

Tab 1	SB 944 by Baxley ; (Identical to H 01227) Online Marketplace Transparency
Tab 2	SB 1310 by Rodriguez ; (Similar to H 00247) Florida Main Street Program and Historic Preservation Tax Credits
Tab 3	SB 1076 by Gruters ; (Similar to H 01071) Florida Kratom Consumer Protection Act
Tab 4	SB 1298 by Gruters ; (Similar to H 00499) Agreements with Professional Sports Teams

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMERCE AND TOURISM

Senator Hooper, Chair
Senator Wright, Vice Chair

MEETING DATE: Tuesday, January 18, 2022

TIME: 9:00—10:30 a.m.

PLACE: *Toni Jennings Committee Room, 110 Senate Building*

MEMBERS: Senator Hooper, Chair; Senator Wright, Vice Chair; Senators Diaz, Garcia, Gruters, Hutson, Pizzo, Powell, Taddeo, and Torres

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 944 Baxley (Identical H 1227)	Online Marketplace Transparency; Requiring online marketplaces to require high-volume third-party sellers using their service to provide certain information to the online marketplace within a specified timeframe; requiring the online marketplace to suspend certain sellers who do not provide such a certification or updated information; requiring online marketplaces to disclose certain information in a specified manner; preempting the regulation of the verification and disclosure of such information to the Department of Legal Affairs, etc. CM 01/18/2022 Favorable CA RC	Favorable Yeas 9 Nays 0
2	SB 1310 Rodriguez (Similar H 247)	Florida Main Street Program and Historic Preservation Tax Credits; Citing this act as the "Main Street Historic Tourism and Revitalization Act"; specifying eligibility requirements for receiving specified tax credits for taxpayers that rehabilitate certified historic structures; authorizing the carryforward, sale, and transfer of tax credits; providing the Department of Revenue audit and examination powers for specified purposes related to certified rehabilitation expenses; requiring the return of forfeited tax credits under certain circumstances, etc. CM 01/18/2022 Favorable FT AP	Favorable Yeas 9 Nays 0
3	SB 1076 Gruters (Similar H 1071)	Florida Kratom Consumer Protection Act; Creating the "Florida Kratom Consumer Protection Act"; defining the terms "kratom extract," "kratom product," and "processor"; prohibiting processors from selling, preparing, distributing, or exposing for sale certain kratom products; prohibiting processors from distributing, selling, or exposing for sale a kratom product to an individual under 21 years of age; providing civil penalties, etc. CM 01/18/2022 Favorable AEG AP	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Commerce and Tourism

Tuesday, January 18, 2022, 9:00—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1298 Gruters (Similar H 499)	Agreements with Professional Sports Teams; Defining the terms “professional sports team” and “sporting event”; prohibiting a governmental entity from entering into certain agreements with a professional sports team unless the agreement includes specified provisions; requiring a governmental entity that enters into such an agreement to strictly enforce such provisions; authorizing the Attorney General to intervene to enforce such provisions under certain circumstances, etc. CM 01/18/2022 Favorable CA RC	Favorable Yeas 7 Nays 1

Other Related Meeting Documents



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Ethics and Elections, *Chair*
Appropriations
Appropriations Subcommittee on Criminal and
Civil Justice
Community Affairs
Criminal Justice
Health Policy
Judiciary
Rules

JOINT COMMITTEE:
Joint Legislative Auditing Committee,
Alternating Chair

SENATOR DENNIS BAXLEY
12th District

January 7, 2022

The Honorable Chair Ed Hooper
302 Senate Office Building
Tallahassee, FL 32399

Dear Chair Hooper,

I would like to request SB 944 Online Marketplace Transparency be heard in the next Commerce & Tourism Committee meeting.

Organized retail crime poses enormous risks to workers, consumers, and retail businesses. Florida businesses lose millions of dollars each year due to organized retail crime and now this is even more devastating at a time when many are struggling to stay afloat due to COVID-19.

SB 944 is common sense legislation that requires online marketplaces to verify and authenticate the identity of third parties who sell a "high volume" of products on their platforms. The bill defines "High Volume Third Party Sellers"--we are not talking about selling a mirror or something you might find at a yard sale on Facebook Marketplace -- a high volume seller is a seller that during a 12-month period, has had 200 or more sales totaling \$5,000 or more in gross revenue. If an online marketplace does not comply, it would be a violation of the Deceptive and Unfair Trade Practices Act and enforced by the Attorney General's office.

I appreciate your favorable consideration.

Onward & Upward,

Senator Dennis Baxley
Senate District 12

DKB/dd

cc: Todd McKay, Staff Director

REPLY TO:

- 206 South Hwy 27/441, Lady Lake, Florida 32159 (352) 750-3133
- 315 SE 25th Avenue, Ocala, Florida 34471 (352) 789-6720
- 412 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

944

1/18/22

Meeting Date

Bill Number or Topic

Senate Commerce

Committee

Amendment Barcode (if applicable)

Name

Jim Daughton

Phone

850 205-9000

Address

119 S. Monroe St

Email

jim.daughton@mhdfirm.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without compensation or sponsorship.

☒

I am a registered lobbyist, representing:

e Bay

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1/18/22

Meeting Date

SB 944

Bill Number or Topic

Commerce and Tourism

Committee

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

Amendment Barcode (if applicable)

Name Tracy Mayernick

Phone 850-445-3000

Address 110 E. Jefferson St.

Street

Email tracy@thmayernickgroup.com

Tallahassee

City

FL

State

32301

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

The Home Depot

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

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

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

S-001 (08/10/2021)

1/18/2022

Meeting Date

Commerce & Tourism

Committee

The Florida Senate

APPEARANCE RECORD

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

944

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Grace Lovett**

Phone **850.222.4082**

Address **227 S. Adams Street**

Email **grace@frf.org**

Street

Tallahassee

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Florida Retail Federation

☐

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

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

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

S-001 (08/10/2021)

1/18/2022

Meeting Date

Commerce & Tourism

Committee

The Florida Senate

APPEARANCE RECORD

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

944

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Jake Farmer**

Phone **352.359.6835**

Address

Street

Tallahassee

FL

City

State

Zip

Email **jake.farmer@walgreens.com**

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Walgreens

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 944

INTRODUCER: Senator Baxley

SUBJECT: Online Marketplace Transparency

DATE: January 14, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McMillan	McKay	CM	Favorable
2.			CA	
3.			RC	

I. Summary:

SB 944 creates s. 559.953, F.S., which establishes that an online marketplace must require high-volume third-party sellers to provide the online marketplace with verification and disclosure information. Additionally, an online marketplace must require high-volume third-party sellers with an aggregate total of \$20,000 or more in annual gross revenues on its online platform to provide consumers with disclosure information.

The bill requires an online marketplace to provide consumers with a reporting mechanism that allows for electronic and telephonic reporting of suspicious marketplace activity to the online marketplace and a message encouraging individuals seeking to purchase products to report suspicious activity to the online marketplace.

The bill provides that a violation of s. 559.953, F.S., constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act, and the Department of Legal Affairs may adopt rules to collect and verify the required information. Additionally, regulation under s. 559.953, F.S., is preempted to the Department of Legal Affairs.

The bill takes effect July 1, 2022.

II. Present Situation:

Florida Deceptive and Unfair Trade Practices Act (FDUTPA)

History and Purpose of FDUTPA

The Florida Deceptive and Unfair Trade Practices Act (FDUTPA) became law in 1973.¹ The FDUTPA is a consumer and business protection measure that prohibits unfair methods of

¹ Ch. 73-124, Laws of Fla.; codified at part II of ch. 501, F.S.

competition, unconscionable acts or practices, and unfair or deceptive acts or practices in trade or commerce.² The FDUTPA is based on federal law, and s. 501.204(2), F.S., provides that it is the intent of the Legislature that due consideration and great weight must be given to the interpretations of the Federal Trade Commission and the federal courts relating to section 5 of the Federal Trade Commission Act.³

The State Attorney or the Department of Legal Affairs may bring actions when it is in the public interest on behalf of consumers or governmental entities.⁴ The Office of the State Attorney may enforce violations of the FDUTPA if the violations take place in its jurisdiction.⁵ The Department of Legal Affairs has enforcement authority if the violation is multi-jurisdictional, the state attorney defers in writing, or the state attorney fails to act within 90 days after a written complaint is filed.⁶ Consumers may also file suit through private actions.⁷

Remedies under the FDUTPA

The Department of Legal Affairs and the State Attorney, as enforcing authorities, may seek the following remedies:

- Declaratory judgments;
- Injunctive relief;
- Actual damages on behalf of consumers and businesses;
- Cease and desist orders; and
- Civil penalties of up to \$10,000 per willful violation.⁸

Remedies for private parties are limited to the following:

- A declaratory judgment and an injunction where a person is aggrieved by a FDUTPA violation; and
- Actual damages, attorney fees and court costs, where a person has suffered a loss due to a FDUTPA violation.⁹

² See s. 501.202, F.S. Trade or commerce means the advertising, soliciting, providing, offering, or distributing, whether by sale, rental, or otherwise, of any good or service, or any property, whether tangible or intangible, or any other article, commodity, or thing of value, wherever situated. "Trade or commerce" shall include the conduct of any trade or commerce, however denominated, including any nonprofit or not-for-profit person or activity. See s. 501.203(8), F.S.

³ See s. 501.204(2), F.S.

⁴ See ss. 501.203(2), 501.206, and 501.207, F.S.

⁵ Section 501.203(2), F.S.

⁶ *Id.*

⁷ Section 501.211, F.S.

⁸ Sections 501.207(1), 501.208, and 501.2075, F.S. Civil Penalties are deposited into general revenue. Enforcing authorities may also request attorney fees and costs of investigation or litigation. Section 501.2105, F.S.

⁹ Section 501.211(1) and (2), F.S.

Federal Unfair and Deceptive Trade Practices

The Federal Trade Commission's (FTC's) unfair and deceptive trade practices regulations prohibit unfair¹⁰ or deceptive¹¹ acts or practices in or affecting commerce.¹² The FTC's regulations include "Truth In Advertising" guidelines, which require advertisements to be truthful, not misleading, and, when appropriate, backed by scientific evidence.¹³ To enforce these regulations, the FTC takes law enforcement actions, provides consumer and business education, issues reports and policy guidance, leads workshops, and participates in other forums.¹⁴

The FTC also provides "online shopping" guidance to consumers.¹⁵ The guidance includes confirming an online seller's physical address and phone number, scrutinizing details provided about a product, paying with credit card, keeping records of any transaction, and protecting personal information.¹⁶ Additionally, the FTC offers resources on how to compare products online, as well as where to go to report online shopping fraud.¹⁷

E-commerce Marketplace

As e-commerce grows, the sale of counterfeit goods alongside authentic products continues to be a concern.¹⁸ In 2020, the Department of Homeland Security published a report detailing potential strategies and policies to combat the trade of counterfeit goods.¹⁹ According to the report, e-commerce platforms enable counterfeiters to produce products at lower prices, while also reaching a larger number of potential customers.²⁰ The report points to a scenario where third-party marketplace websites contain photos of the real product, fake reviews of the counterfeit product, and other information designed to mislead consumers.²¹

¹⁰ An "unfair" practice is unfair if it causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition. See 15 U.S.C. Sec. 45(n).

¹¹ A "deceptive" practice involves a material representation, omission or practice that is likely to mislead a consumer acting reasonably in the circumstances. See FTC Policy Statement on Deception (Oct. 14, 1983) available at https://www.ftc.gov/system/files/documents/public_statements/410531/831014deceptionstmt.pdf (last visited Jan. 14, 2022). See also Federal Trade Commission, *A Brief Overview of the Federal Trade Commission's Investigative, Law Enforcement, and Rulemaking Authority* (revised, May 2021) available at <https://www.ftc.gov/about-ftc/what-we-do/enforcement-authority> (last visited Jan. 14, 2022).

¹² 15 U.S.C. s. 45(a)(1).

¹³ Federal Trade Commission, *Truth In Advertising*, available at <https://www.ftc.gov/news-events/media-resources/truth-advertising> (last visited Jan. 14, 2022).

¹⁴ Federal Trade Commission, *Protecting Consumers from Fraud and Deception*, available at <https://www.ftc.gov/news-events/media-resources/truth-advertising/protecting-consumers> (last visited Jan. 14, 2022).

¹⁵ See Federal Trade Commission, *Shopping Online*, available at <https://www.consumer.ftc.gov/articles/0020-shopping-online> (last visited Jan. 14, 2022).

¹⁶ *Id.*

¹⁷ *Id.* See also Federal Trade Commission, *Comparison Shopping*, available at <https://www.consumer.ftc.gov/shopping> (last visited Jan. 14, 2022).

¹⁸ See Department of Homeland Security, *Combating Trafficking in Counterfeit and Pirated Goods* (Jan. 24, 2020), available at https://www.dhs.gov/sites/default/files/publications/20_0124_plcy_counterfeit-pirated-goods-report_01.pdf (last visited Jan. 14, 2022).

¹⁹ *Id.*

²⁰ *Id.* at 21.

²¹ *Id.* at 22.

The report also discusses how the online marketplace is changing consumer attitudes and perceptions.²² For instance, shopping online makes it harder for consumers to identify what the report calls traditional “red flag” indicators, which has the potential to cause safety risks when consumers rely on false claims that certain products have health or safety certificates.²³ The report points out that this dynamic creates a lack of consumer trust, as well as harming the reputation of brands or businesses.²⁴

In 2019, the Organization for Economic Cooperation and Development (OECD) in partnership with the EU Intellectual Property Office also published a study detailing trends in counterfeit and pirated goods.²⁵ According to the OECD, trade in fake goods infringe on trademarks and copyright, while also potentially harming the health and safety of consumers.²⁶ The OECD reported that counterfeit and pirated goods were steadily rising, and in March of 2019, accounted for 3.3 percent of global trade.²⁷

Preemption

Local governments have broad authority to legislate on any matter that is not inconsistent with federal or state law. A local government enactment may be inconsistent with state law if (1) the Legislature has preempted a particular subject area or (2) the local enactment conflicts with a state statute. Where state preemption applies, it precludes a local government from exercising authority in that particular area.²⁸

Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred.²⁹ Express preemption of a field by the Legislature must be accomplished by clear language stating that intent.³⁰ In cases where the Legislature expressly or specifically preempts an area, there is no problem with ascertaining what the Legislature intended.³¹

In cases determining the validity of ordinances enacted in the face of state preemption, the effect has been to find such ordinances null and void.³² Implied preemption is actually a decision by the courts to create preemption in the absence of an explicit legislative directive.³³ Preemption of a

²² *Id.* at 14.

²³ *Id.* at 15.

²⁴ *Id.*

²⁵ See Organization for Economic Cooperation and Development, *Trends in Trade in Counterfeit and Pirated Goods* (2019), available at https://read.oecd-ilibrary.org/trade/trends-in-trade-in-counterfeit-and-pirated-goods_g2g9f533-en#page1 (last visited Jan. 14, 2022).

²⁶ See Organization for Economic Cooperation and Development, *Trade in Fake Goods is now 3.3% of World Trading and Rising* (March 18, 2019), available at www.oecd.org/newsroom/trade-in-fake-goods-is-now-33-of-world-trade-and-rising.htm (last visited Jan. 14, 2022).

²⁷ *Id.*

²⁸ See James R. Wolf and Sarah Harley Bolinder, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009).

²⁹ See *City of Hollywood v. Mulligan*, 934 So.2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So.2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 3 So.3d 309 (Fla. 2008).

³⁰ *Mulligan*, 934 So.2d at 1243.

³¹ *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So.3d 880, 886 (Fla. 2010).

³² See, e.g., *Nat'l Rifle Ass'n of Am., Inc. v. City of S. Miami*, 812 So.2d 504 (Fla. 3d DCA 2002).

