate
4:42:57 PM Senator Young closing on SB 664 as amended
4:44:45 PM CS/ SB 664 is reported favorably
4:45:07 PM Tab 1 -- SB 686 by Senator Perry -- Tax on sales, use, and other transactions
4:45:14 PM Senator Perry Explaining bill
4:45:55 PM Senator Rodriguez with a question
4:46:05 PM Senator Perry responding

4:46:49 PM Senator Perry closing
4:46:55 PM Roll call on SB 686
4:47:10 PM SB 686 passes favorably
4:47:25 PM Senator Rodriguez moves to adjourn
4:47:36 PM Meeting is adjourned.