³³ *Phantom of Clearwater, Inc.*, 894 So.2d at 1019.

local government enactment is implied only where the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and strong public policy reasons exist for finding preemption.³⁴ Implied preemption is found where the local legislation would present the danger of conflict with the state's pervasive regulatory scheme.³⁵

III. Effect of Proposed Changes:

The bill creates s. 559.953, F.S., and provides the following definitions:

- “Consumer product” means a product that is used or bought for use primarily for personal, family, or household purposes;
- “High-volume third-party seller” means a participant in an online marketplace that is a third-party seller and who, in any continuous 12-month period during the previous 24-months, has entered into 200 or more discrete sales or transactions of new or unused consumer products resulting in the accumulation of an aggregate total of \$5,000 or more in gross revenues;³⁶
- “Online marketplace” means any consumer-directed electronically based or accessed platform that includes features that allow for, facilitate, or enable third-party sellers to engage in the sale, purchase, payment, storage, shipping, or delivery of a consumer product in the United States, is used by one or more third-party sellers for such purposes, and has a contractual or similar relationship with consumers governing their use of the platform to purchase consumer products;
- “Seller” means a person who sells, offers to sell, or contracts to sell a consumer product through an online marketplace;
- “Third-party seller” means any seller, independent of an operator, a facilitator, or an owner of an online marketplace, who sells, offers to sell, or contracts to sell a consumer product in the United States through an online marketplace;³⁷ and
- “Verify” means to confirm information and documentation provided to an online marketplace by the use of one or more methods that enable the online marketplace to reliably determine that any information and documents provided which correspond to the seller or an individual acting on the seller’s behalf are valid, not misappropriated, and not falsified.

The bill establishes that an online marketplace must require high-volume third-party sellers to provide the online marketplace with the following information within 10 business days after qualifying as a high-volume third-party seller:

- Deposit account information from a financial institution;
- Contact information;³⁸ and

³⁴ *Id.*

³⁵ *Sarasota Alliance for Fair Elections, Inc.*, 28 So.3d at 886.

³⁶ Only sales or transactions made through the online marketplace for which payment was processed by the online marketplace, either directly or through the seller’s payment processor, count towards the calculation for the number of discrete sales or transactions or gross revenues.

³⁷ The term “third-party seller” does not include, with respect to an online marketplace: a seller that operates the online marketplace; a business entity that has made available to the general public the entity’s name, business address, and working contact information; a business entity with an ongoing contractual relationship with the online marketplace to provide the online marketplace with the manufacture, distribution, wholesaling, or fulfillment of shipments of consumer products; or a business entity that has provided to the online marketplace identifying information that has been verified.

³⁸ Contact information includes: a valid e-mail address and working phone number; if the high-volume third-party seller is an individual, a copy of a valid government-issued photo identification for the individual which includes the individual’s name and physical address; if the high-volume third-party seller is not an individual, either a copy of a government-issued photo

- A business tax identification number or, if the high-volume third party seller does not have a business tax identification number, a taxpayer identification number.

The bill provides that the online marketplace must verify the information the high-volume third-party seller provides under s. 559.953(2)(a), F.S., within 10 business days after receiving the information. If the high-volume third-party seller provides any changes to the information, the online marketplace must verify such changes within 10 business days after receiving the information.³⁹

The bill requires the online marketplace to annually notify each high-volume third-party seller that they must inform the online marketplace of any changes to the information provided by the seller within 10 business days after receiving the notification.⁴⁰

The bill establishes that an online marketplace must require a high-volume third-party seller to disclose to consumers in a conspicuous manner on the product listing, through a conspicuously placed link on the product listing, or in the order confirmation message or other document of communication made to the consumer after the purchase is finalized and in the consumer's account transaction history, all of the following information of any high-volume third party seller with an aggregate total of \$20,000 or more in annual gross revenues on its online platform:

- The full name of the high-volume third-party seller;
- The full physical address of the high-volume third-party seller;⁴¹
- Contact information for the high-volume third-party seller, including a working telephone number and working e-mail address to allow for direct, unhindered communication with the high-volume third-party seller;⁴² and
- The identification of any seller that supplies the consumer product to the consumer upon purchase, if such seller is different than the high-volume third-party seller listed on the consumer product listing before the purchase.

The bill provides that if an online marketplace becomes aware that a high-volume third-party seller has made a false representation to the online marketplace in order to restrict access to the full physical address, telephone number, or e-mail address required, then the online marketplace, after providing the seller with written or electronic notice, must require the full disclosure of the high-volume third-party seller's full physical address, telephone number, and e-mail address. If such information is not disclosed within 10 business days after notification, the online

identification for an individual acting on behalf of such seller which includes such individual's name and physical address or a copy of a government-issued record or tax document that includes the business name and physical address of the high-volume third-party seller.

³⁹ If a high-volume third-party seller provides a copy of a valid government-issued tax document, the information contained within such document must be presumed verified as of the date of issuance of the document.

⁴⁰ The online marketplace must include in the notification direction to each high-volume third-party seller to electronically certify either that the seller's information is unchanged or that the seller is providing changes to the information. The high-volume third-party seller's participation on the marketplace must be suspended until they have certified that their information is unchanged or has provided any changed information and the information has been verified.

⁴¹ If the full physical address of the high-volume third-party seller is the primary residential address of such high-volume third-party seller, only the city, state, and country of the high-volume third-party seller is required to be disclosed.

⁴² If the only telephone number of the high-volume third-party seller is the personal telephone number of the high-volume third-party seller, then only the working e-mail address is required to be disclosed or the online marketplace must provide other means of electronic messaging to contact the seller.

marketplace must suspend the selling privileges of the high-volume third-party seller on the online marketplace until the required information is disclosed.

The bill requires an online marketplace to conspicuously, on the product listing of any high-volume third-party seller, provide to consumers a reporting mechanism that allows for electronic and telephonic reporting of suspicious marketplace activity to the online marketplace and a message encouraging individuals seeking to purchase products to report suspicious activity to the online marketplace.

The bill provides that an online marketplace is not prevented from providing additional measures, electronic or otherwise, that it deems necessary to prevent the sale of fraudulent, stolen, or counterfeit consumer products on its platform.

The bill establishes that a violation of s. 559.953, F.S., constitutes a violation of the Deceptive and Unfair Trade Practices Act,⁴³ and the Department of Legal Affairs may adopt rules to collect and verify the required information.

The bill provides that the regulation under s. 559.953, F.S., is preempted to the Department of Legal Affairs.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

⁴³See part II of ch. 501, F.S.

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

None.

B. Private Sector Impact:

Marketplace providers will be required to verify high volume third-party sellers, as well as require certain disclosures. This will potentially provide more safety within the online marketplace.

C. Government Sector Impact:

This bill will potentially lead to an increase in the investigations and enforcement actions undertaken by the Department of Legal Affairs relating to violations of the provisions of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates the following section of the Florida Statutes: 559.953.

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 Baxley

12-00821A-22

2022944__

A bill to be entitled

An act relating to online marketplace transparency; creating s. 559.953, F.S.; defining terms; requiring online marketplaces to require high-volume third-party sellers using their service to provide certain information to the online marketplace within a specified timeframe; requiring the online marketplace to verify such information, or changes to such information, within a specified timeframe; providing that information on valid government-issued tax documents is presumed verified as of the issuance date; requiring an online marketplace to update and require certification of the updated information at least annually; requiring the online marketplace to suspend certain sellers who do not provide such a certification or updated information; requiring online marketplaces to disclose certain information in a specified manner; requiring disclosure of suppliers; providing for enforcement; authorizing the Department of Legal Affairs to adopt rules; preempting the regulation of the verification and disclosure of such information to the department; providing an effective date.

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

Section 1. Section 559.953, Florida Statutes, is created to read:
559.953 Disclosure of information by online marketplaces.—

Page 1 of 7

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

12-00821A-22

2022944__

(1) DEFINITIONS.—As used in this section, the term:

(a) "Consumer product" means a product that is used or bought for use primarily for personal, family, or household purposes.

(b) "High-volume third-party seller" means a participant in an online marketplace that is a third-party seller and that, in any continuous 12-month period during the previous 24 months, has entered into 200 or more discrete sales or transactions of new or unused consumer products resulting in the accumulation of an aggregate total of \$5,000 or more in gross revenues. Only sales or transactions made through the online marketplace for which payment was processed by the online marketplace, either directly or through the seller's payment processor, count towards the calculation for the number of discrete sales or transactions or the gross revenues.

(c) "Online marketplace" means any consumer-directed electronically based or accessed platform that:

1. Includes features that allow for, facilitate, or enable third-party sellers to engage in the sale, purchase, payment, storage, shipping, or delivery of a consumer product in the United States;

2. Is used by one or more third-party sellers for such purposes; and

3. Has a contractual or similar relationship with consumers governing their use of the platform to purchase consumer products.

(d) "Seller" means a person who sells, offers to sell, or contracts to sell a consumer product through an online marketplace.

Page 2 of 7

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

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2022944

(e) "Third-party seller" means any seller, independent of an operator, a facilitator, or an owner of an online marketplace, that sells, offers to sell, or contracts to sell a consumer product in the United States through an online marketplace. The term does not include, with respect to an online marketplace:

1. A seller that operates the online marketplace;
2. A business entity that has made available to the general public the entity's name, business address, and working contact information;
3. A business entity with an ongoing contractual relationship with the online marketplace to provide the online marketplace with the manufacture, distribution, wholesaling, or fulfillment of shipments of consumer products; or
4. A business entity that has provided to the online marketplace identifying information that has been verified.

(f) "Verify" means to confirm information and documentation provided to an online marketplace by the use of one or more methods that enable the online marketplace to reliably determine that any information and documents provided which correspond to the seller or an individual acting on the seller's behalf are valid, not misappropriated, and not falsified.

(2) VERIFICATION.—

(a) An online marketplace shall require that any high-volume third-party seller on the online marketplace provide the online marketplace with all of the following information within 10 business days after qualifying as a high-volume third-party seller:

1. Deposit account information from a financial

12-00821A-22

2022944

institution. If the high-volume third-party seller does not have deposit account information at a financial institution, such seller must provide the online marketplace with the name of the payee for payments issued by the online marketplace to the high-volume third-party seller, and the information must be confirmed by the online marketplace or by another third party contracted by the online marketplace.

2. Contact information, including all of the following:

- a. A valid e-mail address and working phone number.
- b. If the high-volume third-party seller is an individual, a copy of a valid government-issued photo identification for the individual which includes the individual's name and physical address.
- c. If the high-volume third-party seller is not an individual, either a copy of a government-issued photo identification for an individual acting on behalf of such seller which includes such individual's name and physical address or a copy of a government-issued record or tax document that includes the business name and physical address of the high-volume third-party seller.

3. A business tax identification number or, if the high-volume third-party seller does not have a business tax identification number, a taxpayer identification number.

(b) The online marketplace shall verify the information the high-volume third-party seller provides under this subsection within 10 business days after receiving such information. If the high-volume third-party seller provides any changes to the information, the online marketplace must verify such changes within 10 business days after receiving the information. If a

12-00821A-22 2022944
 117 high-volume third-party seller provides a copy of a valid
 118 government-issued tax document, the information contained within
 119 such tax document shall be presumed verified as of the date of
 120 issuance of such document.

(c) The online marketplace shall, on at least an annual
 122 basis, notify each high-volume third-party seller on the online
 123 marketplace that such seller must inform the online marketplace
 124 of any changes to the information previously provided by the
 125 seller within 10 business days after receiving the notification.
 126 The notification must require the high-volume third-party seller
 127 to either electronically certify that the high-volume third-
 128 party seller's information is unchanged or provide changes to
 129 the information as necessary. If the online marketplace becomes
 130 aware that a high-volume third-party seller has not certified
 131 that such information is unchanged or provided such changed
 132 information within 10 business days after receiving such
 133 notification, the online marketplace must suspend the selling
 134 privileges of the high-volume third-party seller until such
 135 seller provides such certification or changed information.

(3) DISCLOSURE.—

(a) An online marketplace shall disclose to consumers in a
 138 conspicuous manner on the product listing, through a
 139 conspicuously placed link on the product listing, or in the
 140 order confirmation message or other document or communication
 141 made to the consumer after the purchase is finalized and in the
 142 consumer's account transaction history, all of the following
 143 information of any high-volume third party seller with an
 144 aggregate total of \$20,000 or more in annual gross revenues on
 145 its online platform:

12-00821A-22 2022944
 146 1. The full name of the high-volume third-party seller.
 147 2. The full physical address of the high-volume third-party
 148 seller. If the full physical address of the high-volume third-
 149 party seller is the primary residential address of such high-
 150 volume third-party seller, only the city, state, and country of
 151 the high-volume third-party seller is required to be disclosed.

3. Contact information for the high-volume third-party
 153 seller, including a working telephone number and working e-mail
 154 address to allow for direct, unhindered communication with the
 155 high-volume third-party seller. If the only telephone number of
 156 the high-volume third-party seller is the personal telephone
 157 number of the high-volume third-party seller, then only the
 158 working e-mail address is required to be disclosed or the online
 159 marketplace must provide other means of electronic messaging to
 160 contact such seller.

4. The identification of any seller that supplies the
 162 consumer product to the consumer upon purchase, if such seller
 163 is different than the high-volume third-party seller listed on
 164 the consumer product listing before the purchase.

(b) If an online marketplace becomes aware that a high-
 166 volume third-party seller has made a false representation to the
 167 online marketplace in order to restrict access to the full
 168 physical address, telephone number, or e-mail address required
 169 in paragraph (a), the online marketplace must, after providing
 170 the seller with written or electronic notice, require the full
 171 disclosure of the high-volume third-party seller's full physical
 172 address, telephone number, and e-mail address. If such
 173 information is not disclosed within 10 business days after
 174 notification, the online marketplace must suspend the selling

12-00821A-22

2022944

175 privileges of the high-volume third-party seller on the online
176 marketplace until the required information is disclosed.

177 (c) An online marketplace shall provide to consumers, in a
178 conspicuous manner on the consumer product listing of any high-
179 volume third-party seller, a reporting mechanism that allows for
180 electronic and telephonic reporting of suspicious marketplace
181 activity to the online marketplace and a message encouraging
182 individuals seeking goods for purchase to report suspicious
183 activity to the online marketplace.

184 (d) This subsection does not prevent an online marketplace
185 from providing any additional measures, electronic or otherwise,
186 that it deems necessary to prevent the sale of fraudulent,
187 stolen, or counterfeit consumer products on its platform.

188 (4) ENFORCEMENT.—A violation of this section constitutes a
189 violation of the Deceptive and Unfair Trade Practices Act under
190 part II of chapter 501. A person who violates this section is
191 subject to the penalties and remedies provided therein.

192 (5) RULES.—The Department of Legal Affairs may adopt rules
193 with respect to collecting and verifying information under this
194 section, provided that such rules are limited to what is
195 necessary to collect and verify such information.

196 (6) PREEMPTION.—The regulation of the requirement for
197 online marketplaces to verify information from high-volume
198 third-party sellers on a one-time or ongoing basis or disclose
199 information to consumers is preempted to the department. A local
200 governmental entity may not establish, mandate, or otherwise
201 require the verification or disclosure of such information.

202 Section 2. This act shall take effect July 1, 2022.



The Florida Senate

Committee Agenda Request

To: Senator Ed Hooper, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: January 5, 2022

I respectfully request that **Senate Bill #1310**, relating to Florida Main Street Program and Historic Preservation Tax Credits, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ana Maria Rodriguez".

Senator Ana Maria Rodriguez
Florida Senate, District 39

The Florida Senate

APPEARANCE RECORD

SB 1310

Bill Number or Topic

1/18/2022

Meeting Date

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

Commerce and Tourism

Committee

Amendment Barcode (if applicable)

Name

Tiffany Garling
Jackson County Chamber of Commerce

Phone

850-482-8060

Address

4318 Lafayette Street

Email

tiffany@jacksoncounty.com

Street

Manianna

City

FL

State

32446

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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S-001 (08/10/2021)

1/18/22

Meeting Date

The Florida Senate
APPEARANCE RECORD

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SB1310

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

THONDRA LANESE

Phone

941 3210339

Address

1002 TEXAS CT.

Email

thondralanese@hotmail

Street

FORT PIERCE FL 34950

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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The Florida Senate

APPEARANCE RECORD

Jan 18, 2022
Meeting Date

1310
Bill Number or Topic

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Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name Mileyka Burgos - Flores Phone 786 229 7937

Address 1951 NW 7th Ave Suite 600 Email _____
Street

Miami FL 33136
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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

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The Florida Senate

APPEARANCE RECORD

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1/18/2022

Meeting Date

Commerce

Committee

1310

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Sean Pittman

Phone

Address

1028 E Park Ave

Street

Email

sean@pittman-law.com

Tallahassee

City

FL

State

32301

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

city of orlando

☐

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

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1/18/2022

Meeting Date

Commerce + Tourism

Committee

SB1310

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Zach Gilmore, Jackson County Economic Development
Committee

Phone

850-633-2203

Address

4318 Lafayette St.

Email

zach@jacksonedc.com

Street

Marianna

FL

32446

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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1/18/2022
Meeting Date

SB 1310
Bill Number or Topic

Commerce & Tourism
Committee

Amendment Barcode (if applicable)

Name Neghan Barford, Main Street Marianna

Phone (850) 718-1022

Address 4318 Lafayette Street
Street

Email mainstreet@mariannafl.city

Marianna FL 32446
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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1/18/2022

Meeting Date

Commerce & Tourism

Committee

The Florida Senate
APPEARANCE RECORD

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1310

Bill Number or Topic

Amendment Barcode (if applicable)

Name Robert Luy Phone 404-474-0911

Address 923 Tchoupitoulas St 3rd Floor Email robert.e.sixty-west.com
Street

New Orleans LA 70130
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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The Florida Senate

APPEARANCE RECORD

SB 1310

Bill Number or Topic

1-18-22

Meeting Date

Commerce & Tourism

Committee

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Amendment Barcode (if applicable)

Name

Lisa Finkelstein / Fernandina Beach
Main Street

Phone

(570) 401-3155

Address

492 Starboard Lndg

Email

lisa@fernandinamainstreet.
com

Street

Fernandina Beach FL 32034

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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SB 1310
HB 247

Bill Number or Topic

1/18/22

Meeting Date

Tourism

Committee

Amendment Barcode (if applicable)

Name

Melissa Wyllie

Phone

615-516-8120

Address

906 E Park

Email

mwylle@florida
trust.org

Street

Tallahassee FL

32301

City

State

Zip

Speaking:



☐ Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

Florida Trust
for Historic Preservation



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

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The Florida Senate

APPEARANCE RECORD

1/19/2022

Meeting Date

Commerce + Tourism

Committee

1310

Bill Number or Topic

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Amendment Barcode (if applicable)

Name

Erin Schuck

Phone

321-951-1664

Address

17 Spinnaker Pt Ct

Street

Indian Harbor Beach, FL 32937

City

State

Zip

Email

events@DowntownMelbourne.com

Program Representing
MELBORNE MAIN STREET

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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APPEARANCE RECORD

1/18/2022

Meeting Date

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1310

Bill Number or Topic

Commerce & tourism

Committee

Amendment Barcode (if applicable)

Name

Karina Morgan/Venice Main Street

Phone

941 484 6722

Address

101 West Venice Ave # 23

Email

Kara.morgan@
VeniceMainStreet.com

Street

Venice

City

FL

State

34285

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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The Florida Senate

APPEARANCE RECORD

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Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Street

City

State

Zip

Email

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
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(travel, meals, lodging, etc.),
sponsored by:

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APPEARANCE RECORD

1/18/22

Meeting Date

1310

Bill Number or Topic

Deliver both copies of this form to
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Commerce & Tourism

Committee

Amendment Barcode (if applicable)

Name

Kimberly Agee, Melbourn
Main Street

Phone

321-806-9144

Address

2004 Vernon Place

Email

Kim@duantownmelbourn.com

Street

Melbourne FL

32901

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
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S-001 (08/10/2021)

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APPEARANCE RECORD

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1/18/22

Meeting Date

1310

Bill Number or Topic

Commerce + Tourism

Committee

Amendment Barcode (if applicable)

Name Amanda Muzaurieta

Phone 727-318-7566

Address 434 Delannoy Ave

Street

Email executivedirectorhcums@gmail.com

Cocoa

City

FL

State

32922

Zip

Historic Cocoa Village
Main Street

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

#1310

Meeting Date

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

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1/18/22

Meeting Date

1310

Bill Number or Topic

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

Commerce & Tourism
Committee

Amendment Barcode (if applicable)

Name Gregory Williams Phone Plant City Main Street

Address 107 E Reynolds St
Plant City FL 33563
City State Zip

Email merchants@plantcitymainstreet.com

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Wayne Carter Main Street Deland

Phone

386-738-0649

Address

100 N. Woodland BL

Email

wayne@mainstreetdeland.org

Street

Deland

FL

32720

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

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compensation or sponsorship.

☐

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representing:

☐

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S-001 (08/10/2021)

The Florida Senate

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1/18/21

Meeting Date

Commerce + Tourism

Committee

1310

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Jane West

Phone

904-671-4008

Address

308 Monroe

Street

Email

jwest@1000Fof.org

City

Tally

State

FL

Zip

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

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

1000 Friends of Florida

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

S-001 (08/10/2021)



2022 AGENCY LEGISLATIVE BILL ANALYSIS DEPARTMENT OF REVENUE

ASD

BILL INFORMATION

BILL NUMBER:	SB 1310
BILL TITLE:	Florida Main Street Program and Historic Preservation Tax Credits
BILL SPONSOR:	Senator Rodriguez
EFFECTIVE DATE:	07/01/2022

COMMITTEES OF REFERENCE

1) Commerce and Tourism
2) Finance and Tax
3) Appropriations
4)
5)

CURRENT COMMITTEE

Commerce and Tourism

SIMILAR BILLS

BILL NUMBER:	HB 247
SPONSOR:	Representative Salzman

IDENTICAL BILLS

BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLATION

YEAR/BILL NUMBER/SPONSOR/LAST ACTION:
--

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	01/11/2022
AGENCY CONTACT:	Office of Legislative and Cabinet Services (850) 617-8324

POLICY ANALYSIS

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

Section 1. The Main Street Historic Tourism and Revitalization Act; tax credits; reports. (pp. 2-12):

PRESENT SITUATION

There does not currently exist a credit against corporate income tax or insurance premium tax for a taxpayer that has incurred qualified expenses rehabilitating certified historic structures.

EFFECT OF THE BILL

The bill creates s. 220.197, F.S., the "Main Street Historic Tourism and Revitalization Act," which provides a tax credit against corporate income tax imposed in s. 220.11, F.S., and insurance premium tax imposed in s. 624.509, F.S., for taxpayers with qualified expenses for rehabilitating certified historic structures in which they have an ownership interest.

Eligibility and Filing Requirements

The bill provides that a taxpayer must apply to the Department for a tax credit before taking a credit on their return. With respect to qualified rehabilitation expenditures, a taxpayer must document that:

- The rehabilitation is a certified rehabilitation.
- The structure is a certified historic structure, is income-producing, is located within the state, and was rehabilitated and placed into service on or after July 1, 2022.
- The taxpayer had an ownership interest in the certified historic structure in the year during which the certified historic structure was placed into service after the certified rehabilitation was completed.
- The total amount of qualified expenses incurred in rehabilitating the certified historic structure exceeded \$5,000.

Before claiming or transferring a tax credit, a taxpayer must provide the Department with the following documentation:

- An official certificate of eligibility from the Division of Historical Resources of the Department of State (hereinafter "Division") signed by the State Historic Preservation Officer or the Deputy State Historic Preservation Officer attesting that the project has been approved by the National Park Service and confirming whether the project is or is not located within a Main Street local program area.
- National Park Service Form 10-168e (Rev. 2019), titled "Historic Preservation Certification Application-Part 3-Request for Certification of Completed Work," signed by the National Park Service attesting that the completed rehabilitation meets the United States Secretary of the Interior's Standards for Rehabilitation and is consistent with the historic character of the property and, if applicable, the district in which the completed rehabilitation is located.
- An identification of the dates during which the certified historic structure was rehabilitated, the date the certified historic structure was first placed into service after the certified rehabilitation was completed, and evidence that the certified historic structure was placed into service after the certified rehabilitation was completed.
- A list of total qualified expenses incurred by the taxpayer in rehabilitating the certified historic structure. For certified rehabilitations with qualified expenses that exceeded \$750,000, the taxpayer

must submit an audited cost report issued by a certified public accountant that itemizes the qualified expenses incurred in rehabilitating the certified historic structure as provided in s. 215.97, F.S. (*Florida Single Audit Act*).

- An attestation of the total qualified expenses incurred by the taxpayer in rehabilitating the certified historic structure.
- A completed Form F-1120 (*Florida Corporate Income/Franchise Tax Return*) or other appropriate tax form issued by the Department for insurance premium tax reporting.
- The information required to be reported by the Department to enable the Department to compile its annual report based on the tax credit applications submitted and approved.

Amount of Tax Credit

The total tax credit claimed annually may not exceed the amount of tax due after any other applicable tax credits and may not exceed the following:

- Twenty percent of the total qualified expenses incurred in rehabilitating a certified historic structure that has been approved by the National Park Service to receive the federal historic rehabilitation tax credit; or
- Thirty percent of the total qualified expenses incurred in rehabilitating a certified historic structure that has been approved by the National Park Service to receive the federal historic rehabilitation tax credit and that is located within a local program area of an Accredited Main Street Program (which includes the Orlando Main Streets program, provided that such program meets the Main Street America accreditation standards).

Carryforward of Tax Credit

If a taxpayer is eligible for a tax credit that exceeds taxes owed, the bill provides that the taxpayer may carry the unused tax credit forward for a period of up to 10 years.

Sale or Transfer of Tax Credit

The bill provides that there is no limit on the total number of transactions for the sale or transfer of all or part of a tax credit. A taxpayer may sell or transfer all or part of the tax credit that may otherwise be claimed to another taxpayer. A taxpayer to which all or part of the tax credit is sold or transferred may sell or transfer all or part of the tax credit that may otherwise be claimed to another taxpayer.

A taxpayer that sells or transfers a tax credit to another taxpayer must provide a copy of the certificate of eligibility issued by the Division, together with the audited cost report to the purchaser or transferee.

Qualified expenses may only be counted once in determining the amount of an available tax credit, and more than one taxpayer may not claim a tax credit for the same qualified expenses. If a taxpayer claims a tax credit for qualified expenses, another taxpayer may not use the same expenses as the basis for claiming a tax credit.

A taxpayer that sells or transfers a tax credit and the purchaser or transferee must jointly submit written notice of the sale or transfer to the Department, on a form adopted by the Department, no later than the 30th day after the date of the sale or transfer. The notice must include all of the following:

- The date of the sale or transfer.
- The amount of the tax credit sold or transferred.

- The name and federal tax identification number of the taxpayer that sold or transferred the tax credit and the purchaser or transferee.
- The amount of the tax credit owed by the taxpayer before the sale or transfer and the amount the selling or transferring taxpayer retained, if any, after the sale or transfer.

The sale or transfer of a tax credit does not extend the period for which a tax credit may be carried forward and does not increase the total amount of the tax credit that may be claimed.

A tax credit earned, purchased by, or transferred to a partnership, limited liability company, S corporation, or other pass-through taxpayer may be allocated to the partners, members, or shareholders and without regard to the ownership interest of the partners, members, or shareholders in the rehabilitated certified historic structure.

If the tax credit is reduced due to a determination, examination, or audit by the Department, the tax deficiency shall be recovered from the taxpayer that sold or transferred the tax credit or the purchaser or transferee that claimed the tax credit up to the amount of the tax credit taken. Any subsequent deficiencies will be assessed against the purchaser or transferee that claimed the tax credit or, in the case of multiple succeeding entities, in the order of tax credit succession.

Audit Authority

The bill provides that the Department may perform any additional financial and technical audits and examinations, including examining the accounts, books, or records of the tax credit applicant, to verify the legitimacy of the qualified expenses included in a tax credit return and to ensure compliance with s. 220.197, F.S.

It is grounds for forfeiture of previously claimed and received tax credits if the Department determines, as a result of an audit or information received from the Division or the United States Department of the Interior, that a taxpayer received a tax credit pursuant to this section to which the taxpayer was not entitled. In the case of fraud, the taxpayer may not claim any future tax credits under this section.

The taxpayer must return forfeited tax credits to the Department and such funds are to be paid into the General Revenue Fund.

The taxpayer must file an amended return and pay any required tax within 60 days after the taxpayer receives notification from the Internal Revenue Service (IRS) that a previously approved tax credit has been revoked or modified, if uncontested, or within 60 days after a final order is issued following proceedings involving a contested revocation or modification order.

The bill provides that a notice of deficiency may be issued by the Department at any time within 5 years after the date on which the taxpayer receives notification from the IRS that a previously approved tax credit has been revoked or modified.

If a taxpayer fails to notify the Department of any change in its tax credit claimed, a notice of deficiency may be issued at any time. In either case, the amount of any proposed assessment set forth in such notice of deficiency is limited to the amount of any deficiency resulting under s. 220.197, F.S., from the precomputation of the taxpayer's tax for the taxable year.

A taxpayer that fails to report and timely pay any tax due as a result of the forfeiture of its tax credit violates s. 220.197, F.S., and is subject to applicable penalties and interest.

Annual Report

Each year, based on the applications submitted and approved, the Department must submit an annual report to the President of the Senate and the Speaker of the House of Representatives that identifies, in the aggregate, all of the following:

- The number of employees hired during construction phases.
- The use of each newly rehabilitated building and the expected number of employees hired.
- The number of affordable housing units created or preserved.
- The property values before and after the certified rehabilitations.

Department Duties

The bill provides that the Department must:

- Establish any necessary forms required to claim a tax credit under s. 220.197, F.S.
- Provide administrative guidelines and procedures required to administer s. 220.197, F.S., including rules establishing an entitlement to and sale or transfer of a tax credit.
- Provide examination and audit procedures required to administer s. 220.197, F.S.

Rule Authority

The bill provides that the Department may adopt rules to administer s. 220.197, F.S.

Section 2. (p. 12): This act shall take effect July 1, 2022.

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

If yes, explain:	New rules and forms would need to be promulgated to administer the tax credit.
Rule(s) impacted (provide references to F.A.C., etc.):	Rule Chapter 12C-1, F.A.C.

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

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

If yes, provide a description:	The Department must issue a report to the President of the Senate and the Speaker of the House of Representatives identifying (a) the number of employees hired during construction phases; (b) the use of each newly rehabilitated building and the expected number of employees hired; (c) the number of affordable housing units created or preserved; and (d) the property values before and after the certified rehabilitations.
Date Due:	Annually, but no specific date is provided in the bill
Bill Section Number(s):	Section 1.

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

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

FISCAL ANALYSIS

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

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

Revenues:	The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to state government.
Expenditures: (<i>Department of Revenue expenditures and operational impacts</i>)	<input type="checkbox"/> NO IMPACT <input type="checkbox"/> LESS THAN \$25,000 <input checked="" type="checkbox"/> MORE THAN \$25,000 <input type="checkbox"/> UNABLE TO DETERMINE <input type="checkbox"/> OPERATIONAL IMPACT ONLY
Does the legislation contain an appropriation to the Department?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

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

TECHNOLOGY IMPACT

If any, see attached Fiscal Impact Analysis.

FEDERAL IMPACT

If any, see Additional Comments section below.

ADDITIONAL COMMENTS

10. STATUTE(S) AFFECTED: Section 220.197, F.S.

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

If no, go to #12. If yes:

A. Identify bill number or source. HB 247

B. Were issues/problems identified? ☒ YES ☐ NO

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

This bill is nearly identical to HB 247.

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

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

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

- Credits for corporate income tax and insurance premium tax usually begin with "taxable years beginning on or after January 1, 20XX." It is unclear with which taxable year this tax credit may begin to be claimed.
- The bill does not provide for a cooperative agreement between the Department and the Division to assist in the administration of the program.
- When there is a credit provision in Chapter 220, F.S., there is generally a corresponding addition in s. 220.13, F.S. This prevents a taxpayer from taking the item/expense as a deduction from federal income and Florida income, and then also taking the same item/expense as a credit against Florida corporate income tax.

Although the bill implies that a taxpayer has earned a federal rehabilitation tax credit, the bill does not require a taxpayer to claim a federal rehabilitation credit pursuant to Internal Revenue Code s. 47 on its corresponding federal return as a condition of earning a tax credit under s. 220.197, F.S. [By contrast, s. 220.196, F.S., provides, in part, that a taxpayer is eligible for the research and development tax credit if the taxpayer claims and is allowed a research credit under Internal Revenue Code s. 41.]

Therefore, it is unclear if there should be a corresponding addback to federal taxable income for the amount of the Florida tax credit. [A taxpayer that earns a federal rehabilitation credit must reduce its basis in the rehabilitated asset, thereby reducing its depreciation deduction for the amount of the federal credit. In such case, an addback on the Florida return would not be necessary.]

- When a credit is provided against the insurance premium tax, language is generally included to ensure the benefit of the credit is not foregone as a result of an increase in the amount of retaliatory tax due. For example, ss. 624.51055, 624.51056, and 624.51057, F.S., state in part:

An insurer claiming a credit against insurance premium tax liability under this section shall not be required to pay any additional retaliatory tax levied pursuant to s. 624.5091 as a result of claiming such credit. Section 624.5091 does not limit such credit in any manner.

- The bill does not amend s. 220.02(8), F.S., to state in which order the tax credit is to be claimed against corporate income tax relative to other credits that may be claimed against corporate income tax.
- The bill does not amend s. 624.509(7), F.S., to state in which order the tax credit is to be claimed against insurance premium tax relative to other credits that may be claimed against insurance premium tax.

- The Department requests emergency rulemaking authority for this bill. The following language is recommended:

(1) The Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purposes of administering this act.

(2) Notwithstanding any other law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(3) This section shall take effect upon this act becoming a law and expires July 1, 2023.

- Lines 114-118: The bill provides a definition for “qualified expenses” by way of references to the Internal Revenue Code and Treasury Regulations. However, the Department does not have expertise or familiarity with these sections with respect to rehabilitation of historic structures.
- Lines 129-144: It is unclear if there is an intended deadline for filing an application with the Department. If a taxpayer requested an extension of time to file its return for corporate income tax purposes, would it be permitted to file an application for a tax credit during the extension period?
- Lines 136-138, 139-142, 163-168: The bill makes several references to when the certified historic structure that is being rehabilitated was placed into service after the certified rehabilitation was completed. The bill does not provide a definition of “placed into service.” It is also unclear what evidence would prove that the certified historic structure was placed into service after the certified rehabilitation was completed.

Lines 136-138 also state that the certified historic structure must be “rehabilitated and placed into service on or after July 1, 2022.” It is unclear if the rehabilitation may begin before July 1, 2022.

- Lines 139-142: A taxpayer must document that it had an ownership interest in the certified historic structure in the year during which the certified historic structure was placed into service after the certified rehabilitation was completed. The bill does not provide a definition of “ownership interest.” It is unclear if a taxpayer with a marginal percentage of ownership in the certified historic structure is eligible to claim a tax credit.
- Lines 145-184: The bill provides that before claiming or transferring a tax credit, a taxpayer is required to provide the Department with certain information. It is unclear if this information must also be provided to the Department before a taxpayer claims a tax credit that was carried forward or before the purchaser of a transferred tax credit claims a tax credit on its return.
- Lines 154-162: The bill specifies that a taxpayer must use National Park Service Form 10-168e (Rev. 2019) as part of the required information from the taxpayer to the Department. It is unclear how often the National Park Service revises its forms. If the form is revised, it is unclear if a taxpayer will be able to easily obtain the “Rev. 2019” version of the form as required by the bill.

The following language is suggested to replace Line 154:

(b) National Park Service Form 10-168e (Rev. 2019, or as revised), titled

- Lines 176-178: The bill provides that before claiming or transferring a tax credit, a taxpayer is required to provide the Department with an attestation of the total qualified expenses incurred by the taxpayer in rehabilitating the certified historic structure. However, the bill does not provide what is to be included in the attestation (e.g., specific statements with respect to the total qualified expenses).

- Lines 179-181: The bill provides that before claiming or transferring a tax credit, a taxpayer is required to provide the Department with a completed Form F-1120 (*Florida Corporate Income/Franchise Tax Return*) or other appropriate tax form issued by the Department for insurance premium tax reporting.

It is unclear if the F-1120 in question is the form that the taxpayer intends to file for the taxable year in which it intends to take the tax credit. It is unclear whether the "other appropriate tax form" for insurance premium tax reporting refers to Form DR-908 (*Insurance Premium Taxes and Fees Return*).

- Lines 185-187: The bill provides that the total tax credit claimed annually may not exceed the amount of tax due after any other applicable tax credits and may not exceed specified amounts as described in Lines 188-196. It is unclear if "other applicable tax credits" means the tax credits listed in s. 220.02(8), F.S., or s. 624.509(7), F.S.
- Lines 198-200: The bill provides that the tax credit may be used to offset the corporate income tax imposed in s. 220.11, F.S., and the insurance premium tax imposed in s. 624.509, F.S.

Franchise tax, however, is imposed on banks and savings associations in s. 220.63, F.S.; therefore, the bill appears to exclude banks and savings associations from participating in the tax credit program. It is unclear if this was the sponsor's intent.

Also, other tax credits that may be taken against corporate income tax or insurance premium tax specify that the insurer must take the credit against insurance premium tax only, not against both taxes, as is implied in the bill. Insurance companies may not receive a benefit, or full benefit, of claiming a corporate income tax credit against corporate income tax because the credit allowed against their insurance premium tax for paying corporate income tax may be reduced.

- Line 204: Because corporate income taxpayers may have short years (i.e., years that are less than 12 consecutive months), the line should read:

for a period of up to 10 taxable years

- Lines 207-262: Regarding transfers of credits, the bill refers to "taxpayers" selling or transferring credits. The term "taxpayer" is defined in s. 220.03(1)(z), F.S., to mean "any corporation subject to the tax imposed by this code and includes all corporations for which a consolidated return is filed under s. 220.131, F.S."

However, the bill also provides in Lines 245-253 that "a credit earned, purchased by, or transferred to a partnership, limited liability company, S corporation, or other pass-through taxpayer may be allocated to the partners, members, or shareholders of that taxpayer and claimed under this section in accordance with any agreement among the partners, members, or shareholders and without regard to the ownership interest of the partners, members, or shareholders in the rehabilitated certified historic structure."

The bill language is contrary to the definition of taxpayer in the Income Tax Code. It is unclear if a person or entity that is not subject to corporate income tax or insurance premium tax (i.e., not a taxpayer pursuant to s. 220.03(1)(z), F.S.) is permitted to earn, transfer, or sell a tax credit (e.g., an S corporation that does not choose to be taxed as a C corporation).

- Lines 265-269: The Department is authorized to perform audits to verify the legitimacy of the qualified expenses included in a tax credit return, but the Department lacks the expertise and experience to perform such audits. The sponsor may wish to consider having the Division perform these audits or direct that experts from the Division be available to assist the Department with these audits.
- Lines 270-276: The bill provides that it is grounds for forfeiture of previously claimed and received tax credits if the Department determines, as a result of an audit or information received from the Division or

the United States Department of the Interior, that a taxpayer received a tax credit pursuant to this section to which the taxpayer was not entitled. It is unclear how the Department would receive information from the Division or the United States Department of the Interior, as the bill does not provide for information sharing among the three entities.

It should be noted that pursuant to s. 213.053, F.S., the Department only has information sharing authority with the Division of Corporations of the Department of State. Section 213.053(6), F.S., provides that the Department may make information available to the Secretary of the Department of the Interior "to comply with any formal agreement for the mutual exchange of state information with the Internal Revenue Service of the United States, the Department of the Interior of the United States, or any state."

- Lines 288-298: If a taxpayer has a federal rehabilitation tax credit that has been revoked or modified, the taxpayer's federal income may not necessarily change (i.e., there may or may not be a deficiency for Florida tax purposes). The sentence on Lines 295-298 refers to a "precomputation" of tax, but it is not clear if the Department is supposed to have kept a precomputation of tax number on file in the event of a taxpayer's federal tax revocation or modification.
- Lines 303-315: The bill provides that the Department is to prepare an annual report, but does not specify a date that the report is due.
- Lines 308-309, 310-311: In the required annual report, the Department is directed to supply numbers with respect to "employees hired." It is unclear what that term means in these contexts. During construction, does the number of employees hired include existing employees of construction companies or only newly-hired employees? After the historic structure is rehabilitated, will the Department be expected to report the actual number of employees hired, as compared to the expected number of employees hired for report purposes?
- Lines 312-313: In the required annual report, the Department is directed to identify the number of affordable housing units created or preserved. The bill does not define the term "affordable housing unit."

13. OTHER:

- Line 235: The word "owed" is used, but the word "owned" is probably more appropriate. The line should read:

d. The amount of the tax credit owned by the taxpayer before

2022
DEPARTMENT OF REVENUE
FISCAL (OPERATIONAL) IMPACT ANALYSIS

Bill number SB 1310
Short title Florida Main Street Program and Historic Preservation Tax Credits
Bill sponsor Senator Rodriguez

Date of Analysis: January 6, 2022

Agency Contact: Office of Legislative and Cabinet Services

Telephone: (850) 617-8324

Estimate amounts required to administer the bill's provisions by appropriation categories (Salaries & Benefits, OPS, Expenses, Operating Capital Outlay, etc.)

I. FISCAL IMPACT ON STATE AGENCY:	(FY 21-22) \$ / FTE	(FY 22-23) \$ / FTE	(FY 23-24) \$ / FTE	(FY 24-25) \$ / FTE
A. REVENUES: All revenue estimates will be provided by the Revenue Estimating Conference.				
B. EXPENDITURES:				
1. Recurring	\$0	\$0	\$0	\$0
FTE				
Salaries				
OPS				
Expense				
HR Contract				
Contracted Services				
2. Non-Recurring	\$250,772	\$0	\$0	\$0
OPS				
Expense				
OCO				
Contracted Services	\$250,772			
C. TOTAL:	\$250,772	\$0	\$0	\$0
GR				
TF				

II. EXPLANATION OF COST ANALYSIS (Include methodology and assumptions):

The proposed bill creates section 220.197, F.S., 'The Main Street Historic Tourism and Revitalization Act.' This program would provide a tax credit against corporate income tax and insurance premium tax for qualified expenses incurred in the rehabilitation of a certified historic structure.

The Department of Revenue is required to approve the taxpayer's eligibility for the credit. Taxpayers will be required to submit documentation to establish:

1. the rehabilitation is to a certified historic structure that has been certified as being consistent with the historic character of the certified historic structure and, if applicable, consistent with the registered historic district in which the historic structure is located under 36 C.F.R., s. 67.2.
2. the structure is a building and its structural components, as defined in 36 C.F.R., s. 67.2, can be depreciated under s. 167, I.R.C., and individually listed in the National Register of Historic Places, or located within a registered historic district and certified by the United States Secretary of the Interior as being of historic significance to the registered historic district as set forth in 36 C.F.R., s. 67.2.
3. the taxpayer has ownership interest in the structure in the year in which it was placed into service after the rehabilitation was completed.
4. that qualified rehabilitation expenditures, as defined in 26 U.S.C., s. 47(c)(2) and structural components, as defined in 26 C.F.R., s. 1.48-1(e)(2) at the time of the project certification by United States Secretary of the Interior and the Internal Revenue Service exceeds \$5,000.

Before a taxpayer can claim or transfer a credit, the following documentation must be provided to the Department:

1. a Florida Division of Historical Resources, Department of State, certificate of eligibility attesting that the project was approved by the National Park Service and confirming whether or not the project is located in a Main Street local program area.
2. a National Park Service Form 10-168(e) signed by the National Park Service attesting that the completed rehabilitation meets the United States Secretary of the Interior Standards for Rehabilitation and is consistent with the historic character of the property, and if applicable, the district in which rehabilitation was completed.
3. a list of qualified rehabilitation expenses [26 U.S.C., s. 47(c)(2)] and expenses for structural components [26 CFR, s. 1.48-1(e)(2)]. If expenses exceed \$750,000, an audited cost report itemizing the qualified expenses per the Florida Single Audit Act must be submitted.
4. attestation of the total qualified expenses incurred in the rehabilitation of the structure.
5. *Corporate Income/Franchise Tax Return*, Form F-1120, or *Insurance Premium Taxes and Fees Return*, Form DR-908, or other applicable form.

Credit is 20% of qualified expenses incurred in the rehabilitation of a certified historic structure that has been approved by the National Park Service to receive the federal historic rehabilitation tax credit OR 30% of the total qualified expenses incurred in the rehabilitation of a certified historic structure that has been approved by the National Park Service to receive the federal historic rehabilitation tax credit that is located within a local program area of an Accredited Main Street Program or Orlando Main Streets program.

Any unused amount may be carried forward for a period up to 10 years.

The Department will be required to submit annual reports to the President of the Senate and the Speaker of the House of Representatives that identifies the:

- Number of employees hired during construction phases
- Use of each newly rehabilitated building and the number of employees hired
- Number of affordable housing units created or preserved
- Property values before and after the rehabilitation

Provides for an effective date of July 1, 2022.

Business Technology Office- System for Unified Tax (SUNTAX): FY 21/22 \$216,132 Contractor Hours + \$32,000 vendor BSWA + \$2,640 vendor Fairfax Software (Non-Recurring)

This bill will require approximately 2,324 contractor hours (at \$93 per hour) and 1,398 in-house hours to provide the necessary modifications to Revenue's System for Unified Tax (SUNTAX). These hours will be utilized as follows:

2,324 Contractor Hours (Non-recurring) - Gather requirements and design; perform technical testing

➤ **Information Services .NET Team (1,885 hours)**

- Create: .NET Website; upload/virus scan; workflow/admin screen; letters; reports, SAPRFC to CRM; voucher files; MeFAdmin/Submission details
- Modify MeF102 and MeF110

- **Information Services SUNTAX Team (439 hours)** - Gather requirements and design; update technical specifications; perform technical testing
 - Update F-1120 and DR-908 file descriptions and pre-processor and load programs
 - Gather Requirements & Design (4)
 - Modify F-1120 and DR-908 sales order logic
 - Update ZF2220 and ZBDPI calculations
 - Modify batch jobs
 - Create new activity type in AMS
 - Update status and amounts on .NET
 - Modify ZSD_CIT, ZSD_SORD, and ZSD_KONV
 - Modify tables
 - Modify application RFCs

1,398 In-House Hours (Non-recurring)

- **Electronic Data Interchange (EDI)/Extensible Markup Language (XML) Team (252 hours)** - Gather requirements and design; update functional specifications; perform functional testing
 - Modify: Corporate Income Tax (CIT) MeF: Alternative Forms Guide & F-1120 PDF; Insurance Premium Tax (IPT) XML
- **Return and Revenue Processing Team (724 hours)** - Gather requirements and design; modify functional specifications; perform functional testing
 - Modify: Insurance Premium Tax (IPT) Web File and Pay site for DR-908; Image Management System (IMS) for F-1120 paper return; Image Management System (IMS) for DR-908 paper return; e-Viewer for F-1120 paper return
- **Payment and Fund Distribution Team (57 hours)** - Gather requirements and design; modify functional specifications; perform functional testing
 - Create new .NET/Florida Tax Credit application and .NET/Florida Tax Credit Scholarship Program reports
 - Update credit tracking configuration and credit tracking table and programming
- **Receivables Management and Return Reconciliation Team (84 hours)** - Gather requirements and design; modify functional specifications; perform functional testing
 - Update F-1120 and DR-908 file descriptions and F-1120 and DR-908 pre-processor and load programs
 - Modifications to sales order logic for F-1120 and DR-908
 - Update ZF2220 and ZBDPI calculations
 - Update F-1120 and DR908 sales order configuration
- **Data Support Services Team (48 hours)** - Gather requirements and design; modify functional specifications; perform functional testing
 - Modify existing reports and existing BW extractor
- **Compliance and Refunds Team (68 hours)** - Gather requirements and design; modify functional specifications; perform functional testing
 - Create new activity type in AMS
- **Information Services .NET Team (124 hours)** - Gather requirements and design; perform technical testing
 - Create new DR-EIC template with rules and edits
 - Modify RIS export ; SunRise; Mef eViewer
- **Information Services SUNTAX Team (41 hours)** - Gather requirements and design; update technical specifications; perform technical testing
 - Modify forms approval

Revenue's e-Services Applications – FY 21/22 \$32,000 (Non-Recurring)

Revenue's e-Services vendor, Baca, Stein, White and Associates, Inc. (BSWA) will modify the Insurance Premium Tax (IPT) Web File and Pay and XML SecureNet applications and databases. The modifications are classified as moderate changes and will cost an estimated \$32,000 (\$22,000 for Web File and Pay, \$10,000 for XML SecureNet).

Revenue's IMS System – FY 21/22 \$2,640 (Non-Recurring)

Revenue's IMS vendor, FairFax Software, Inc., will require 16 hours (at \$165 per hour) to modify the system to update Forms DR-908 (Schedule III) and F-1120 (Schedule V).

Tax Information Publication (TIP) and Forms

A Tax Information Publication (TIP) will be posted to the Department's TIP website using existing resources.

Corporate income tax reporting forms (F-1120, and instructions) and insurance premium tax reporting forms (DR-908 and DR-908N) will be revised using existing resources.

Revenue Accounting

The tracking of this proposed credit would have an impact for the process. Existing personnel will assist in the review of applications and related correspondence; posting of approved credits to SAP-CRM credit tracking; and provide information to the Program and Executive Offices for Legislative reporting.

Return and Revenue Processing

Using current resources, implementation of the bill will result in a minimal operation impact, as members of RRP's three sub-processes may need to participate in user acceptance testing related to application platform changes relating to the new credits. Sub-process job aids may require editing and depending on the complexity of the changes, training may be required. Job aids will need to be developed for the new application to manage the new credits. Additionally, RRP will experience an operational impact linked to testing and validating the modified tax documents and tax returns.

Program Training

Program Training will update the corporate income tax and insurance premium tax auditor training materials and notify staff of the legislative changes. These changes can be made with existing resources.

Taxpayer Services

This proposed bill will result in one-time impact aiding taxpayers with questions about eligibility requirements, the application process and claiming the credits. Taxpayer Services will handle inquiries using existing resources.

Taxpayer Education and Communication

The Taxpayer Education and Communication team will accomplish necessary actions associated with this proposed legislation through normal operational activities. Internally, this may include alerts, job aids, or intranet updates for Department staff. Externally, this may include drafting, editing, and/or contributing to taxpayer educational materials, such as tutorials, brochures, webinars, information publications, and webpage updates.

III. Is an appropriation for the Department of Revenue provided in the bill? ☐ YES ☒ NO
If yes, provide amount(s) and fiscal year(s) for the appropriation.

IV. COMMENTS:

There are several provisions in the bill that are unclear, including what the requirement for the number of employees in (9)(a) means (additional employees hired permanently by the company or construction employees hired temporarily, or something else). Clarification is needed on this and the other issues noted in the Department's technical bill analysis for Revenue Accounting and the Department to administer the proposed bill properly.

Costs for programming could potentially carryover to the 2022-2023 fiscal year. The proposed bill does not specify the taxable year in which taxpayers of corporate income tax and insurance premium tax may start taking the tax credit.

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 1310

INTRODUCER: Senator Rodriguez

SUBJECT: Florida Main Street Program and Historic Preservation Tax Credits

DATE: January 14, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Renner	McKay	CM	Favorable
2.			FT	
3.			AP	

I. Summary:

SB 1310 creates the Main Street Historic Tourism and Revitalization Act (Act), which provides a tax credit against corporate income taxes and insurance premium taxes for qualified expenses incurred in the rehabilitation of a certified historic structure.

The tax credit may not exceed 20 percent of qualified expenses incurred in the rehabilitation of a certified historic structure that has been approved by the National Park Service to receive the federal historic rehabilitation tax credit *or* 30 percent of the total qualified expenses incurred in the rehabilitation of a certified historic structure that has been approved by the National Park Service to receive the federal historic rehabilitation tax credit that is located within a local program area of an Accredited Main Street Program.

Any unused amount may be carried forward for a period up to 10 years. There is no limit on the total number of transactions for the sale or transfer of all or part of a tax credit. However, qualified expenses may only be counted once in determining the amount of an available tax credit, and more than one taxpayer may not claim a tax credit for the same qualified expenses.

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

The bill takes effect on July 1, 2022.

II. Present Situation:

National Register of Historic Places

The National Historic Register of Historic Places,¹ under the National Park Service, is “part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect America’s historic and archeological resources.”² The program reviews property nominations and lists eligible properties in the National Register; offers guidance on evaluating, documenting, and listing historic places, and helps qualified historic properties receive preservation benefits and incentives.³

Properties listed in the National Register are eligible for federal preservation tax credits. A 20 percent income tax credit is available for the rehabilitation of historic, income-producing buildings that are determined by the Secretary of the Interior, through the National Park Service, to be certified historic structures.⁴

Main Street America

Main Street America, a program under the National Main Street Center,⁵ is a network of grassroots organizations that “revitalizes older and historic commercial districts to build vibrant neighborhoods and thriving economies.”⁶ The program offers community-based revitalization initiatives to transform downtowns. In order to be designated as either an affiliate or accredited member of Main Street America, a community must first become a member of the National Main Street Center and meet certain requirements.⁷ Main Street America has coordinating programs that are organized at the state, county, and city level that partner with the National Main Street Center to provide support and training to Main Street America communities.

Florida has two coordinating programs: Florida Main Street America located in Tallahassee and Orlando Main Street located in Orlando.⁸ Florida Main Street is administered by the Division of Historical Resources (division) under the Florida Department of State.⁹ Forty-five Florida Main

¹ 54 U.S.C., § 3021.

² U.S. Department of the Interior, National Park Service, National Register of Historic Places, *What is the National Register of Historic Places?*, available at <https://www.nps.gov/subjects/nationalregister/what-is-the-national-register.htm> (last visited Jan. 14, 2022).

³ *Id.*

⁴ U.S. Department of the Interior, National Park Service, *Technical Preservation Services*, available at <https://www.nps.gov/tps/tax-incentives.htm> (last visited Jan. 14, 2022).

⁵ The National Main Street Center was established in 1980 as a program of the National Trust for Historic Preservation as a way to address issues facing aging and historic downtowns. The Center launched the Main Street America program in 2015. See Main Street America, *About Us*, available at <https://www.mainstreet.org/about-us> (last visited Jan. 14, 2022).

⁶ Main Street America, *About Us*, available at <https://www.mainstreet.org/about-us> (last visited Jan. 14, 2022).

⁷ Main Street America, *Designation*, available at [https://higherlogicdownload.s3.amazonaws.com/NMSC/390e0055-2395-4d3b-af60-81b53974430d/UploadedImages/Main Street America Tier System Overview - 2021 July Update.pdf](https://higherlogicdownload.s3.amazonaws.com/NMSC/390e0055-2395-4d3b-af60-81b53974430d/UploadedImages/Main%20Street%20America%20Tier%20System%20Overview%20-%202021%20July%20Update.pdf) (last visited Jan. 14, 2022).

⁸ Main Street America, *Coordinating Programs*, available at [https://higherlogicdownload.s3.amazonaws.com/NMSC/390e0055-2395-4d3b-af60-81b53974430d/UploadedImages/The Programs/2020 Coordinating Program List.pdf](https://higherlogicdownload.s3.amazonaws.com/NMSC/390e0055-2395-4d3b-af60-81b53974430d/UploadedImages/The%20Programs/2020%20Coordinating%20Program%20List.pdf) (last visited Jan. 14, 2022).

⁹ Section 267.031(5), F.S.

Streets and 10 Orlando Main Streets have received technical assistance toward the goal of revitalizing historic downtowns and encouraging economic development.¹⁰

Corporate Income Tax

Florida levies a 5.5 percent tax on certain income of corporations and financial institutions doing business in Florida.¹¹ Florida utilizes the taxable income determined for federal income tax purposes as a starting point to determine the total amount of Florida corporate income tax due.¹² This means that a corporation paying taxes in Florida generally receives the same benefits from deductions allowed when determining taxable income for federal tax purposes as it does when determining taxable income for state taxation purposes.

Insurance Premium Tax

Florida imposes a 1.75 percent tax on most Florida insurance premiums.¹³ Insurance premium taxes are paid by insurance companies under ch. 624, F.S., and are remitted to the Department of Revenue (DOR). These revenues are distributed to General Revenue.

III. Effect of Proposed Changes:

The bill creates the Main Street Historic Tourism and Revitalization Act (Act) which provides a tax credit against corporate income tax and insurance premium tax for qualified expenses¹⁴ incurred in the rehabilitation of a certified historic structure.

Eligibility

A taxpayer must apply to the DOR for a tax credit before taking a credit on their return and must document that:

- The rehabilitation is a certified rehabilitation;¹⁵
- The structure is a certified historic structure,¹⁶ is income-producing, is located within the state, and was rehabilitated and placed into service on or after July 1, 2022;

¹⁰ Visit Florida, *Florida Main Street Programs Have Stories to Tell*, available at <https://www.visitflorida.com/travel-ideas/articles/florida-main-street/> (last visited Jan. 14, 2022).

¹¹ Section 220.11(2), F.S.

¹² Section 220.12, F.S.

¹³ Section 624.509, F.S.

¹⁴ The bill defines “qualified expenses” as qualified rehabilitation expenditures (defined in 26 U.S.C., §47(c)(2)) and structural components (defined in 26 C.F.R., § 1.48-1(e)(2)) at the time of project certification by the U.S. Secretary of the Interior and the U.S. Internal Revenue Service (IRS).

¹⁵ The bill defines “certified rehabilitation” as the rehabilitation of a certified historic structure that the U.S. Secretary of the Interior has certified to the U.S. Secretary of the Treasury as being consistent with the historic character of the certified historic structure and, if applicable, consistent with the registered historic district in which the structure is located. *See* 36 C.F.R., § 67.2

¹⁶ The bill defines a “certified historic structure” as a building and its structural components which is of a character subject to the allowance for depreciation provided in s. 167 of the Internal Revenue Code and which is listed on the National Register of Historic Places or located within a registered historic district and certified by the U.S. Secretary of the Interior as being of historic significance to the registered historic district.

- The taxpayer had an ownership interest in the certified historic structure in the year during which the certified historic structure was placed into service after the certified rehabilitation was complete; and
- The total amount of qualified expenses incurred in rehabilitating the certified historic structure exceeded \$5,000.

Filing Requirements

Before claiming or transferring a tax credit, the taxpayer must provide the following information to the DOR:

- An official certificate of eligibility from the division attesting that the project has been approved by the National Park Service and confirming whether the project is or is not located within a Main Street local program;
- National Park Service Form 10-168c, signed by the National Park Service attesting that the completed rehabilitation meets the U.S. Secretary of the Interior's Standards for Rehabilitation and is consistent with the historic character of the property and, if applicable, the district in which the completed rehabilitation is located;
- Identification of the dates during which the structure was rehabilitated, the date the structure was first placed into service after certified rehabilitation was completed, and evidence that the structure was placed into service after the certified rehabilitation was completed;
- A list of total qualified expenses incurred by the taxpayer in rehabilitation the certified historic structure. For certified rehabilitations with qualified expenses that exceeded \$750,000, the taxpayer must submit an audited cost report that itemizes the qualified expenses incurred in rehabilitating the structure as provided in the Florida Single Audit Act.
- An attestation of the total qualified expenses incurred by the taxpayer in rehabilitating the certified historic structure;
- A completed "Florida Corporate Income/Franchise Tax Return" form issued by the DOR for insurance premium tax reporting; and
- The information required to be reported by the DOR to enable the DOR to compile its annual report based on the tax credit applications submitted and approved.

Amount and Carryforward of Tax Credit

The tax credit may be used to offset the corporate income tax and the insurance premium tax. The total tax credit claimed annually may not exceed the amount of tax due after any other applicable tax credits and may not exceed:

- Twenty percent of the total qualified expenses incurred in rehabilitating a certified historic structure that has been approved by the National Park Service to receive the federal historic rehabilitation tax credit; or
- Thirty percent of the total qualified expenses incurred in rehabilitating a certified historic structure that has been approved by the National Park Service to receive the federal historic rehabilitation tax credit and that is located within a local program area of an Accredited Main Street Program.

If a taxpayer is eligible for a tax credit that exceeds taxes owed, the taxpayer may carry the unused tax credit forward for a period of up to 10 years.

Sale or Transfer of Tax Credit

The bill provides that there is no limit on the total number of transactions for the sale or transfer of all or part of a tax credit. However, qualified expenses may only be counted once in determining the amount of an available tax credit, and more than one taxpayer may not claim a tax credit for the same qualified expenses.

A taxpayer that sells or transfers a tax credit, and the purchaser or transferee must jointly submit written notice of the sale or transfer to the DOR no later than the 30th day after the date of the sale or transfer. The notice must include the following information:

- The date of the sale or transfer;
- The amount of the tax credit sold or transferred;
- The name and federal tax identification number of the taxpayer that sold or transferred the tax credit and the purchaser or transferee; and
- The amount of the tax credit owed by the taxpayer before the sale or transfer and the amount the selling or transferring taxpayer retained, if any, after the sale or transfer.

The sale or transfer of a tax credit does not extend the period for which a tax credit may be carried forward and does not increase the total amount of the tax credit that may be claimed.

A tax credit earned, purchased, or transferred to a partnership, limited liability company, S corporation, or other pass-through taxpayer may be allocated to the partners, members, or shareholders of that taxpayer and without regard to the ownership interest of the partners, members, or shareholders in the rehabilitated certified historic structure.

If the tax credit is reduced due to a determination, examination, or audit by the DOR, the tax deficiency must be recovered from the taxpayer that sold or transferred the tax credit or the purchaser or transferee that claimed the tax credit up to the amount of the tax credit taken. Any subsequent deficiencies must be assessed against the purchaser or transferee that claimed the tax credit, or in the case of multiple succeeding entities, in the order of tax credit succession.

DOR Audit Authority

The DOR is authorized to perform additional financial and technical audits and examinations, including examining the accounts, books, or records of the tax credit applicant, to verify the legitimacy of the qualified expenses included in a tax credit return and to ensure compliance.

It is grounds for forfeiture of previously claimed and received tax credits if the DOR determines that a taxpayer received a tax credit to which the taxpayer was not entitled. The taxpayer must return the forfeited tax credits to the DOR, which will then be paid into the General Revenue Fund.

The taxpayer must file an amended tax return and pay any required tax within 60 days after the taxpayer receives notification from the IRS that a previously approved tax credit has been revoked or modified, if uncontested, or within 60 days after a final order is issued following proceedings involving a contested revocation or modification order.

The DOR may issue a notice of deficiency at any time within five years after the date on which the taxpayer receives notification from the IRS that a previously approved tax credit has been revoked or modified.

The DOR may issue a notice of deficiency at any time if the taxpayer fails to notify the DOR of any change in its tax credit claimed. The amount of any proposed assessment in the notice of deficiency is limited to the amount of any deficiency from the precomputation of the taxpayer's tax for the taxable year. Furthermore, a taxpayer is subject to applicable penalties and interest for failing to report and timely paying any tax due as a result of the forfeiture of its tax credit.

Other Provisions

The DOR must provide an annual report that identifies, in the aggregate, the number of employees hired during construction phases, the use of each newly rehabilitated building and the expected number of employees hired, the number of affordable housing units created or preserved, and the property values before and after the certified rehabilitations.

The DOR must also establish any necessary forms required to claim a tax credit; provide administrative guidelines and procedures required to administer the Act, including rules establishing an entitlement to and sale or transfer of a tax credit; and provide examination and audit procedures required to administer the Act.

The DOR is granted rulemaking authority to administer the Act.

The bill takes effect on July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

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

B. Private Sector Impact:

Taxpayers who have ownership interest in a certified historic structure in the year during which the structure was placed into service after the certified rehabilitation was complete may be eligible to receive a tax credit to offset corporate income taxes and insurance premium taxes for qualified expenses incurred in the rehabilitation of the certified historic structure.

C. Government Sector Impact:

According to the DOR, the bill will have a non-recurring negative fiscal impact in the amount of \$250,772 for fiscal year 2021-2022 in order to make modifications to the DOR's software systems, databases and applications.¹⁷

Additionally, new rules and forms would need to be promulgated in order to administer the tax credit.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DOR raised the following concerns:

- The bill does not provide for a cooperative agreement between the DOR and the division to assist with the administration of the program.
- The DOR requests emergency rulemaking authority to administer the Act.
- The DOR is authorized to perform audits to verify the legitimacy of the qualified expenses included in a tax credit return; however, the DOR lacks the expertise and experience to perform such audits. The division may need to assist the DOR with the audits.
- The bill provides that it is grounds for forfeiture of previously claimed and received tax credits if the DOR determines, as a result of an audit or information received from the division of the U.S. Department of the Interior, that a taxpayer received a tax credit to which the taxpayer was not entitled. It is unclear how the DOR would receive information from the division or the U.S. Department of the Interior because the bill does not provide for information sharing among the three entities.
- The annual report requires the DOR to list "employees hired." It is unclear what that term means. The report also requires the DOR to identify the number of affordable housing units created or preserved. The bill does not define the term "affordable housing unit."

¹⁷ Florida Department of Revenue, SB 1310 analysis (2022). On file with Senate Commerce & Tourism Committee.

VIII. Statutes Affected:

This bill creates section 220.197 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.

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

By Senator Rodriguez

39-01155A-22

20221310__

A bill to be entitled

An act relating to the Florida Main Street Program and historic preservation tax credits; creating s. 220.197, F.S.; providing a short title; defining terms; specifying eligibility requirements for receiving specified tax credits for taxpayers that rehabilitate certified historic structures; specifying requirements for claiming or transferring specified tax credits; specifying the amount of tax credits; authorizing the carryforward, sale, and transfer of tax credits; providing the Department of Revenue audit and examination powers for specified purposes related to certified rehabilitation expenses; requiring the return of forfeited tax credits under certain circumstances; providing penalties; requiring the department to provide specified annual reports to the Legislature; providing duties of the department; authorizing the department to adopt rules; providing an effective date.

WHEREAS, historic revitalization creates highly paid local construction jobs, and

WHEREAS, historic rehabilitation increases the value of buildings and results in a growing state and local tax base, and

WHEREAS, historic revitalization boosts heritage tourism and creates thriving downtowns that are attractive to main street businesses, and

WHEREAS, reusing historic buildings creates affordable spaces for small business incubation, and

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

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WHEREAS, repurposing historic buildings saves resources and activates vacant spaces, and

WHEREAS, historic rehabilitation projects leverage significant private investment, and

WHEREAS, leveraging state tax incentives increases the effectiveness of federal Historic Preservation Tax Incentives and the Opportunity Zones Program to encourage the historic preservation of existing buildings, and

WHEREAS, an increase in rehabilitation activity occurs when a state incentive is combined with federal Historic Preservation Tax Incentives, and

WHEREAS, many historic buildings in the state need safety upgrades and other improvements that require both public and private investment to return these buildings as assets of their local communities, NOW, THEREFORE,

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

Section 1. Section 220.197, Florida Statutes, is created to read:

220.197 The Main Street Historic Tourism and Revitalization Act; tax credits; reports.—

(1) SHORT TITLE.—This act may be cited as the "Main Street Historic Tourism and Revitalization Act."

(2) DEFINITIONS.—As used in this section, the term:

(a) "Accredited Main Street Program" means an active Florida Main Street Program or the Orlando Main Streets program, provided that such program meets the Main Street America accreditation standards. An Accredited Main Street Program must:

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

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1. Have broad-based community support for the commercial district revitalization process with strong support from the public and private sectors.

2. Have a developed vision and mission statement relevant to community conditions and to Main Street America's organizational stage.

3. Have a comprehensive Main Street America work plan.

4. Possess a historic preservation ethic.

5. Have an active board of directors and committees.

6. Have an adequate operating budget.

7. Have a paid professional program manager.

8. Conduct a program of ongoing training for staff and volunteers.

9. Report key statistics.

10. Be a current member of Main Street America.

(b) "Certified historic structure" means a building and its structural components as defined in 36 C.F.R. s. 67.2 which is of a character subject to the allowance for depreciation provided in s. 167 of the Internal Revenue Code of 1986, as amended, and which is:

1. Individually listed in the National Register of Historic Places; or

2. Located within a registered historic district and certified by the United States Secretary of the Interior as being of historic significance to the registered historic district as set forth in 36 C.F.R. s. 67.2.

(c) "Certified rehabilitation" means the rehabilitation of a certified historic structure that the United States Secretary of the Interior has certified to the United States Secretary of

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the Treasury as being consistent with the historic character of the certified historic structure and, if applicable, consistent with the registered historic district in which the certified historic structure is located as set forth in 36 C.F.R. s. 67.2.

(d) "Division" means the Division of Historical Resources of the Department of State.

(e) "Florida Main Street Program" means a statewide historic preservation-based downtown revitalization assistance program created, maintained, and administered by the division under s. 267.031(5).

(f) "Local program area" means the specific geographic area in which an Accredited Main Street Program is conducted as approved and maintained by the division or in which the Orlando Main Streets program is conducted.

(g) "Main Street America" means a national network of grassroots organizations revitalizing historic downtown areas under the leadership of the National Main Street Center, Inc., a subsidiary of the National Trust for Historic Preservation.

(h) "National Register of Historic Places" means the list of historic properties significant in American history, architecture, archeology, engineering, and culture maintained by the United States Secretary of the Interior as authorized in 54 U.S.C. s. 3021.

(i) "Orlando Main Streets" means a historic preservation-based district revitalization program administered by the City of Orlando.

(j) "Qualified expenses" means qualified rehabilitation expenditures as defined in 26 U.S.C. s. 47(c)(2) and structural components as defined in 26 C.F.R. s. 1.48-1(e)(2) at the time

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of project certification by the United States Secretary of the Interior and the United States Internal Revenue Service.

(k) "Registered historic district" means a district listed in the National Register of Historic Places or a district:

1. Designated under general law or local ordinance and certified by the United States Secretary of the Interior as containing criteria that will substantially achieve the purposes of preserving and rehabilitating buildings of historic significance to the district; and

2. Certified by the United States Secretary of the Interior as meeting substantially all of the requirements for listing a district in the National Register of Historic Places.

(3) ELIGIBILITY FOR TAX CREDIT.—To claim and receive a tax credit under this section, a taxpayer must first apply to the department for a tax credit for qualified expenses in the amount and under the conditions and limitations provided in this section against the tax due for a taxable year under this chapter and must document that:

(a) The rehabilitation is a certified rehabilitation.

(b) The structure is a certified historic structure, is income-producing, is located within the state, and was rehabilitated and placed into service on or after July 1, 2022.

(c) The taxpayer had an ownership interest in the certified historic structure in the year during which the certified historic structure was placed into service after the certified rehabilitation was completed.

(d) The total amount of qualified expenses incurred in rehabilitating the certified historic structure exceeded \$5,000.

(4) TAX CREDIT FILING REQUIREMENTS.—Before claiming or

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transferring a tax credit under this section, the taxpayer must provide the department with the following information:

(a) An official certificate of eligibility from the division signed by the State Historic Preservation Officer or the Deputy State Historic Preservation Officer attesting that the project has been approved by the National Park Service and confirming whether the project is or is not located within a Main Street local program area.

(b) National Park Service Form 10-168c (Rev. 2019), titled "Historic Preservation Certification Application-Part 3-Request for Certification of Completed Work," signed by the National Park Service attesting that the completed rehabilitation meets the United States Secretary of the Interior's Standards for Rehabilitation and is consistent with the historic character of the property and, if applicable, the district in which the completed rehabilitation is located. The form may be obtained through the National Park Service.

(c) An identification of the dates during which the certified historic structure was rehabilitated, the date the certified historic structure was first placed into service after the certified rehabilitation was completed, and evidence that the certified historic structure was placed into service after the certified rehabilitation was completed.

(d) A list of total qualified expenses incurred by the taxpayer in rehabilitating the certified historic structure. For certified rehabilitations with qualified expenses that exceeded \$750,000, the taxpayer must submit an audited cost report issued by a certified public accountant that itemizes the qualified expenses incurred in rehabilitating the certified historic

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structure as provided in s. 215.97.

(e) An attestation of the total qualified expenses incurred by the taxpayer in rehabilitating the certified historic structure.

(f) A completed Form F-1120, titled "Florida Corporate Income/Franchise Tax Return," or other appropriate tax form issued by the department for insurance premium tax reporting.

(g) The information required to be reported by the department in subsection (9) to enable the department to compile its annual report.

(5) AMOUNT OF TAX CREDIT.—The total tax credit claimed annually may not exceed the amount of tax due after any other applicable tax credits and may not exceed the following:

(a) Twenty percent of the total qualified expenses incurred in rehabilitating a certified historic structure that has been approved by the National Park Service to receive the federal historic rehabilitation tax credit; or

(b) Thirty percent of the total qualified expenses incurred in rehabilitating a certified historic structure that has been approved by the National Park Service to receive the federal historic rehabilitation tax credit and that is located within a local program area of an Accredited Main Street Program.

The tax credit may be used to offset the corporate income tax imposed in s. 220.11 and the insurance premium tax imposed in s. 624.509.

(6) CARRYFORWARD OF TAX CREDIT.—

(a) If a taxpayer is eligible for a tax credit that exceeds taxes owed, the taxpayer may carry the unused tax credit forward

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for a period of up to 10 years.

(b) A carryforward is considered the remaining portion of a tax credit that cannot be claimed in the current tax year.

(7) SALE OR TRANSFER OF TAX CREDIT.—

(a) A taxpayer that incurs qualified expenses may sell or transfer all or part of the tax credit that may otherwise be claimed to another taxpayer.

(b) A taxpayer to which all or part of the tax credit is sold or transferred may sell or transfer all or part of the tax credit that may otherwise be claimed to another taxpayer.

(c) A taxpayer that sells or transfers a tax credit to another taxpayer must provide a copy of the certificate of eligibility together with the audited cost report to the purchaser or transferee.

(d) Qualified expenses may only be counted once in determining the amount of an available tax credit, and more than one taxpayer may not claim a tax credit for the same qualified expenses.

(e) There is no limit on the total number of transactions for the sale or transfer of all or part of a tax credit.

(f) 1. A taxpayer that sells or transfers a tax credit under this subsection and the purchaser or transferee shall jointly submit written notice of the sale or transfer to the department on a form adopted by the department no later than the 30th day after the date of the sale or transfer. The notice must include all of the following:

a. The date of the sale or transfer.

b. The amount of the tax credit sold or transferred.

c. The name and federal tax identification number of the

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233 taxpayer that sold or transferred the tax credit and the
 234 purchaser or transferee.

235 d. The amount of the tax credit owed by the taxpayer before
 236 the sale or transfer and the amount the selling or transferring
 237 taxpayer retained, if any, after the sale or transfer.

238 2. The sale or transfer of a tax credit under this
 239 subsection does not extend the period for which a tax credit may
 240 be carried forward and does not increase the total amount of the
 241 tax credit that may be claimed.

242 3. If a taxpayer claims a tax credit for qualified
 243 expenses, another taxpayer may not use the same expenses as the
 244 basis for claiming a tax credit.

245 4. Notwithstanding the requirements of this subsection, a
 246 tax credit earned by, purchased by, or transferred to a
 247 partnership, limited liability company, S corporation, or other
 248 pass-through taxpayer may be allocated to the partners, members,
 249 or shareholders of that taxpayer and claimed under this section
 250 in accordance with any agreement among the partners, members, or
 251 shareholders and without regard to the ownership interest of the
 252 partners, members, or shareholders in the rehabilitated
 253 certified historic structure.

254 (g) If the tax credit is reduced due to a determination,
 255 examination, or audit by the department, the tax deficiency
 256 shall be recovered from the taxpayer that sold or transferred
 257 the tax credit or the purchaser or transferee that claimed the
 258 tax credit up to the amount of the tax credit taken.

259 (h) Any subsequent deficiencies shall be assessed against
 260 the purchaser or transferee that claimed the tax credit or, in
 261 the case of multiple succeeding entities, in the order of tax

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262 credit succession.

263 (8) AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX
 264 CREDITS; FRAUDULENT CLAIMS.—

265 (a) The department may perform any additional financial and
 266 technical audits and examinations, including examining the
 267 accounts, books, or records of the tax credit applicant, to
 268 verify the legitimacy of the qualified expenses included in a
 269 tax credit return and to ensure compliance with this section.

270 (b) It is grounds for forfeiture of previously claimed and
 271 received tax credits if the department determines, as a result
 272 of an audit or information received from the division or the
 273 United States Department of the Interior, that a taxpayer
 274 received a tax credit pursuant to this section to which the
 275 taxpayer was not entitled. In the case of fraud, the taxpayer
 276 may not claim any future tax credits under this section.

277 (c) The taxpayer must return forfeited tax credits to the
 278 department and such funds shall be paid into the General Revenue
 279 Fund.

280 (d) The taxpayer shall file with the department an amended
 281 tax return or such other report as the department prescribes and
 282 shall pay any required tax within 60 days after the taxpayer
 283 receives notification from the United States Internal Revenue
 284 Service that a previously approved tax credit has been revoked
 285 or modified, if uncontested, or within 60 days after a final
 286 order is issued following proceedings involving a contested
 287 revocation or modification order.

288 (e) A notice of deficiency may be issued by the department
 289 at any time within 5 years after the date on which the taxpayer
 290 receives notification from the United States Internal Revenue

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291 Service that a previously approved tax credit has been revoked
292 or modified.

293 (f) If a taxpayer fails to notify the department of any
294 change in its tax credit claimed, a notice of deficiency may be
295 issued at any time. In either case, the amount of any proposed
296 assessment set forth in such notice of deficiency is limited to
297 the amount of any deficiency resulting under this section from
298 the precomputation of the taxpayer's tax for the taxable year.

299 (g) A taxpayer that fails to report and timely pay any tax
300 due as a result of the forfeiture of its tax credit violates
301 this section and is subject to applicable penalties and
302 interest.

303 (9) ANNUAL REPORTS.—Each year, based on the applications
304 submitted and approved, the department must issue a report to
305 the President of the Senate and the Speaker of the House of
306 Representatives that identifies, in the aggregate, all of the
307 following:

308 (a) The number of employees hired during construction
309 phases.

310 (b) The use of each newly rehabilitated building and the
311 expected number of employees hired.

312 (c) The number of affordable housing units created or
313 preserved.

314 (d) The property values before and after the certified
315 rehabilitations.

316 (10) DEPARTMENT DUTIES.—The department shall:

317 (a) Establish any necessary forms required to claim a tax
318 credit under this section.

319 (b) Provide administrative guidelines and procedures

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320 required to administer this section, including rules
321 establishing an entitlement to and sale or transfer of a tax
322 credit under this section.

323 (c) Provide examination and audit procedures required to
324 administer this section.

325 (11) RULES.—The department may adopt rules to administer
326 this section.

327 Section 2. This act shall take effect July 1, 2022.



The Florida Senate

Committee Agenda Request

To: Senator Ed Hooper, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: January 12, 2022

I respectfully request that **Senate Bill #1076**, relating to Florida Kratom Consumer Protection Act, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Joe Gruters". The signature is written in a cursive, flowing style.

Joe Gruters

Cc: Todd McKay, Staff Director
Kathryn Vigrass, Committee Administrative Assistant

The Florida Senate

APPEARANCE RECORD

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

11/18/2022

Meeting Date

SB 1076

Bill Number or Topic

Commerce & Tourism

Committee

Amendment Barcode (if applicable)

Name

MAC HADDOW

Phone

571-294-5978

Address

5733 YEWING WAY

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MHADDOW@AMERICANKNATOM.ORG

Street

GAINESVILLE

City

VA

State

20155

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



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

AMERICAN KNATOM ASSN.

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1076

INTRODUCER: Senator Gruters

SUBJECT: Florida Kratom Consumer Protection Act

DATE: January 14, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>McMillan</u>	<u>McKay</u>	<u>CM</u>	Favorable
2. _____	_____	<u>AEG</u>	_____
3. _____	_____	<u>AP</u>	_____

I. Summary:

SB 1076 creates the Florida Kratom Consumer Protection Act, which provides that a processor may not sell, prepare, distribute, or expose for sale a kratom product that:

- Is adulterated with a dangerous non-kratom substance that affects the quality or strength of the kratom product to such a degree that it may injure a consumer;
- Contains a poisonous or otherwise harmful non-kratom ingredient;
- Contains a level of 7-hydroxymitragynine in the alkaloid fraction which is greater than 2 percent of the alkaloid composition of the product;
- Contains a synthetic alkaloid;
- Does not include directions for the safe and effective use of the product; or
- Has a label that contains any claim that the product is intended to diagnose, treat, cure, or prevent any medical condition or disease.

The bill establishes that a processor may not sell, prepare, distribute, or expose for sale kratom extract that contains levels of residual solvents higher than the standards set forth in United States Pharmacopeia and the National Formulary (USP-NF) chapter 467. Additionally, a processor may not distribute, sell, or expose for sale a kratom product to an individual under 21 years of age.

The bill provides that a processor who violates s. 501.9745(3), F.S., is subject to an administrative fine. However, a processor selling kratom products at retail does not violate s. 501.9745(3), F.S., if it is shown by a preponderance of the evidence that the processor relied in good faith upon the representations of a manufacturer, processor, packer, or distributor of the kratom product.

The bill takes effect July 1, 2022.

II. Present Situation:

Kratom

Kratom is a tropical tree native to Southeast Asia that contains mitragynine and 7-hydroxymitragynine in its leaves, which are two major psychoactive ingredients.¹ The leaves are crushed and then smoked, brewed with tea, or placed into gel capsules.² Consumption of kratom leaves can produce stimulant and sedative effects, and may also lead to psychotic symptoms.³

Some research finds that kratom can be used as a substitute for opiate users to combat withdrawal symptoms, as well as to treat muscle ache, fatigue, and other conditions.⁴ Low doses of kratom are said to produce a stimulant effect, while higher doses may produce an opioid-like effect.⁵ Additionally, research points to the potential for further development of mitragynine and the use of kratom as a harm reduction agent.⁶ Even so, the toxicity of kratom remains a topic of discussion, as well as its potential to cause herb-drug interactions and even be involved in fatalities.⁷

Currently, kratom is not listed as a controlled substance under federal law or Florida law. However, in 2014, Sarasota County banned kratom, labeling it as a designer drug.⁸ With the exception of Sarasota County, in Florida, all parts of the plant and its extracts are legal to cultivate, buy, possess, and distribute without a license or prescription. Kratom is illegal in Alabama,⁹ Arkansas,¹⁰ Indiana,¹¹ Vermont,¹² and Wisconsin.¹³ Other states such as Arizona,¹⁴ Georgia,¹⁵ and Utah¹⁶ regulate kratom under their state's version of the Kratom Consumer Protection Act.

Following an updated import alert that provides information to U.S. Food and Drug Administration (FDA) field staff about detaining without physical examination imported dietary supplements and bulk dietary ingredients that are or contain kratom, in May of 2021, the FDA

¹ Drug Enforcement Administration, *Kratom* (April 2020), available at https://www.dea.gov/sites/default/files/2020-06/Kratom-2020_0.pdf (last visited Jan. 14, 2022).

² *Id.*

³ *Id.*

⁴ See Dimy Fluyau and Neelambika Revedigar, *Biochemical Benefits, Diagnosis, and Clinical Risks Evaluation of Kratom*, *Frontiers in Psychiatry Journal* Volume 8 (April 24, 2017).

⁵ *Id.*

⁶ See Charles Veltri and Oliver Grundmann, *Current Perspectives on the Impact of Kratom Use*, *Substance Abuse and Rehabilitation Journal* Volume 10 23-31 (July 1, 2019).

⁷ *Id.*

⁸ See Sarasota, FL., Code of Ordinances, Sec. 62-351 (2014).

⁹ See Alabama Public Health, *Controlled Substance List* (Jan. 20, 2021), available at <https://www.alabamapublichealth.gov/blog/assets/controlledsubstanceslist.pdf> (last visited Jan. 14, 2022).

¹⁰ See Arkansas Department of Health, *List of Controlled Substances*, available at http://secureservercdn.net/166.62.109.105/e17.085.myftpupload.com/wp-content/uploads/2016/02/arkansas-controlled_substances_list.pdf (last visited Jan. 14, 2022).

¹¹ See IC 35-31.5-2-321.

¹² See Vt. Admin. Code 12-5-23:4.0.

¹³ See W.S.A. 961.14.

¹⁴ See AZ Rev Stat § 36-795.02.

¹⁵ See GA Code § 16-13-121.

¹⁶ See UT Code § 4-45-101.

announced the seizure of around 37,500 tons of adulterated kratom in Florida, worth an estimated \$1.3 million.¹⁷ The FDA’s Associate Commissioner for Regulatory Affairs, stated that there is substantial concern regarding the safety of kratom and the risk it may pose to public health, and indicated that there are currently no FDA-approved uses for kratom.¹⁸

The U.S. Department of Justice, on behalf of the FDA, filed a complaint in the U.S. District Court for the Middle District of Florida alleging that kratom is a new dietary ingredient for which there is inadequate information to provide reasonable assurance that it does not present a significant or unreasonable risk of illness or injury.¹⁹ Additionally, the FDA stated that dietary supplements and bulk dietary ingredients that are or contain kratom are adulterated under the Federal Food, Drug, and Cosmetic Act.²⁰ On October 26, 2021, a consent decree of condemnation and destruction against the articles seized by the FDA in May of 2021 was entered, which requires the claimants to pay a penal bond and destroy all seized articles.²¹

III. Effect of Proposed Changes:

The bill creates the Florida Kratom Consumer Protection Act, and establishes the following definitions:

- “Kratom extract” means a food product or dietary ingredient that contains any part of the leaf of the plant *Mitragyna speciose* which has been extracted and concentrated to provide more standardized dosing;
- “Kratom product” means a food product, food ingredient, dietary ingredient, dietary supplement, or beverage intended for human consumption which contains any part of the leaf of the plant *Mitragyna speciose* or an extract of such plant and is manufactured as a powder, capsule, pill, beverage, or other edible form; and
- “Processor” means a person who sells, prepares, manufactures, distributes, or maintains kratom products.

The bill provides that a processor may not sell, prepare, distribute, or expose for sale a kratom product that:

- Is adulterated with a dangerous non-kratom substance that affects the quality or strength of the kratom product to such a degree that it may injure a consumer;
- Contains a poisonous or otherwise harmful non-kratom ingredient, including, but not limited to, any substance listed in s. 893.03, F.S.;²²
- Contains a level of 7-hydroxymitragynine in the alkaloid fraction which is greater than 2 percent of the alkaloid composition of the product;

¹⁷ U.S. Food and Drug Administration, *FDA Announces Seizure of Adulterated Dietary Supplements Containing Kratom* (May 21, 2021), available at <https://www.fda.gov/news-events/press-announcements/fda-announces-seizure-adulterated-dietary-supplements-containing-kratom> (last visited Jan. 14, 2022).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act and classifies controlled substances into five categories, known as schedules.

- Contains a synthetic alkaloid, including, but not limited to, synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived compound of the plant *Mitragyna speciosa*;
- Does not include directions for the safe and effective use of the product, including, but not limited to, a suggested serving size, on the product's packaging or label; or
- Has a label that contains any claim that the product is intended to diagnose, treat, cure, or prevent any medical condition or disease.

The bill establishes that a processor may not sell, prepare, distribute, or expose for sale kratom extract that contains levels of residual solvents higher than the standards set forth in USP-NF²³ chapter 467.²⁴ Additionally, a processor may not distribute, sell, or expose for sale a kratom product to an individual under 21 years of age.

The bill provides that a processor who violates s. 501.9745(3), F.S., is subject to an administrative fine of not more than \$500 for the first offense and not more than \$1000 for the second or subsequent offense. However, a processor selling kratom products at retail does not violate s. 501.9745(3), F.S., if it is shown by a preponderance of the evidence that the processor relied in good faith upon the representations of a manufacturer, processor, packer, or distributor of the kratom product.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²³ The United States Pharmacopeia (USP) and the National Formulary (NF) contains standards for medicines, dosage forms, drug substances, excipients, biologics, compounded preparations, medical devices, dietary supplements, and other therapeutics. The current version of USP-NF standards deemed official by USP are enforceable by the U.S. Food and Drug Administration for medicines manufactured and marketed in the United States.

²⁴ Residual solvents in pharmaceuticals are defined as organic volatile chemicals that are used or produced in the manufacture of drug substances or excipients, or in the preparation of drug products. The residual solvents are not completely removed by practical manufacturing techniques. Drug products should contain no higher levels of residual solvents than can be supported by safety data. Solvents that are known to cause unacceptable toxicities, "Class 1," should be avoided in the production of drug substances, excipients, or drug products unless their use can be strongly justified in a risk-benefit assessment. Solvents associated with less severe toxicity, "Class 2," should be limited in order to protect patients from potential adverse effects. Less toxic solvents, "Class 3," should be used where practical. See The United States Pharmacopeia and the National Formulary, *Residual Solvents*, available at https://www.uspnf.com/sites/default/files/usp_pdf/EN/USPNF/generalChapter467Current.pdf (last visited Jan. 14, 2022).

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Processors of kratom products will be required to adhere to the regulations set forth in the Florida Kratom Consumer Protection Act, which may benefit consumers.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not designate an entity to enforce violations, and does not provide an administrative penalty for a processor who violates s. 501.9745(4), F.S.

The Florida Department of Law Enforcement has indicated that they do not have the testing capabilities to prove non-compliance with this proposed law.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 501.9745

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Gruters

23-01139-22

20221076__

A bill to be entitled

An act relating to the Florida Kratom Consumer Protection Act; creating s. 501.9745, F.S.; providing a short title; defining the terms "kratom extract," "kratom product," and "processor"; prohibiting processors from selling, preparing, distributing, or exposing for sale certain kratom products; prohibiting processors from distributing, selling, or exposing for sale a kratom product to an individual under 21 years of age; providing civil penalties; providing an exception; providing an effective date.

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

Section 1. Section 501.9745, Florida Statutes, is created to read:

501.9745 Florida Kratom Consumer Protection Act.—

(1) This section may be cited as the "Florida Kratom Consumer Protection Act."

(2) As used in this section, the term:

(a) "Kratom extract" means a food product or dietary ingredient that contains any part of the leaf of the plant *Mitragyna speciosa* which has been extracted and concentrated to provide more standardized dosing.

(b) "Kratom product" means a food product, food ingredient, dietary ingredient, dietary supplement, or beverage intended for human consumption which contains any part of the leaf of the plant *Mitragyna speciosa* or an extract of such plant and is manufactured as a powder, capsule, pill, beverage, or other

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edible form.

(c) "Processor" means a person who sells, prepares, manufactures, distributes, or maintains kratom products.

(3) A processor may not sell, prepare, distribute, or expose for sale:

(a) A kratom product that:

1. Is adulterated with a dangerous non-kratom substance that affects the quality or strength of the kratom product to such a degree that it may injure a consumer.

2. Contains a poisonous or otherwise harmful non-kratom ingredient, including, but not limited to, any substance listed in s. 893.03.

3. Contains a level of 7-hydroxymitragynine in the alkaloid fraction which is greater than 2 percent of the alkaloid composition of the product.

4. Contains a synthetic alkaloid, including, but not limited to, synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived compound of the plant *Mitragyna speciosa*.

5. Does not include directions for the safe and effective use of the product, including, but not limited to, a suggested serving size, on the product's packaging or label.

6. Has a label that contains any claim that the product is intended to diagnose, treat, cure, or prevent any medical condition or disease.

(b) Kratom extract that contains levels of residual solvents higher than the standards set forth in USP-NF chapter 467.

(4) A processor may not distribute, sell, or expose for

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59 sale a kratom product to an individual under 21 years of age.

60 (5) A processor who violates subsection (3) is subject to
61 an administrative fine of not more than \$500 for the first
62 offense and not more than \$1,000 for the second or subsequent
63 offense. A processor selling kratom products at retail does not
64 violate subsection (3) if it is shown by a preponderance of the
65 evidence that the processor relied in good faith upon the
66 representations of a manufacturer, processor, packer, or
67 distributor of the kratom product.

68 Section 2. This act shall take effect July 1, 2022.

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 1298

INTRODUCER: Senator Gruters

SUBJECT: Agreements with Professional Sports Teams

DATE: January 14, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Renner	McKay	CM	Favorable
2.			CA	
3.			RC	

I. Summary:

SB 1298 prohibits a governmental entity from entering into an agreement with a professional sports team that requires a financial commitment by the state or a governmental entity unless the agreement includes a written verification that the professional sports team will play the U.S. national anthem at the beginning of each team sporting event.

Failure to comply with the written verification constitutes a default and subjects the team to any penalty the agreement authorizes for default, which may include the team repaying money paid to the team by the state or governmental entity.

The agreement must be strictly enforced. Should a governmental entity fail to timely enforce the written verification, the Attorney General is authorized to intervene.

The bill does not appear to have a fiscal impact on state or local governments.

The bill takes effect on July 1, 2022.

II. Present Situation:

Professional Sports Franchise Program

Florida is home to many professional and semi-professional sports teams, organizations and facilities, including professional football, basketball, baseball, hockey, soccer, and National Association of Stock Car Racing (NASCAR) sanctioned tracks. The Professional Sports Franchise program allows professional sports franchises to receive state sales and use tax revenue to pay for the acquisition, construction, reconstruction, or renovation of a facility for a

new or retained professional sports franchise.¹ Local governments, non-profit, and for-profit entities may apply to the program.

The Department of Economic Opportunity (DEO) is responsible for screening and certifying applicants for state funding.² For both new and retained franchises, the DEO must confirm and verify the following:³

- A local government is responsible for the construction, management, or operation of the professional sports franchise facility, or holds title to the property where the facility is located.
- The applicant has a verified copy of a signed agreement with a new professional sports franchise for at least 10 years, or for 20 years in the case of a retained franchise.
- The applicant has a verified copy of the approval by the governing body of the NFL, MLB, NHL, or NBA authorizing the location of a new franchise in the state after April 1, 1987, for new professional sports franchises, or verified evidence of a league-authorization location in the state on or before December 31, 1976, for a retained professional sports franchise.
- The applicant has projections demonstrating a paid annual attendance of over 300,000.
- The applicant has an independent analysis demonstrating that the annual amount of sales taxes generated by the use or operation of the franchise's facility will be at least \$2 million.
- The local government where the franchise's facility is located, or the county of the facility is in an unincorporated area, has certified by resolution after a public hearing that the application serves a public purpose.
- The applicant has demonstrated that it has provided, is capable of providing, financial or other commitments of more than one-half of the costs incurred or related to the improvements or development of the franchise's facility.

Approved applicants are eligible to receive up to \$2,000,004 per year for a period of up to 30 years.⁴ No more than eight facilities can be certified under this program at one time.⁵

Currently, eight facilities receive distributions under the Professional Sports Franchise Program. Each facility is on track to receive \$60 million, which is the maximum distribution allowable under this program (\$166,667 per month or \$2,000,004 per year, over 30 years) as follows:⁶

Facility name	Location, Certified entity, & certification date	Franchise	First and Final payments	Total payments as of Aug. 2020
BB&T Center	Sunrise, Broward County, June 1996	Florida Panthers	Aug. 1996 July 2026	\$47,833,429

¹ Section 288.1162, F.S.

² Section 288.1162(1), F.S.

³ Section 288.1162(4)(a)-(g), F.S.

⁴ Section 212.20(6)(d)6.b., F.S.

⁵ Section 288.1162(6), F.S.

⁶ Office of Program Policy Analysis and Government Accountability, *Report 20-08, Florida Economic Development Program Evaluations-Year 8*, p. 48 (Dec. 2020), available at <https://oppaga.fl.gov/Documents/Reports/20-08.pdf> (last visited Jan. 14, 2022).

TIAA Bank Field	Jacksonville, City of Jacksonville, April 1994	Jacksonville Jaguars	June 1994 May 2024	\$52,166,771
Hard Rock Stadium	Miami, South Florida Stadium Corp., May 1993	Miami Dolphins	June 1994 June 2023	\$54,000,108
American Airlines Arena	Miami, Basketball Properties, LTD, Feb. 1998	Miami Heat	March 1998 March 2028	\$44,500,089
Amway Center	Orlando, City of Orlando, Nov. 2007	Orlando Magic	Feb. 2008 Jan. 2038	\$24,833,383
Raymond James Stadium	Tampa, Hillsborough County, Nov. 1996	Tampa Bay Buccaneers	Jan. 1997 Dec. 2026	\$47,000,094
AMALIE Arena	Tampa, Tampa Bay Sports Authority, July 1995	Tampa Bay Lightning	Sept. 1995 Aug. 2025	\$49,666,766
Tropicana Field	St. Petersburg, City of St. Petersburg, July 1995	Tampa Bay Rays	July 1995 June 2025	\$50,000,100
			Total:	\$370,000,740

State Incentives for Spring Training Facilities

Spring Training Baseball Franchises

The DEO may certify local governments to receive a distribution of \$41,667 per month (\$500,000 per year) for a period of up to 30 years.⁷ The funds may be used to acquire, construct, reconstruct, or renovate a facility for a baseball spring training franchise, pay debt service on bonds issued for those purposes, or, in some instances, assist a spring training franchise in moving from one local government to another.⁸ The DEO is authorized to certify up to 10 facilities at any given time.⁹

Retention of Spring Training Baseball Franchises

Local governments that partner with a spring training baseball franchise may apply for certification from the DEO to receive state distributions for renovating or constructing a spring

⁷ Section 212.20(6)(d)6.b., F.S.

⁸ Section 288.11621(3), F.S.

⁹ Section 288.11621(2)(b), F.S.

training baseball facility.¹⁰ Certified applicants receive a distribution from state sales tax revenue of up to \$83,333 per month for 20 years for a facility used by a single spring training baseball franchise or up to \$166,667 per month for 25 years for a facility used by more than one spring baseball training franchise.¹¹ The amount of state incentive funding per certified applicant may not exceed \$20 million if the applicant's facility is used by one franchise or \$50 million if the applicant's facility is used by more than one franchise.¹²

Sales and Use Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,¹³ admissions,¹⁴ transient rentals,¹⁵ and a limited number of services. Chapter 212, F.S., contains 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.

Additionally, s. 212.20(6)(d)6, F.S., requires the Department of Revenue (DOR) to distribute specified amounts on a monthly basis to applicants certified as a sports training facility, applicants certified as the professional golf hall of fame, and applicants certified as a spring training facility.

Local Government Half-cent Sales Tax

The Local Government Half-cent Sales Tax program distributes a portion of state sales tax revenue via three separate distributions to eligible county or municipal governments. Allocation formulas serve as the basis for these separate distributions.¹⁶ The program's primary purpose is to provide relief from ad valorem and utility taxes in addition to providing counties and municipalities with revenues for local programs.¹⁷

Counties may use up to \$3 million annually of the local government half-cent sales tax for the following purposes:¹⁸

- New or retained professional sports franchises under the Professional Sports Franchise Program, or a spring training franchise under s. 288.11621, F.S.; or
- A certified applicant as a motorsport entertainment complex under s. 288.1171, F.S.¹⁹

¹⁰ Section 288.11631(1)-(2), F.S.

¹¹ Section 212.20(6)(d)6.e., F.S.

¹² Section 288.11631(2)(c), F.S.

¹³ Section 212.05(1)(a)1.a, F.S.

¹⁴ Section 212.04(b), F.S.

¹⁵ Section 212.03(1)(a), F.S.

¹⁶ Office of Economic and Demographic Research, *2021 Local Government Financial Information Handbook*, p. 55, available at <http://edr.state.fl.us/Content/local-government/reports/lgfih21.pdf> (last visited Jan. 6, 2022).

¹⁷ *Id.*

¹⁸ Section 218.64(3), F.S.

¹⁹ The motorsports entertainment complex has had no applicants or funds dispersed since program inception. See Office of Program Policy Analysis and Government Accountability, *Report 20-08, Florida Economic Development Program Evaluations-Year 8*, p. 35 (Dec. 2020), available at <https://oppaga.fl.gov/Documents/Reports/20-08.pdf> (last visited Jan. 14, 2022).

III. Effect of Proposed Changes:

The bill provides that beginning July 1, 2022, a governmental entity is prohibited from entering into an agreement with a professional sports team that requires a financial commitment by the state or a governmental entity unless the agreement includes:

- A written verification that the professional sports team will play the United States national anthem at the beginning of each team sporting event²⁰ held at the team's home venue or other facility controlled by the team for the event; and
- A provision providing that a failure to comply with the written verification:
 - Constitutes a default of the agreement.
 - Immediately subjects the team to any penalty the agreement authorizes for default, which may include repaying any money paid to the team by the state or any governmental entity or classifying the team as ineligible to receive further money under the agreement.
 - May subject the team to a prohibition on contracting with the state.

A governmental entity that enters into an agreement with a professional sports team must strictly enforce the "failure to comply" provision. The Attorney General may intervene to enforce the provision should the governmental entity fail to timely enforce the provision.

The bill takes effect on July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The First Amendment of the U.S. Constitution guarantees that "Congress shall make no law...abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."²¹ The

²⁰ The bill defines a "sporting event" as any preseason, regular season, or postseason game or event of a professional sports team.

²¹ Amend I, U.S. Const.

rights guaranteed by the First Amendment apply with equal force to state governments through the due process clause of the Fourteenth Amendment.²²

The right of freedom of thought protected by the First Amendment against state action includes both the right to speak freely and the right to refrain from speaking at all.²³ Speech that is mandated or compelled alters the content of speech.²⁴ A government regulation based on the content of speech is presumptively invalid and will be upheld only if it is necessary to advance a compelling governmental interest, precisely tailored to serve that interest, and is the least restrictive means available for establishing that interest.²⁵ The government bears the burden of demonstrating the constitutionality of any such content-based regulation.²⁶

The U.S. Supreme Court rejected a private college's argument that conditioning federal funds on compliance with federal education law violated the First Amendment, finding that "Congress is free to attach reasonable and unambiguous conditions to federal financial assistance that educational institutions are not obligated to accept."²⁷ However, under the unconstitutional conditions doctrine, there is a limit on Congress' ability to place conditions on the receipt of funds.²⁸ "[T]he government 'may not deny a benefit to a person on a basis that infringes his constitutionally protected ... freedom of speech' even if he has no entitlement to that benefit."²⁹

SB 1298 prohibits a governmental entity from entering into an agreement with a professional sports team that requires a financial commitment by the state or a governmental entity unless the agreement includes a written verification that the professional sports team will play the U.S. national anthem at the beginning of each team sporting event.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

If a professional sports team receiving funding from the state or a governmental entity does not play the national anthem per an agreement with a governmental entity, then that professional sports team could not only see a loss in distributions, but may have to repay any money paid to the team by the state or a governmental entity.

²² Amend XIV, U.S. Const., *See also* Art. I, Fla. Const.

²³ *Wooley v. Maynard*, 430 U.S. 705, 714 (1977). *See also West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943).

²⁴ *Riley v. National Federation of the Blind of North Carolina, Inc.*, 487 U.S. 781, 795 (1988). *See also Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241, 256-58 (1974).

²⁵ *Ashcroft v. Am. Civil Liberties Union*, 521 U.S. 656-66 (2004).

²⁶ *Id.* at 660.

²⁷ *Grove City College v. Bell*, 465 U.S. 555, 575 (1984).

²⁸ *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.*, 547 U.S. 47 (2006)

²⁹ *Board of Comm'rs, Wabaunsee Cty. v. Umbehr*, 518 U. S. 668, 674 (1996).

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Currently, the DOR distributes specified amounts to certain recipients for facilities used by sports teams. It is unclear, under the bill, if these required payments made by the DOR are considered an agreement between a governmental entity and a professional sports team. Additionally, it is unclear how the governmental entity would be notified of a default on the agreement.

The bill provides that if a governmental entity fails to timely enforce the “failure to comply” provision in the agreement, the Attorney General may step in to enforce the provision. However, it is unclear what constitutes timely enforcement.

Neither the bill nor Chapter 286, F.S., define “governmental entity.”

VIII. Statutes Affected:

This bill creates section 286.31 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 Gruters

23-01604-22

20221298__

1 A bill to be entitled
 2 An act relating to agreements with professional sports
 3 teams; creating s. 286.31, F.S.; defining the terms
 4 "professional sports team" and "sporting event";
 5 prohibiting a governmental entity from entering into
 6 certain agreements with a professional sports team
 7 unless the agreement includes specified provisions;
 8 requiring a governmental entity that enters into such
 9 an agreement to strictly enforce such provisions;
 10 authorizing the Attorney General to intervene to
 11 enforce such provisions under certain circumstances;
 12 providing an effective date.
 13
 14 Be It Enacted by the Legislature of the State of Florida:
 15
 16 Section 1. Section 286.31, Florida Statutes, is created to
 17 read:
 18 286.31 Agreements with professional sports teams.—
 19 (1) DEFINITIONS.—
 20 (a) "Professional sports team" means:
 21 1. A team organized in this state that is a member of the
 22 National League or the American League of Major League Baseball,
 23 the National Basketball Association, the National Football
 24 League, the National Hockey League, Major League Soccer, the
 25 American Hockey League, the East Coast Hockey League, the
 26 American Association of Independent Professional Baseball, the
 27 Atlantic League of Professional Baseball, Minor League Baseball,
 28 the National Basketball Association G League, the National
 29 Women's Soccer League, the Major Arena Soccer League, the United

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

23-01604-22

20221298__

30 Soccer League, or the Women's National Basketball Association;
 31 2. A person hosting a motorsports racing event sanctioned
 32 by the National Association for Stock Car Auto Racing (NASCAR),
 33 IndyCar, or another nationally recognized motorsports racing
 34 association at a venue in this state with a permanent seating
 35 capacity of at least 75,000; or
 36 3. An organization hosting a Professional Golfers'
 37 Association event.
 38 (b) "Sporting event" means any preseason, regular season,
 39 or postseason game or event of a professional sports team.
 40 (2) PROVISIONS REQUIRED IN CERTAIN AGREEMENTS.—Beginning
 41 July 1, 2022, a governmental entity may not enter into an
 42 agreement with a professional sports team that requires a
 43 financial commitment by the state or a governmental entity
 44 unless the agreement includes:
 45 (a) A written verification that the professional sports
 46 team will play the United States national anthem at the
 47 beginning of each sporting event held at the team's home venue
 48 or other facility controlled by the team for the event.
 49 (b) A provision providing that any failure to comply with
 50 the written verification required by paragraph (a):
 51 1. Constitutes a default of the agreement.
 52 2. Immediately subjects the team to any penalty the
 53 agreement authorizes for default, which may include requiring
 54 the team to repay any money paid to the team by the state or any
 55 governmental entity or classifying the team as ineligible to
 56 receive further money under the agreement.
 57 3. May subject the team to a prohibition on contracting
 58 with the state.

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20221298__

(3) STRICT ADHERENCE TO DEFAULT PROVISION.—

(a) A governmental entity that enters into an agreement with a professional sports team shall strictly enforce the provision required under paragraph (2)(b).

(b) If a governmental entity fails to timely enforce the provision required under paragraph (2)(b), the Attorney General may intervene to enforce the provision.

Section 2. This act shall take effect July 1, 2022.

CourtSmart Tag Report

Room: SB 110
Caption: Senate Commerce and Tourism Committee

Case No.:

Type:
Judge:

Started: 1/18/2022 9:01:12 AM

Ends: 1/18/2022 9:35:49 AM

Length: 00:34:38

9:01:11 AM Chair calls meeting to order
9:01:18 AM Committee Administrative Assistant, CAA, calls roll - quorum present
9:01:54 AM Tab 2 - SB 1310 by Senator Rodriguez
9:02:07 AM Senator Rodriguez introduces bill
9:03:06 AM No questions
9:03:12 AM Tiffany Garling, Marianna, FL, waives in support
9:03:20 AM Meagan Basford, Main Street Marianna, waives in support
9:03:31 AM Zack Gilmore, Jackson County Economic Development Committee, waives in support
9:03:39 AM Robert Laj, New Orleans, VA, waives in support
9:03:50 AM Lisa Finkelstein, Fernandina Beach Main Street, waives in support
9:03:58 AM Melissa Wyllie, Florida Trust for Historic Preservation, speaks for the bill
9:04:33 AM Erin Schuck, Melbourne Main Street, waives in support
9:04:48 AM Karine Morgan, Venice Main Street, waives in support
9:04:55 AM Julia Truilo, Ormond Beach Main Street, waives in support
9:05:05 AM Kimberly Agee, Melbourne Main Street, waives in support
9:05:22 AM Amanda Muzaurieta, Historic Cocoa Village Main Street, waives in support
9:05:33 AM Pauline Eaton, Orlando Main Street, waives in support
9:05:42 AM Gregory Williams, Plant City Main Street, waives in support
9:05:48 AM Jane West, 1000 Friends of Florida, speaking for the bill
9:07:24 AM Thondra Lanese, Ft. Pierce, FL, waives in support
9:07:36 AM Mileyka Burgos-Flores, Miami, FL, waives in support
9:08:09 AM Wayne Carter, Main Street Deland, waives in support
9:08:28 AM Vice chair Wright in debate
9:08:49 AM Senator Rodriguez closes on bill
9:09:18 AM CAA calls roll on bill
9:09:33 AM SB 1310 reported favorably
9:09:46 AM Tab 1 - SB 944 by Senator Baxley
9:09:56 AM Senator Baxley explains bill
9:11:30 AM Senator Pizzo in questions
9:11:45 AM Senator Baxley responds
9:13:39 AM Jake Farmer, Walgreens, waives in support
9:13:46 AM Grace Lovett, Florida Retail Federation, speaking for the bill
9:14:41 AM Senator Pizzo in questions
9:15:56 AM Grace Lovett responds
9:16:03 AM Senator Pizzo in questions
9:16:28 AM Grace Lovett responds
9:17:03 AM Senator Powell in questions
9:17:27 AM Grace Lovett responds
9:18:15 AM Tracy Mayernick, The Home Depot, waives in support
9:18:28 AM Jim Daughton, Ebay, speaking against the bill
9:20:57 AM Senator Pizzo in questions
9:21:07 AM Jim Daughton responds
9:21:57 AM Senator Powell in questions
9:22:05 AM Jim Daughton responds
9:23:55 AM Senator Torres in debate
9:24:42 AM Senator Baxley closes on the bill
9:26:16 AM CAA calls roll on bill
9:26:27 AM SB 944 passes favorably
9:26:48 AM Tab 3 - SB 1076 by Senator Gruters
9:26:57 AM Senator Gruters explains the bill
9:28:25 AM Senator Pizzo in questions
9:28:40 AM Senator Gruters responds

9:28:49 AM Mac Haddow, American Kratom Association, speaking in favor of bill
9:32:22 AM No debate
9:32:26 AM Senator Gruters closes on the bill
9:32:45 AM CAA calls roll on the bill
9:32:51 AM SB 1076 passes favorably
9:33:10 AM Tab 4 - SB 1298 by Senator Gruters
9:33:20 AM Senator Gruters explains the bill
9:33:40 AM Senator Torres in questions
9:34:00 AM Senator Gruters responds
9:34:11 AM No debate
9:34:20 AM Senator Gruters waives close
9:34:28 AM CAA calls roll on the bill
9:34:33 AM SB 1298 Passes favorably
9:34:57 AM Late appearance card for SB 1310-Sean Pittman, City of Orlando, waives in support
9:35:20 AM Senator Taddeo votes late
9:35:34 AM Chair Hooper adjourns meeting



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Children, Families, and Elder Affairs, *Chair*
Community Affairs, *Vice Chair*
Rules, *Vice Chair*
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Commerce and Tourism
Ethics and Elections
Health Policy

SENATOR ILEANA GARCIA

37th District

January 18, 2022

Commerce and Tourism Committee

Good afternoon,

I am writing to request to be excused from today's meeting, Tuesday, January 18, 2022, of the Committee on Commerce and Tourism meeting.

Thank you for your consideration and understanding.

Sincerely,

A handwritten signature in black ink that reads "Ileana Garcia". The signature is fluid and cursive.

Ileana Garcia

REPLY TO:

- ☐ 2828 Coral Way, Suite 208, Miami, Florida 33145 (305) 442-6841
- ☐ 326 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5037

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore