<table>
<thead>
<tr>
<th>Tab 1</th>
<th>SB 832 by Calatayud; (Identical to H 01137) Employment of Individuals with Disabilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tab 2</td>
<td>CS/SB 902 by BI, Boyd; (Similar to CS/H 00605) Motor Vehicle Retail Financial Agreements</td>
</tr>
<tr>
<td>Tab 3</td>
<td>SB 1072 by Avila; (Identical to H 01081) Tourist Development</td>
</tr>
<tr>
<td>Tab 4</td>
<td>SB 1346 by Berman; (Identical to H 01231) Limited Liability Companies</td>
</tr>
<tr>
<td>Tab 5</td>
<td>SB 1596 by Burgess; (Compare to CS/CS/H 00049) Employment of Minors</td>
</tr>
<tr>
<td>Tab 6</td>
<td>SB 1688 by Osgood; (Identical to H 00553) Career-themed Courses</td>
</tr>
<tr>
<td>Tab 7</td>
<td>SB 1786 by DiCeglie; (Similar to H 01559) Professional Licensure and Certification</td>
</tr>
<tr>
<td>Tab 8</td>
<td>SB 1448 by Gruters; (Identical to H 01541) Transparency in Social Media</td>
</tr>
</tbody>
</table>
## COMMITTEE MEETING EXPANDED AGENDA

**COMMERCE AND TOURISM**

**Senator Trumbull, Chair**  
**Senator Wright, Vice Chair**

### MEETING DATE:
Tuesday, January 30, 2024

### TIME:
9:00—a.m.

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

### MEMBERS:
Senator Trumbull, Chair; Senator Wright, Vice Chair; Senators Gruters, Rodriguez, Stewart, and Torres

<table>
<thead>
<tr>
<th>TAB</th>
<th>BILL NO. and INTRODUCER</th>
<th>BILL DESCRIPTION and SENATE COMMITTEE ACTIONS</th>
<th>COMMITTEE ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>SB 832</td>
<td>Employment of Individuals with Disabilities; Requiring the collection and sharing of data between multiple agencies for the interagency cooperative agreement under the Employment First Act; requiring the Office of Reimagining Education and Career Help to issue an annual statewide report by a specified date each year, etc.</td>
<td>ED 01/23/2024 Favorable</td>
</tr>
<tr>
<td></td>
<td>Calatayud</td>
<td>(Identical H 1137)</td>
<td>CM 01/30/2024</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>RC</td>
</tr>
<tr>
<td>2</td>
<td>CS/SB 902</td>
<td>Motor Vehicle Retail Financial Agreements; Revising the definition of the term “guaranteed asset protection product”; prohibiting certain entities from deducting more than a specified amount in administrative fees when providing a refund of a guaranteed asset protection product; creating the “Florida Vehicle Value Protection Agreements Act”; authorizing the offer, sale, or gift of vehicle value protection agreements in compliance with a certain act; requiring vehicle value protection agreements to state the terms, restrictions, or conditions governing cancellation by the provider or the contract holder, etc.</td>
<td>BI 01/16/2024 Fav/CS</td>
</tr>
<tr>
<td></td>
<td>Banking and Insurance / Boyd</td>
<td>(Similar CS/H 605)</td>
<td>CM 01/30/2024</td>
</tr>
<tr>
<td></td>
<td>Boyd</td>
<td></td>
<td>FP</td>
</tr>
<tr>
<td>3</td>
<td>SB 1072</td>
<td>Tourist Development; Providing an exception to the authorized uses of revenues received by counties imposing the tourist development tax; specifying uses of tax revenues received by certain counties imposing the tourist development tax; requiring that charter county convention development moneys be distributed to the governing boards of municipalities for specified purposes; revising the purposes for which a county may use charter county convention development moneys, etc.</td>
<td>CM 01/30/2024</td>
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<tr>
<td></td>
<td>Avila</td>
<td>(Identical H 1081)</td>
<td>FT</td>
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<tr>
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<td>AP</td>
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<tr>
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<tr>
<td>4</td>
<td>SB 1346 Berman</td>
<td>Limited Liability Companies; Specifying that certain limited liability companies are considered a nonresident under certain circumstances; providing for powers and prohibitions for protected series of series limited liability companies; authorizing domestic limited liability companies to establish protected series; providing specifications and requirements for the registered agent for a protected series; authorizing service on, and provision of notice and demand to, certain limited liability companies and protected series in a specified manner; requiring the Department of State to issue a certificate of status under certain circumstances, etc.</td>
<td>CM 01/30/2024 JU FP</td>
</tr>
<tr>
<td>5</td>
<td>SB 1596 Burgess</td>
<td>Employment of Minors; Removing certain employment restrictions for minors 16 and 17 years of age; revising the age at which certain employment restrictions apply; authorizing the Department of Business and Professional Regulation to grant waivers of certain employment restrictions; specifying applicable penalties for noncompliant employers, etc.</td>
<td>CM 01/30/2024 RI RC</td>
</tr>
<tr>
<td>6</td>
<td>SB 1688 Osgood</td>
<td>Career-themed Courses; Revising the requirements for a specified school district strategic plan to include certain information; requiring the Department of Education to include specified data in an annual review of K-12 and postsecondary career and technical education offerings, etc.</td>
<td>ED 01/23/2024 Favorable CM 01/30/2024 RC</td>
</tr>
<tr>
<td>7</td>
<td>SB 1786 DiCeglie</td>
<td>Professional Licensure and Certification; Authorizing the practice of a profession as a substitute for certain professional or occupational degrees for certain foreign-trained professionals; revising education and work experience requirements for taking the surveyor and mapper licensure examination, etc.</td>
<td>CM 01/30/2024 AEG RC</td>
</tr>
<tr>
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<td>BILL DESCRIPTION and SENATE COMMITTEE ACTIONS</td>
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<tr>
<td>8</td>
<td>SB 1448 Gruters (Identical H 1541)</td>
<td>Transparency in Social Media: Designating the “Transparency in Social Media Act”; requiring foreign-adversary-owned entities operating social media platforms in the state to publicly disclose specified information in a certain manner; requiring foreign-adversary-owned entities operating social media platforms to implement a user verification system for certain entities, etc.</td>
<td>CM 01/30/2024 ACJ FP</td>
</tr>
</tbody>
</table>

Other Related Meeting Documents
I. Summary:

SB 832 adds requirements relating to data sharing and accountability measures to the roles, responsibilities, and objectives included in the Employment First Act to achieve better employment outcomes for individuals with disabilities.

The bill also requires the Office of Reimagining Education and Career Help to issue an annual statewide report by December 1 each year on the implementation of the Employment First Act and progress made on the accountability measures.

The bill takes effect July 1, 2024.

II. Present Situation:

The Employment First Act

Employment is the most direct and cost-effective means to assist an individual in achieving independence and fulfillment; however, individuals with disabilities are confronted by unique barriers to employment which inhibit their opportunities to compete fairly in the labor force. The Employment First Act provides a framework for a long-term commitment to improving employment outcomes for individuals with disabilities. The Employment First Act:1

- Prioritizes employment of individuals with disabilities and improves the employment system to better integrate individuals with disabilities into the workforce; and
- Encourages a collaborative effort between state agencies and organizations to achieve better employment outcomes for individuals with disabilities.

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1 Section 413.80(2), F.S.
2 Section 413.80(3), F.S.
The Employment First Act requires certain state agencies and organizations, and others, as appropriate, to develop an interagency cooperative agreement. The agencies that must participate in developing the agreement include:\(^{3}\)

- The Division of Vocational Rehabilitation of the Department of Education.
- The Division of Blind Services of the Department of Education.
- The Bureau of Exceptional Education and Student Services of the Department of Education.
- The Agency for Persons with Disabilities.
- The Substance Abuse and Mental Health Program Office of the Department of Children and Families.
- The Department of Commerce.
- CareerSource Florida, Inc.
- The Florida Developmental Disabilities Council.
- The Florida Association of Rehabilitation Facilities.

The interagency cooperative agreement must identify its objectives and the roles and responsibilities of the state agencies and organizations. The objectives of the agreement must include:\(^{4}\)

- Establishing a commitment by leadership of the state agencies and organizations to maximize resources and coordination to improve employment outcomes for individuals with disabilities who seek publicly funded services.
- Developing strategic goals and benchmarks to assist the state agencies and organizations in the implementation of the agreement.
- Identifying financing and contracting methods that will help to prioritize employment for individuals with disabilities by state agencies and organizations.
- Establishing training methods to better integrate individuals with disabilities into the workforce.
- Ensuring collaborative efforts between multiple agencies to achieve the purposes of the Employment First Act.
- Promoting service innovations to better assist individuals with disabilities in the workplace.
- Identifying accountability measures to ensure the sustainability of the agreement.

Florida’s current interagency cooperative agreement remains in effect until June 30, 2024.\(^{5}\)

**Office of Reimagining Education and Career Help**

In 2021, the Legislature passed the Reimagining Education and Career Help Act (REACH Act). The REACH Act serves to address the evolving needs of Florida’s economy by increasing the level of collaboration and cooperation among state businesses and education communities while improving training and equity and access to a more integrated workforce and education system.\(^{6}\)

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\(^{3}\) Section 413.80(4), F.S.
\(^{4}\) Section 413.80(5), F.S.
\(^{6}\) Chapter 2021-164, s. 1, Laws of Fla., *codified at s. 14.36, F.S.*
To facilitate alignment and coordination of entities responsible for Florida’s workforce development system, the Office of Reimagining Education and Career Help (REACH Office) was created in the Executive Office of the Governor. The Director of the REACH Office is appointed by, and serves at the pleasure of, the Governor.\(^7\)

The duties of the REACH Office are to:\(^8\)

- Serve as an advisor to the Governor on matters related to the state's workforce development system.
- Establish criteria and goals for workforce development and diversification in Florida’s workforce development system.
- Provide strategies to align and improve efficiency in Florida’s workforce development system and the delivery of workforce related programs.
- Coordinate state and federal workforce related programs, plans, resources, and activities provided by CareerSource, the Department of Commerce, and the Department of Education (DOE).
- Oversee the workforce development information system designed by the DOE to verify the validity of data collected and monitor compliance of workforce related programs and education and training programs with applicable federal and state requirements as authorized by federal and state law.
- Serve on the Credentials Review Committee to identify non-degree and degree credentials of value and facilitate the collection of data necessary to conduct committee work.
- Coordinate and facilitate a memorandum of understanding for data sharing agreements of the state's workforce performance data among state agencies and align, to the greatest extent possible, adopted performance measures.
- Develop the criteria for assigning a letter grade for each local workforce development board.
- Streamline the clinical placement process and increase clinical placement opportunities for students, hospitals, and other clinical sites by administering, directly or through a contract, a web-based centralized clinical placement system for use by all nursing education programs subject to the requirements of nursing education program approval.
- Direct the objectives of the Talent Development Council.

The office is required to provide the public with access to available federal, state, and local services and provide stakeholders with a systemwide, global view of workforce related program data across various programs through actionable qualitative and quantitative information.\(^9\)

**The Florida Endowment Foundation for Vocational Rehabilitation**

The Florida Endowment Foundation for Vocational Rehabilitation (Able Trust), is a direct support organization for the Division of Vocational Rehabilitation, within the DOE, that is intended to encourage public and private support to enhance vocational rehabilitation and employment of citizens who are disabled.\(^{10}\) A board of directors, appointed by the Governor, oversees the operations of the Able Trust and ensures that funds are provided for programs or

\(^7\) Section 14.36(1), F.S.
\(^8\) Section 14.36(3)(a)-(j), F.S.
\(^9\) Section 14.36(5), F.S.
\(^{10}\) Section 413.615(5), F.S.
initiatives which engage in the research, promotion, or aid of job training and counseling for Florida’s disabled citizens, and to support the work of the Division of Vocational Rehabilitation.\textsuperscript{11}

The Able Trust is required to conduct research and issue reports on the systems in Florida that provide services to individuals with disabilities, including autism and intellectual and developmental disabilities.\textsuperscript{12} The board of the Able Trust was required to submit a report to the Legislature, and duly did so on November 28, 2023. The board was required to:\textsuperscript{13}

- Identify the current systems for service delivery to persons with disabilities, including operations, services, coordination activities, and structures.
- Identify barriers and obstacles in transportation for persons with disabilities living in the home or receiving community-based services for jobs, medical appointments, and peer-to-peer groups.
- Identify workforce issues related to direct support professionals, behavioral or mental health specialists, health care practitioners, and other individuals who assist with the provision of services to persons with disabilities.
- Examine the best practices for uniform and efficient service delivery and the coordination of and transition among systems, including transitioning out of high school.
- Examine federal and state law and rules that impact or limit supports or services for persons with disabilities.
- Identify systemwide incongruency and inefficiencies in service delivery.
- Identify opportunities for job coaching and community participation supports, including those opportunities for individuals who cannot or choose not to go into the community because of underlying issues.

In the report, the board recommended that the partners to the interagency cooperative agreement should establish uniform employment outcome data and set targets for improvement that encompass various employment outcomes, including competitive or gainful employment.\textsuperscript{14} The board noted it would be particularly valuable for agencies if the employment outcome data and targets for improvement included the categories of:\textsuperscript{15}

- Competitive integrated employment;\textsuperscript{16}
- Non-integrated employment; and
- Sub-minimum wage employment.

The Able Trust noted that the centralization of data, reporting, and information on an interagency portal for streamlined service access, reporting, and follow-up may serve to enhance awareness

\textsuperscript{11} Sections 413.615(4)(c), and (8)-(10), F.S.
\textsuperscript{12} Section 413.615(10)(a)2., F.S.
\textsuperscript{13} Section 413.615(10)(a)2., F.S.
\textsuperscript{16} The term "competitive integrated employment" refers to full-time or part-time work (including self-employment) where an individual is paid at least minimum wage or the standard rate for similar work, is eligible for the same benefits as other employees, works in a setting where they interact with non-disabled individuals to a similar extent as their non-disabled counterparts, and has comparable opportunities for advancement. 29 U.S.C. s. 705(5).
and communication regarding post-secondary education and employment resources, employer-centric support and resources for individuals with disabilities, and awareness of resources related to transportation, housing, and benefits or medical assistance planning services.¹⁷

III. Effect of Proposed Changes:

SB 832 modifies s. 413.80, F.S., to add to the roles, responsibilities, and objectives of the interagency cooperative agreement that implements the Employment First Act to achieve better employment outcomes for individuals with disabilities.

The bill requires that the interagency cooperative agreement ensure that collaborative efforts between the agencies include the collection and sharing of data. The bill also requires that the accountability measures in the interagency cooperative agreement include, minimally, systemwide measures to:

- Increase the number of individuals working in competitive integrated employment;
- Decrease the number of individuals working in subminimum wage employment; and
- Decrease the number of individuals working in nonintegrated employment settings.

The bill also requires the Office of Reimagining Education and Career Help to issue an annual statewide report by December 1 each year on the implementation of the Employment First Act and progress made on the accountability measures.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends section 413.80 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.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
A bill to be entitled
An act relating to employment of individuals with
disabilities; amending s. 413.80, F.S.; requiring the
collection and sharing of data between multiple
agencies for the interagency cooperative agreement
under the Employment First Act; providing requirements
for accountability measures; requiring the Office of
Reimagining Education and Career Help to issue an
annual statewide report by a specified date each year;
providing an effective date.

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

Section 1. Paragraphs (e) and (g) of subsection (5) of
section 413.80, Florida Statutes, are amended, and subsection
(6) is added to that section, to read:

413.80 Employment First Act.—
(5) ROLES, RESPONSIBILITIES, AND OBJECTIVES.—The
interagency cooperative agreement must identify the roles and
responsibilities of the state agencies and organizations
identified in subsection (4) and the objectives of the
interagency cooperative agreement, which must include all of the
following:

(e) Ensuring collaborative efforts between multiple
agencies to achieve the purposes of this act, including the
collection and sharing of data.

(g) Identifying accountability measures to ensure the
sustainability of this agreement. At a minimum, the
accountability measures shall include systemwide measures to
increase the number of individuals working in competitive
integrated employment, decrease the number of individuals
working in subminimum wage employment, and decrease the number
of individuals working in nonintegrated employment settings.

(6) ANNUAL REPORT.—The Office of Reimagining Education and
Career Help shall issue an annual statewide report by December 1
each year on the implementation of this act and progress made on
the accountability measures.

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

CS/SB 902 substantially adopts portions of the Products Model Act by the Guarantee Asset Protection Alliance relating to vehicle value protection agreements, excess wear and use waivers, and guaranteed asset protection products.

Vehicle Value Protection Agreements

The bill creates the “Florida Vehicle Value Protection Agreements Act” (the “Florida Act”), which includes:

- Definitions of the terms: administrator, commercial transaction, consumer, contract holder, finance agreement, free look period, motor vehicle, provider, and vehicle value protection agreement.
  - A “vehicle value protection agreement” is a contractual agreement that provides a benefit toward either the reduction of some or all of the contract holder’s current finance agreement deficiency balance, or the purchase or lease of a replacement motor vehicle upon the occurrence of an adverse event to the vehicle. The term does not include guaranteed asset protection products, and the product is not insurance.
- Requirements for offering vehicle value protection agreements (“VVPAs”), including provisions regarding restricting the type of charges, prohibiting certain conditional sales, utilizing an administrator, providing a copy of the agreement, prohibiting sales with duplicative coverage, and providing for financial security requirements;
- The nature, extent and type of disclosures required in VVPAs;
- Penalties for violating the Florida Act, which include noncriminal violations punishable by a fine per violation or in the aggregate for all “violations of a similar nature,” which is defined in the bill; and
- Exemption of VVPAs offered in connection with a commercial transaction from the disclosure and penalty provisions of the Florida Act.
**Excess Wear and Use Waivers**

The bill authorizes a retail lessee to contract with a retail lessor for an “excess wear and use waiver,” which is an agreement wherein the lessor agrees to cancel all or part of amounts that may become due under the lease because of excessive wear and use of a motor vehicle. The bill also prohibits the terms of the related motor vehicle lease from being conditioned upon the consumer’s payment for any excess wear and use waiver, except such waiver may be discounted or given at no charge for the purchase of other noncredit-related goods. A lease agreement that includes an excess wear and use waiver must contain certain disclosures. An excess wear and use waiver is not insurance for purposes of the Florida Insurance Code.

**Guaranteed Asset Protection Products**

The bill amends the definition of “guaranteed asset protection product” (“GAP product”), which is an agreement by which a creditor agrees to waive a customer’s liability for any debt that exceed the value of the collateral, to specify that a GAP product:

- May be with or without a separate charge;
- May cancel, rather than just waive, the customer’s liability;
- Applies when a motor vehicle incurs total physical damage or is subject to an unrecovered theft; and
- May provide for a benefit that waives a portion of, or provides a customer with a credit toward, the purchase of a replacement vehicle.

The bill also amends the provisions regarding GAP products to:

- Prohibit an entity from deducting more than $75 in administrative fees from a refund;
- Provide that a GAP product may be cancelable or noncancelable after a “free-look period” defined in the bill; and
- Provide that if a termination of a GAP product occurs for a specified reason, the entity may pay any refund directly to the holder or administrator, and deduct the refund amount from the amount owed under the retail installment contract except if such contract has been paid in full.

The bill has an effective date of October 1, 2024.
II. Present Situation: 

Florida Motor Vehicle Sales Finance Laws 

The Florida Motor Vehicle Retail Sales Finance Act\(^1\) regulates sellers,\(^2\) commonly referred to as auto dealers, who enter into retail installment contracts\(^3\) with buyers\(^4\) for the purchase or lease of a motor vehicle.\(^5\) Except for certain businesses, such as banks or trust companies, sellers are required to obtain a license to operate in Florida.\(^6\) A seller must submit an application, specified information, and a nonrefundable fee to the Office of Financial Regulation (OFR) to obtain the required license.\(^7\) 

Any person who willfully and intentionally violates any provision of s. 520.995, F.S., or engages in the business of a retail installment seller without a license is guilty of a misdemeanor of the first degree. Section 520.995, F.S., provides grounds for disciplinary action by the OFR when, for instance, there is failure to comply with any provision of ch. 520, F.S. Further, the OFR has authority to issue and serve upon any person a cease and desist order whenever such person is violating, has violated, or is about to violate any provision of ch. 520, F.S.,\(^8\) or may impose an administrative fine not to exceed $1,000 for each violation that has occurred.\(^9\) 

Retail installment contracts must comply with several requirements and prohibitions, including, but not limited to, that the agreement must:

- Be in writing;\(^10\)
- Contain a “Notice to the Buyer” which includes specified information;\(^11\) and
- Contain other specified information, including the amount financed, finance charges, total amount of payments, total sale price, and payment details.\(^12\) 

Sellers must provide buyers with a separate written itemization of the amount financed.\(^13\) Florida law contains several other provisions to protect the buyer, such as regulation on insurance rates,

\(^1\) Sections 520.01-520.10, 520.12, 520.125, and 520.13, F.S.
\(^2\) Section 520.02(11), F.S., defines “motor vehicle retail installment seller” or “seller” as a person engaged in the business of selling motor vehicles to retail buyers in retail installment transactions.
\(^3\) “Retail installment contract” or “contract” is defined as an agreement, entered into in this state, pursuant to which the title to, or a lien upon the motor vehicle, which is the subject matter of a retail installment transaction, is retained or taken by a seller from a retail buyer as security, in whole or in part, for the buyer’s obligation. The term includes a conditional sales contract and a contract for the bailment or leasing of a motor vehicle by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become, or for no further or a merely nominal consideration, has the option of becoming, the owner of the motor vehicle upon full compliance with the provisions of the contract. Section 520.02(17), F.S.
\(^4\) “Retail buyer” or “buyer” is defined as a person who buys a motor vehicle from a seller not principally for the purpose of resale, and who executes a retail installment contract in connection therewith or a person who succeeds to the rights and obligations of such person.
\(^5\) See Ch. 520, F.S.
\(^6\) Section 520.03(1), F.S.
\(^7\) Id.
\(^8\) Section 520.994(3), F.S.
\(^9\) Section 520.994(4), F.S.
\(^10\) Section 520.07(1)(a), F.S.
\(^11\) Section 520.07(1)(b), F.S.
\(^12\) Section 520.07(2), F.S.
\(^13\) Section 520.07(3), F.S.
refunds for unearned insurance premiums, limits on the amount of delinquency charges a holder\textsuperscript{14} may charge, and restrictions on when a contract may be signed with blank spaces.\textsuperscript{15}

In conjunction with entering into any new retail installment contract or contract for a loan, a seller, a sales finance company,\textsuperscript{16} or a retail lessor,\textsuperscript{17} and any assignee of such an entity, may offer an optional guaranteed asset protection product (“GAP product”) for a fee or otherwise.\textsuperscript{18} Florida law defines a “guaranteed asset protection product” as:

- a loan, lease, or retail installment contract term, or modification or addendum to a loan, lease, or retail installment contract, under which a creditor agrees to waive a customer’s liability for payment of some or all of the amount by which the debt exceeds the value of the collateral. Such a product is not insurance for purposes of the Florida Insurance Code. This subsection also applies to all guaranteed asset protection products issued before October 1, 2008.

A seller or any other authorized entity may not require the buyer to purchase a GAP product as a condition for making the loan. In order to offer a GAP product, a seller or any other authorized entity must comply with the following:\textsuperscript{19}

- The cost of any GAP product must not exceed the amount of the loan indebtedness.
- Any contract or agreement pertaining to a GAP product must be governed by s. 520.07, F.S., relating to requirements and prohibitions as to retail installment contracts.
- A GAP product must remain the obligation of any person that purchases or otherwise acquires the loan contract covering such product.
- An entity providing GAP products must provide readily understandable disclosures that explain in detail eligibility requirements, conditions, refunds, and exclusions. The disclosures must explain that the purchase of the GAP product is optional, and must meet certain criteria regarding the language contained in it.
- An entity must provide a copy of the executed contract for the GAP product to the buyer.
- An entity may not offer a contract for a GAP product that contains terms giving the entity the right to unilaterally modify the contract unless:
  - The modification is favorable to the buyer and is made without any additional charge; or
  - The buyer is notified of any proposed change and is provided a reasonable opportunity to cancel the contract without penalty before the change goes in effect.
- If a contract for a GAP product is terminated, the entity must refund to the buyer any unearned fees paid for the contract unless the contract provides otherwise. A customer who receives the benefit of the GAP product is not entitled to a refund. The buyer must notify the entity of the event terminating the contract and request a refund within 90 days after the

\textsuperscript{14} Section 520.02(8), F.S., provides that a “holder” of a retail installment contract means the retail seller of a motor vehicle retail installment contract or an assignee of such contract.
\textsuperscript{15} Section 520.07, F.S.
\textsuperscript{16} Section 520.02(19), F.S., defines “sales finance company” as a person engaged in the business of purchasing retail installment contracts from one or more sellers. The term includes, but is not limited to, a bank or trust company, if so engaged. The term does not include the pledge of an aggregate number of such contracts to secure a bona fide loan thereon.
\textsuperscript{17} Section 521.003(8), F.S., defines “retail lessor” as a person who regularly engages in the business of selling or leasing motor vehicles and who offers or arranges a lease agreement for a motor vehicle. The term includes an agent or affiliate who acts on behalf of the retail lessor and excludes any assignee of the lease agreement.
\textsuperscript{18} Section 520.07(11), F.S.
\textsuperscript{19} Id.
terminating event. An entity may offer a buyer a nonrefundable contract for a GAP product only if the entity also offers the buyer a bona fide option to purchase a comparable contract that provides for a refund.

Ch. 520, F.S., does not contain any provisions on vehicle value protection agreements ("VVPAs") or excess wear and use waivers.

**GAPA Products Model Act**

The Guarantee Asset Protection Alliance ("GAPA") is an organization composed of insurance companies, lenders, and administrative services companies, and offers member benefits relating to, amongst other things, legislative efforts regarding GAP waivers. On November 30, 2023, GAPA approved the latest Products Model Act (the “Revised Model Act”) relating to motor vehicle financial protection, such as VVPA and debt waivers. Debt waivers include GAP products and excess wear and use waivers. The Model Act relates to the GAP waiver only. The Revised Model Act, of which the bill adopts many portions, incorporates updated provisions on GAP waivers, provisions covering excess wear and use waivers, and provisions on VVPAs. According to GAPA, 15 states have enacted GAP waivers, 22 states have adopted the Model Act (including Florida), and 4 states have adopted the Revised Model Act.

**III. Effect of Proposed Changes:**

**Florida Vehicle Value Protection Agreements Act**

Section 3 of the bill provides that ss. 520.151, F.S., to 520.156, F.S., may be cited as the “Florida Act.”

Section 4 of the bill defines, for purposes of the Florida Vehicle Value Protection Agreements Act, the following terms:

- “Administrator” means the person who is responsible for the administrative or operational function of managing vehicle value protection agreements, including, but not limited to, the adjudication of claims or benefit requests by contract holders.
- “Commercial transaction” means a transaction in which the motor vehicle subject to the transaction is used primarily for business or commercial purposes.
- “Contract holder” means a person who is the purchaser or holder of a vehicle value protection agreement.
- “Finance agreement” means a loan, retail installment sales contract, or lease for the purchase, refinancing, or lease of a motor vehicle.

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21 The GAPA, Motor Vehicle Financial Protection Products Model Act, Nov. 30, 2023, p. 2, available at: GAPA-Model-Act-APPROVED-2023_11_30.pdf (gapalliance.org) (last visited Jan. 29, 2024) (hereinafter cited as the “Revised Model Act”). The Revised Model Act defines “Motor Vehicle Financial Protection Products” as agreements defined herein that protect a Consumer’s financial interest in their current or future motor vehicle and include but are not limited to debt waivers and vehicle value protection agreements.
22 The Revised Model Act.
23 The Revised Model Act at p. 2-3.
“Free-look period” means the period of time, commencing on the effective date of the contract, during which the buyer may cancel the contract for a full refund of the purchase price. This period may not be shorter than 30 days.

“Motor vehicle” has the same meaning as provided in s. 520.02, F.S., which defines the term as any device or vehicle, including automobiles, motorcycles, motor trucks, trailers, mobile homes, and all other vehicles operated over the public highways and streets of this state and propelled by power other than muscular power, but excluding traction engines, road rollers, implements of husbandry and other agricultural equipment, and vehicles which run only upon a track.

“Provider” means a person that is obligated to provide a benefit under a VVPA. A provider may function as an administrator or retain the services of a third-party administrator.

“Vehicle value protection agreement” includes a contractual agreement that provides a benefit towards either the reduction of some or all of the contract holder’s current finance agreement deficiency balance or the purchase or lease of a replacement motor vehicle or motor vehicle services upon the occurrence of an adverse event to the motor vehicle, including, but not limited to, loss, theft, damage, obsolescence, diminished value, or depreciation. The term does not include GAP products defined in s. 520.02, F.S. Such a product is not insurance for purposes of the Florida Insurance Code.

All of the defined terms are substantially the same as the definitions contained in the Revised Model Act.25

Section 5 of the bill provides that a VVPA may be offered, sold, or given to consumers in compliance with the Florida Act. Notwithstanding any other law, any amount charged or financed for a VVPA must not be a finance charge or interest and must be separately stated in the finance agreement and in the VVPA. The extension or terms of credit, or the terms of the motor vehicle sale or lease may not be conditioned upon the consumer’s payment for or financing of any charge for a VVPA, except a VVPA may be discounted or given at no charge in connection with the purchase of other noncredit-related goods or services. These provisions are substantially the same as the provisions in the Revised Model Act that apply to the requirements for offering motor vehicle financial protection products.26

The bill authorizes a provider to use an administrator or other designee to administer a VVPA. A consumer may not be sold a VVPA unless a copy of the agreement has been or will be provided to him or her at a reasonable time after such agreement is sold, or if coverage is duplicative of another VVPA sold to a person or duplicative of a GAP product. The Revised Model Act does not contain a provision that prohibits duplicative coverage. This provision was added to ensure consumers were not purchasing products that provide the same coverage.

Each provider must do one of the following:

- Insure27 all of its VVPAs under a policy that pays or reimburses the contract holder in the event the provider fails to perform its obligations under the agreement. The Revised Model Act provides more details on the amount of minimum coverage that would be required. This

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25 The Revised Model Act at pp. 1-2, and 6
26 The Revised Model Act at p. 2.
27 The insurer must be licensed or otherwise authorized or eligible to do business in this state.
language was omitted to avoid inconsistencies with the Florida Insurance Code, but the overall intent and protection afforded under the Revised Model Act is maintained under this provision in the bill.

- Maintain a funded reserve account for its obligations under its contracts issued and outstanding in this state. The reserves may not be less than 40 percent of gross consideration received, less claims paid, on the sale of the VVPA for all in-force contracts in this state. The reserve must be placed in trust with the OFR and have a financial security deposit valued at not less than 5 percent of the gross consideration received, less claims paid, on the sale of the VVPAs for all VVPAs issued and in force in this state, but at least $25,000. The reserve account must consist of one of the following:
  - A surety bond issued by an authorized surety;
  - Securities of the type eligible for deposit by insurers as provided in s. 625.52, F.S.;
  - Cash; or
  - A letter of credit issued by a qualified financial institution.

- Maintain, or together with its parent corporation maintain, a net worth or stockholders’ equity of $100 million and, upon request, provide the OFR with a copy of the provider’s or the provider’s parent company’s Form 10-K or Form 20-F filed with the Securities and Exchange Commission (“SEC”) within the last calendar year, or if the company does not file with the SEC, a copy of the company’s audited financial statements, which must show a net worth of the provider or its parent company of at least $100 million. If the provider’s parent company’s Form 10-K, Form 20-F, or financial statements are filed to meet the provider’s financial security requirement, the parent company must agree to guarantee the obligations of the provider relating to vehicle value protection agreements sold by the provider in this state.

A financial security requirement other than those described in this paragraph may not be imposed on VVPA providers.

Section 6 of the bill requires VVPAs to disclose in writing, in clear, understandable language, all of the following:

- The name and address of the provider, contract holder, and administrator.
- The terms of the VVPA, including any purchase price to be paid by the contract holder, the requirements for eligibility and conditions of coverage, and any exclusions.
- Whether the VVPA may be canceled by the contract holder during a free-look period, and that the contract holder is entitled to a full refund if the contract is cancelled of any purchase price if no benefits have been provided.
- Any procedure the contract holder must follow to obtain a benefit under the terms and conditions of the VVPA, including a telephone number, website, or mailing address where the contract holder may apply for a benefit.
- Whether the VVPA is cancelable after the free-look period and the conditions under which it may be canceled, including the procedures for requesting any refund of the unearned purchase price paid by the contract holder. In the event that the agreement is cancelable, it must include the methodology for calculating any refund due of the unearned purchase price of the vehicle value protection agreement.
- The extension or terms of credit, or the terms of the related motor vehicle sale or lease may not be conditioned upon the purchase of the vehicle value protection agreement.
• A VVPA must state the terms, restrictions, or conditions governing cancellation of the VVPA before the termination or expiration date of the VVPA by either the provider or the contract holder. The provider of the VVPA shall mail a written notice to the contract holder at the last known address of the contract holder contained in the records of the provider at least 5 days before cancellation by the provider, which notice must state the effective date of the cancellation and the reason for the cancellation. However, such prior notice is not required if the reason for cancellation is nonpayment of the provider fee, a material misrepresentation by the contract holder to the provider or administrator, or a substantial breach of duties by the contract holder relating to the covered motor vehicle or its use. If a vehicle value protection agreement is canceled by the provider for a reason other than nonpayment of the provider fee, the provider must refund to the contract holder 100 percent of the unearned pro rata provider fee paid by the contract holder, if any. If coverage under the vehicle value protection agreement continues after a claim, any refund may reflect a deduction for claims paid and, at the discretion of the provider, an administrative fee of not more than $75.

Section 7 of the bill provides that the provisions on disclosures (section 6) and the provisions on penalties (section 8) do not apply to VVPAs offered in connection with a commercial transaction, which is defined in section 4 of the bill as a transaction in which the motor vehicle subject to the transaction is used primarily for business or commercial purposes. This section of the bill adopts the Revised Model Act.

Section 8 of the bill provides that a provider, an administrator, or any other person who willfully and intentionally violates the Florida Vehicle Value Protection Agreements Act commits a noncriminal violation. Such violation is punishable by a civil fine not to exceed $500 per violation and not more than $10,000 in the aggregate for all violations of a similar nature. For purposes of this section, the term “violations of a similar nature” means violations that consist of the same or similar course of conduct, action, or practice, irrespective of the number of times the action, conduct, or practice determined to be a violation of the Florida Act occurred. The bill adopts part of the Revised Model Act that provides for penalties, including the issuance of cease and desist orders and the imposition of penalties. The OFR has administrative authority to issue cease and desist orders pursuant to s. 520.994, F.S.

Excess Wear and Use Waiver Agreements

Section 9 of the bill substantially adopts the definition of “excess wear and use waiver” in the Revised Model Act to mean a contractual agreement wherein a lessor agrees, with or without a separate charge, to cancel or waive all or part of amounts that may become due under a lease agreement as a result of excessive wear and use of a motor vehicle, which agreement must be part of, or a separate addendum to, the lease agreement. Such waivers may also cancel or waive amounts due for excess mileage.

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28 Section 775.08(3), F.S., defines “noncriminal violation” as any offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by no other penalty than a fine, forfeiture, or other civil penalty. A noncriminal violation does not constitute a crime, and conviction for a noncriminal violation shall not give rise to any legal disability based on a criminal offense.
The bill establishes legal authority and requirements for retail lessees to contract with retail lessors for an excess wear and use waiver in connection with lease agreements. The terms of the related motor vehicle lease may not be conditioned upon the consumer’s payment for any excess wear and use waiver. However, excess wear and use waivers may be discounted or given at no charge in connection with the purchase of other noncredit-related goods. A lease agreement that includes an excess wear and use waiver must disclose all of the following:

- The total charge for the excess wear and use waiver.
- Any exclusions or limitations on the amount of excess wear and use which may be waived under the excess wear and use waiver.
- The terms, restrictions, or conditions governing cancellation of the excess wear and use waiver before the termination or expiration of the excess wear and use waiver, which may include an administrative fee of not more than $75.

The bill provides that an excess wear and use waiver is not insurance for purposes of the Florida Insurance Code.

**Guaranteed Asset Protection Products**

**Section 1** of the bill amends the definition of “guaranteed asset protection product” to mean: a loan, lease, or retail installment contract term, or modification or addendum to a loan, lease, or retail installment contract, under which a creditor agrees, with or without a separate charge, to cancel or waive a customer’s liability for payment of some or all of the amount by which the debt exceeds the value of the collateral that has incurred total physical damage or is the subject of an unrecovered theft. A guaranteed asset protection product may also provide, with or without a separate charge, a benefit that waives a portion of, or provides a customer with a credit toward, the purchase of a replacement motor vehicle . . . This subsection also applies to all guaranteed asset protection products issued before October 1, 2008.

The current definition of GAP products under Florida law is being amended to substantially conform to the Revised Model Act, and clarify that a GAP product can:

- Be included in a loan contract with or without a separate fee;
- Cover a loan balance when a consumer has a total loss of their car or an unrecovered theft; and
- Provide a credit towards the purchase of a replacement motor vehicle.

**Section 2** of the bill prohibits an entity who is required to refund to the buyer any unearned fees paid for a retail installment contract under s. 520.07(11)(g), F.S., from deducting more than $75 in administrative fees from the refund.

The bill allows GAP products to be cancelable or noncancelable after a free-look period, which is defined in section 4 of the bill to mean the period of time, commencing on the effective date of the contract, during which the buyer may cancel the contract for a full refund of the purchase price. The period may not be shorter than 30 days.

If a GAP product is terminated because of:

- A default under the retail installment contract or contract for a loan,
- The repossession of the motor vehicle associated with such contract or loan, or
• Any other termination of such contract or loan, a refund of the GAP product amount maybe used to satisfy any balance owed on the retail installment contract or contract for a loan unless the buyer can show that the retail installment contract has been paid in full.

**Effective Date**

Section 10 of the bill provides an effective date of October 1, 2024.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:
   
   None identified.

B. Public Records/Open Meetings Issues:
   
   None.

C. Trust Funds Restrictions:
   
   None.

D. State Tax or Fee Increases:
   
   None.

E. Other Constitutional Issues:
   
   None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:
   
   None.

B. Private Sector Impact:
   
   None.

C. Government Sector Impact:
   
   OFR reports that any insignificant fiscal impact that may result from this bill could be absorbed within its current resources.29

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29 Email from Gregory C Oats, Director of the Division of Consumer Finance, OFR, to Jacqueline Moody, Florida Senate Committee on Banking and Insurance Senior Attorney, *SB 902*, (Jan. 12, 2024) (on file with Senate Committee on Banking and Insurance).
VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 520.02 and 520.07 of the Florida Statutes. This bill creates sections 520.151, 520.152, 520.153, 520.154, 520.155, 520.156, and 520.157 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Banking and Insurance Committee on January 16, 2024:

- Removes the modification to the definition of “guaranteed asset protection product” that would apply the definition to “related” products issued before October 1, 2008;
- With respect to financial security requirements for VVPAs, requires a provider to place the reserve in trust with the office (rather than the commission), and to provide the OFR (rather than the commission) with a copy of the company’s audited financial statements;
- Removes the option for another form of security held in reserve to be prescribed by commission regulation;
- Removes the definitions of the terms “person” and “commission;”
- Clarifies that the exemption for commercial transactions applies to the disclosure and penalties provisions by amending the cross-reference from s. 520.155, F.S., to s. 520.156, F.S.; and
- Relocates provisions on “excess wear and use waiver” from ch. 521, F.S., (motor vehicle lease disclosure) to ch. 520, F.S. (retail installment sales).

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
A bill to be entitled An act relating to motor vehicle retail financial agreements; amending s. 520.02, F.S.; revising the definition of the term "guaranteed asset protection product"; amending s. 520.07, F.S.; prohibiting certain entities from deducting more than a specified amount in administrative fees when providing a refund of a guaranteed asset protection product; authorizing guaranteed asset protection products to be cancelable or noncancelable under certain circumstances; authorizing certain entities to pay refunds directly to the holder or administrator of a loan under certain circumstances; creating s. 520.151, F.S.; providing a short title; creating s. 520.152, F.S.; defining terms; creating s. 520.153, F.S.; authorizing the offer, sale, or gift of vehicle value protection agreements in compliance with a certain act; specifying a requirement regarding the amount charged or financed for a vehicle value protection agreement; prohibiting the conditioning of credit offers or terms for the sale or lease of a motor vehicle upon a consumer’s payment for or financing of any charge for a vehicle value protection agreement; authorizing discounting or giving the vehicle value protection agreement at no charge under certain circumstances; authorizing providers to use an administrator or other designee for administration of vehicle value protection agreements; prohibiting vehicle value protection agreements from being sold under certain circumstances; specifying financial security requirements for providers; prohibiting additional financial security requirements from being imposed on providers; creating s. 520.154, F.S.; requiring vehicle value protection agreements to include certain disclosures in writing, in clear and understandable language; requiring vehicle value protection agreements to state the terms, restrictions, or conditions governing cancellation by the provider or the contract holder; specifying requirements for notice by the provider, refund of fees, and deduction of fees in the event the vehicle value protection agreement is canceled; creating s. 520.155, F.S.; providing an exemption for vehicle value protection agreements in connection with a commercial transaction; creating s. 520.156, F.S.; providing noncriminal penalties; defining the term "violations of a similar nature"; creating s. 520.157, F.S.; defining the term "excess wear and use waiver"; authorizing a retail lessee to contract with a retail lessor for an excess wear and use waiver; prohibiting conditioning the terms of the consumer's motor vehicle lease on his or her payment for any excess wear and use waiver; authorizing discounting or giving the excess wear and use waiver at no charge under certain circumstances; requiring certain disclosures for a lease agreement that includes an excess wear and use waiver; providing construction; providing an effective date.
Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (7) of section 520.02, Florida Statutes, is amended to read:

520.02 Definitions.—In this act, unless the context or subject matter otherwise requires:

(7) "Guaranteed asset protection product" means a loan, lease, or retail installment contract term, or modification or addendum to a loan, lease, or retail installment contract, under which a creditor agrees, with or without a separate charge, to cancel or waive a customer's liability for payment of some or all of the amount by which the debt exceeds the value of the collateral that has incurred total physical damage or is the subject of an unrecovered theft. A guaranteed asset protection product may also provide, with or without a separate charge, a benefit that waives a portion of, or provides a customer with a credit toward, the purchase of a replacement motor vehicle. Such a product is not insurance for purposes of the Florida Insurance Code. This subsection also applies to all guaranteed asset protection products issued before October 1, 2008.

Section 2. Paragraph (g) of subsection (11) of section 520.07, Florida Statutes, is amended, and paragraphs (h) and (i) are added to that subsection, to read:

520.07 Requirements and prohibitions as to retail installment contracts.—

(11) In conjunction with entering into any new retail installment contract or contract for a loan, a motor vehicle retail installment seller as defined in s. 520.02, a sales finance company as defined in s. 520.02, or a retail lessor as defined in s. 521.003, and any assignee of such an entity, may offer, for a fee or otherwise, optional guaranteed asset protection products in accordance with this chapter. The motor vehicle retail installment seller, sales finance company, retail lessor, or assignee may not require the purchase of a guaranteed asset protection product as a condition for making the loan. In order to offer any guaranteed asset protection product, a motor vehicle retail installment seller, sales finance company, or retail lessor, and any assignee of such an entity, shall comply with the following:

(g) If a contract for a guaranteed asset protection product is terminated, the entity shall refund to the buyer any unearned fees paid for the contract unless the contract provides otherwise. A refund is not due to a consumer who receives a benefit under such product. In order to receive a refund, the buyer must notify the entity of the event terminating the contract and request a refund within 90 days after the occurrence of the event terminating the contract. An entity may offer a buyer a contract that does not provide for a refund only if the entity also offers that buyer a bona fide option to purchase a comparable contract that provides for a refund. An entity may not deduct more than $75 in administrative fees from a refund made under this subsection.

(h) Guaranteed asset protection products may be cancelable or noncancelable after a free-look period as defined in s. 520.152.

(i) If the termination of the guaranteed asset protection product occurs because of a default under the retail installment contract or contract for a loan, the sales finance company, retail lessor, or assignee may not deduct more than $75 in administrative fees from any unearned fees paid for the contract.
contract or contract for a loan, the repossession of the motor vehicle associated with the retail installment contract or contract for a loan, or any other termination of the retail installment contract or contract for a loan, the entity may pay any refund due directly to the holder or administrator and apply the refund as a reduction of the amount owed under the retail installment contract or contract for a loan, unless the buyer can show that the retail installment contract has been paid in full.

Section 3. Section 520.151, Florida Statutes, is created to read:

520.151 Florida Vehicle Value Protection Agreements Act.—Sections 520.151-520.156 may be cited as the "Florida Vehicle Value Protection Agreements Act."

Section 4. Section 520.152, Florida Statutes, is created to read:

520.152 Definitions.—As used in ss. 520.151-520.156, unless the context or subject matter otherwise requires, the term:

(1) "Administrator" means the person who is responsible for the administrative or operational function of managing vehicle value protection agreements, including, but not limited to, the adjudication of claims or benefit requests by contract holders.

(2) "Commercial transaction" means a transaction in which the motor vehicle subject to the transaction is used primarily for business or commercial purposes.

(3) "Contract holder" means a person who is the purchaser or holder of a vehicle value protection agreement.

(4) "Finance agreement" means a loan, retail installment sales contract, or lease for the purchase, refinancing, or lease

(5) "Free look period" means the period of time, commencing on the effective date of the contract, during which the buyer may cancel the contract for a full refund of the purchase price. This period may not be shorter than 30 days.

(6) "Motor vehicle" has the same meaning as provided in s. 520.02.

(7) "Provider" means a person that is obligated to provide a benefit under a vehicle value protection agreement. A provider may function as an administrator or retain the services of a third-party administrator.

(8) "Vehicle value protection agreement" includes a contractual agreement that provides a benefit toward either the reduction of some or all of the contract holder's current finance agreement deficiency balance or the purchase or lease of a replacement motor vehicle or motor vehicle services upon the occurrence of an adverse event to the motor vehicle, including, but not limited to, loss, theft, damage, obsolescence, diminished value, or depreciation. The term does not include guaranteed asset protection products as defined in s. 520.02.

Such a product is not insurance for purposes of the Florida Insurance Code.

Section 5. Section 520.153, Florida Statutes, is created to read:

520.153 Requirements and prohibitions as to vehicle value protection agreements.—

(1) Vehicle value protection agreements may be offered, sold, or given to consumers in this state in compliance with this act.
(2) Notwithstanding any other law, any amount charged or financed for a vehicle value protection agreement is not considered a finance charge or interest and must be separately stated in the finance agreement and in the vehicle value protection agreement.

(3) The extension of credit, the terms of credit, or the terms of the related motor vehicle sale or lease may not be conditioned upon the consumer's payment for or financing of any charge for a vehicle value protection agreement. However, a vehicle value protection agreement may be discounted or given at no charge in connection with the purchase of other noncredit-related goods or services.

(4) A provider may use an administrator or other designee to administer a vehicle value protection agreement.

(5) A vehicle value protection agreement may not be sold to any person unless he or she has been or will be provided access to a copy of such vehicle value protection agreement at a reasonable time after such vehicle value protection agreement is sold.

(6) A vehicle value protection agreement may not be sold if coverage is duplicative of another vehicle value protection agreement sold to a person or duplicative of a guaranteed asset protection product.

(7) Each provider shall do one of the following:

(a) Insure all of its vehicle value protection agreements under a policy that pays or reimburses the contract holder in the event the provider fails to perform its obligations under the vehicle value protection agreement. The insurer must be licensed or otherwise authorized or eligible to do business in this state.

(b) Maintain a funded reserve account for its obligations under its contracts issued and outstanding in this state. The reserves may not be less than 40 percent of gross consideration received, less claims paid, on the sale of the vehicle value protection agreement for all in-force contracts in this state. The reserve must be placed in trust with the office and have a financial security deposit valued at not less than 5 percent of the gross consideration received, less claims paid, on the sale of the vehicle value protection agreements for all vehicle value protection agreements issued and in force in this state, but at least $25,000. The reserve account must consist of one of the following:

1. A surety bond issued by an authorized surety.
2. Securities of the type eligible for deposit by insurers as provided in s. 625.52.
3. Cash.
4. A letter of credit issued by a qualified financial institution.

(c) Maintain, or together with its parent corporation, a net worth or stockholders’ equity of $100 million and, upon request, provide the office with a copy of the provider’s or the provider’s parent company's Form 10-K or Form 20-F filed with the Securities and Exchange Commission within the last calendar year, or if the company does not file with the Securities and Exchange Commission, a copy of the company’s audited financial statements, which must show a net worth of the provider or its parent company of at least $100 million. If the provider’s parent company’s Form 10-K, Form 20-F, or financial statements are not completed by the date required, the provider must maintain a funded reserve account as provided above.
Florida Senate - 2024 CS for SB 902

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Section 6. Section 520.154, Florida Statutes, is created to read:

520.154 Disclosures.—

(1) A vehicle value protection agreement must disclose in writing, in clear, understandable language, all of the following:

(a) The name and address of the provider, contract holder, and administrator, if any.

(b) The terms of the vehicle value protection agreement, including, but not limited to, the purchase price to be paid by the contract holder, if any, the requirements for eligibility and conditions of coverage, and any exclusions.

(c) Whether the vehicle value protection agreement may be canceled by the contract holder during a free-look period as defined in s. 520.152, and that, in the event of cancellation, the contract holder is entitled to a full refund of the purchase price, if any, so long as no benefits have been provided.

(d) The procedure the contract holder must follow, if any, to obtain a benefit under the terms and conditions of the vehicle value protection agreement, including, if applicable, a telephone number, website, or mailing address where the contract holder may apply for a benefit.

(f) That the extension of credit, the terms of the credit, or the terms of the related motor vehicle sale or lease may not be conditioned upon the purchase of the vehicle value protection agreement.

(2) A vehicle value protection agreement must state the terms, restrictions, or conditions governing cancellation of the vehicle value protection agreement before the termination or expiration date of the vehicle value protection agreement by either the provider or the contract holder. The provider of the vehicle value protection agreement shall mail a written notice to the contract holder at last known address of the contract holder contained in the records of the provider at least 5 days before cancellation by the provider, which notice must state the effective date of the cancellation and the reason for the cancellation. However, such prior notice is not required if the reason for cancellation is nonpayment of the provider fee, a material misrepresentation by the contract holder to the provider or administrator, or a substantial breach of duties by the contract holder relating to the covered motor vehicle or its use. If a vehicle value protection agreement is canceled by the provider for a reason other than nonpayment of the provider fee,
the provider must refund to the contract holder 100 percent of
the unearned pro rata provider fee paid by the contract holder,
if any. If coverage under the vehicle value protection agreement
continues after a claim, any refund may reflect a deduction for
claims paid and, at the discretion of the provider, an
administrative fee of not more than $75.

Section 7. Section 520.155, Florida Statutes, is created to
read:
520.155 Commercial transactions exempt.—Sections 520.154
and 520.156 do not apply to vehicle value protection agreements
offered in connection with a commercial transaction.

Section 8. Section 520.156, Florida Statutes, is created to
read:
520.156 Penalties.—A provider, an administrator, or any
other person who willfully and intentionally violates ss.
520.151-520.155 commits a noncriminal violation as defined in ss.
775.08(3), punishable by a fine not to exceed $500 per violation
and not more than $10,000 in the aggregate for all violations of
a similar nature. For purposes of this section, the term
violations of a similar nature" means violations that consist
of the same or similar course of conduct, action, or practice,
irrespective of the number of times the action, conduct, or
practice determined to be a violation of ss. 520.151-520.155
occurred.

Section 9. Section 520.157, Florida Statutes, is created to
read:
520.157 Excess wear and use waiver.—
(1) For purposes of this section, the term "excess wear and
use waiver" means a contractual agreement wherein a lessor
agrees, regardless of whether subject to a separate fee, to
cancel or waive all or part of amounts that may become due under
a lease agreement as a result of excess wear and use of a motor
vehicle, which agreement must be part of, or a separate addendum
to, the lease agreement. Such waivers may also cancel or waive
amounts due for excess mileage.

(2) A retail lessee may contract with a retail lessor for
an excess wear and use waiver in connection with a lease
agreement.

(3) The terms of the related motor vehicle lease may not be
conditioned upon the consumer’s payment for any excess wear and
use waiver. However, excess wear and use waivers may be
discounted or given at no charge in connection with the purchase
of other noncredit-related goods.

(4) A lease agreement that includes an excess wear and use
waiver must disclose all of the following:
(a) The total charge for the excess wear and use waiver.
(b) Any exclusions or limitations on the amount of excess
wear and use which may be waived under the excess wear and use
waiver.
(c) The terms, restrictions, or conditions governing
cancellation of the excess wear and use waiver before the
termination or expiration of the excess wear and use waiver,
which may include an administrative fee of not more than $75.

(5) An excess wear and use waiver is not insurance for
purposes of the Florida Insurance Code.

Section 10. This act shall take effect October 1, 2024.
I. Summary:

SB 1072 amends s. 125.0104, F.S., to provide an exception to the authorized uses of revenues received by counties imposing the tourist development tax (TDT). Under the bill, a county as defined in s. 125.011(1), F.S. (i.e. Miami-Dade County) may use the revenues to complete existing projects, debt obligations, or contracts in existence as of July 1, 2024. Revenues may not be used to renew or to extend such projects.

For remaining revenues not needed for existing projects, contracts, or debt obligations, 50 percent of TDT revenues must be distributed proportionally to municipalities in the county for specified uses.

The county must distribute the remaining tax revenues monthly as follows:
- 20 percent for the primary bureau, department, or association responsible for organizing, funding, and promoting artist and cultural organizations;
- 30 percent for visitors bureaus and homeless shelters; and
- 50 percent for regular TDT uses.

The bill amends s. 212.0305, F.S., to revise the purposes for which Miami-Dade County may use charter county convention development revenue, by providing that 50 percent of the revenues must be distributed proportionally to the governing boards of the municipalities within the county. Distributions may be used to:
- Acquire, construct, extend, enlarge, remodel, repair, improve, operate, or maintain a convention center, an exhibition hall, a coliseum, an auditorium, a performing arts center, or a related building or parking facility for such buildings.
- Promote and advertise tourism and to fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus.
The county must use the remaining charter county convention development revenue to acquire, construct, extend, enlarge, remodel, repair, improve, operate, or maintain a countywide convention and visitors bureau, a convention center, an exhibition hall, a coliseum, an auditorium, a performing arts center, or a related building or parking facility for such buildings.

The bill takes effect July 1, 2024.

II. Present Situation:

Tourist Development Taxes

Pursuant to the Local Option Tourist Development Act, counties are authorized to levy five separate taxes on transient rental transactions (tourist development taxes or TDTs). Depending on a county’s eligibility to levy such taxes, the maximum potential tax rate varies:

- The original TDT may be levied at the rate of 1 or 2 percent.
- An additional 1 percent tax may be levied by counties who have previously levied the original TDT at the 1 or 2 percent rate for at least three years.
- A high tourism impact tax may be levied at an additional 1 percent.
- A professional sports franchise facility tax may be levied up to an additional 1 percent.
- An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.

TDT Process

Each county that levies the original 1 or 2 percent TDT is required to have a tourist development council consisting of county residents who are appointed by the county governing board. The tourist development council makes recommendations to the county governing board for the effective operation of special projects or for uses of the TDT revenue.

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1 Section 125.0104, F.S.
2 Section 125.0104(3)(a), F.S., considers “transient rental” to be the rental or lease of any accommodation for a term of six months or less.
3 Section 125.0104(3)(c), F.S. All 67 of Florida’s counties are eligible to levy this tax, but only 62 counties have done so, all at a rate of 2 percent. Office of Economic and Demographic Research (EDR), 2024 Local Option Tourist Tax Rates, [http://edr.state.fl.us/Content/local-government/data/county-municipal/2024LOTTrates.pdf](http://edr.state.fl.us/Content/local-government/data/county-municipal/2024LOTTrates.pdf) (last visited Jan 29, 2024). These counties are estimated to realize $583 million in revenue from these taxes in the 2023-2024 fiscal year. EDR 2023 Florida Tax Handbook, p. 289, [http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2023.pdf](http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2023.pdf) (last visited Jan. 29, 2024).
4 Section 125.0104(3)(d), F.S. Fifty-six of the eligible 59 counties levy this tax, with an estimated 2023-2024 state fiscal year collection of $245 million in revenue. EDR 2023 Florida Tax Handbook, supra note 3 at.293.
5 Section 125.0104(3)(m), F.S. Ten of the 14 eligible counties levy this tax with an estimated 2023-2024 state fiscal collection of $161 million in revenue. EDR 2023 Florida Tax Handbook, supra note 3 at 300.
6 Section 125.0104(3)(l), F.S. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities or professional sports franchises, and convention centers and to promote and advertise tourism. Forty-six of the 67 counties levy this additional tax, with an estimated 2023-2024 state fiscal year collection of $259 million in revenue. EDR 2023 Florida Tax Handbook, supra note 3 at 297.
7 Section 125.0104(3)(n), F.S. Thirty-six of the eligible 65 counties levy the additional professional sports franchise facility tax, with an estimated 2023-2024 state fiscal year collection of $226 million in revenue. EDR 2023 Florida Tax Handbook, supra note 3 at 303.
8 Section 125.0104(4)(e), F.S.
9 [Id.](http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2023.pdf)
Prior to the authorization of the original 1 or 2 percent TDT, the levy must be approved by a countywide referendum held at a general election, and additional TDT levies must be authorized by a vote of the county’s governing board or by voter approval in a countywide referendum. Each county proposing to levy the original 1 or 2 percent tax must then adopt an ordinance for the levy and imposition of the tax, which must include a plan for tourist development prepared by the tourist development council. The plan for tourist development must include the anticipated net tax revenue to be derived by the county for the two years following the tax levy, as well as a list of the proposed uses of the tax and the approximate cost for each project or use. The plan for tourist development may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the governing board.

**TDT Uses**

The revenues derived from TDTs may be used for:

- The acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, aquarium, or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization, or promotion of a zoo.
- Promoting and advertising tourism in the state.
- Funding of convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies, or by contract with chambers of commerce or similar associations in the county.
- Financing beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup or restoration of inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, or inland lake or river.
- In counties with populations less than 950,000, the acquisition, construction, extension, enlargement, remodeling, repair, or improvement, maintenance, operation, or promotion of zoos, fishing piers, or nature centers which are publicly owned and operated or owned and operated by a not-for-profit organization and open to the public.
- Securing revenue bonds issued by the county for the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, aquarium, or a museum, or financing beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control.

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10 Section 125.0104(6), F.S.
11 Section 125.0104(3)(d), F.S.
12 Section 125.0104(4)(a), F.S.
13 Section 125.0104(4), F.S.
14 Id.
15 Id. The provisions found in s. 125.0104(4)(a)-(d), F.S., do not apply to the high tourism impact tax, the professional sports franchise facility tax, or the additional professional sports franchise facility tax.
16 Section 125.0104(5), F.S.
17 In counties with populations less than 100,000, up to 10 percent of TDT revenues may be used for financing beach park facilities. See s. 125.0104(5)(a), F.S.
18 Section 125.0104(5)(b), F.S.
Home Rule Charter Counties

Section 125.011(1), F.S., defines a county as:
Any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VII, s. (e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word “county” within the above provisions shall include “board of county commissioners” of such county.

The local governments authorized to operate under a home rule charter by sections 10, 11, and 24, Art. VIII of the Constitution of 1885, are the city of Key West and Monroe County,19 Miami-Dade County,20 and Hillsborough County.21 Of these, only Miami-Dade County currently operates under a home-rule charter adopted pursuant to these specific provisions.

Convention Development Taxes

Each county, as defined by s. 125.011(1), F.S., (i.e., Miami-Dade County) is authorized to impose a 3 percent convention development tax on the total consideration charged for transient rental transactions. The tax must be levied pursuant to an ordinance enacted by the county’s governing body.22 During fiscal year 2022-2023, Miami-Dade generated approximately $130 million in revenue.23 Tax proceeds must be used in the following manner:24

- Two-thirds of the proceeds must be used to extend, enlarge, and improve the largest existing publicly owned convention center in the county.
- After completion of any project above, proceeds may be used to acquire, construct, extend, enlarge, remodel, repair, improve, plan for, operate, manage, or maintain one or more convention centers, stadiums, exhibition halls, arenas, coliseums, auditoriums, or golf courses, and may be used to acquire and construct an intercity light rail transportation system.
- One-third of the proceeds must be used to construct a new multipurpose convention/coliseum/exhibition center/stadium or the maximum components thereof as funds permit in the most populous municipality in the county.
- After completion of the above projects, tax revenues and interest accrued pursuant to that authorized use may be used, as determined by the county to operate an authority created pursuant to s. 212.0305(4)(b)4., F.S., or to acquire, construct, extend, enlarge, remodel, repair, improve, operate, or maintain one or more convention centers, stadiums, exhibition halls, arenas, coliseums, auditoriums, golf courses, or related buildings and parking facilities in the most populous municipality in the county.

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19 Art. VIII, s. 6, n. 2
20 Art. VIII, s. 6, n. 3
21 Art. VIII, s. 6, n. 4
22 Section 212.0305(4)(b)1., F.S.
24 Section 212.0305(4)(b)2., F.S.
Prior to the county enacting an ordinance imposing the levy, the county must notify the governing body of each municipality in which projects are to be developed. As a precondition to the receipt of funding, the governing bodies must designate or appoint an authority that has the power to approve the concept, location, program, and design of the facilities or improvements to be developed. The authority administers and disburses the tax proceeds and any other related source of revenue. However, the authority’s annual budget is subject to approval of the municipality’s governing body.  

The governing body of each municipality levying the tax may adopt a resolution prohibiting the imposition of the convention development tax within the municipality’s jurisdiction. If a municipality adopts such a resolution, the tax is imposed by the county in all other areas of the county except such municipality. No funds collected from the convention development tax may be expended in a municipality that has adopted such a resolution.

III. Effect of Proposed Changes:

The bill amends s. 125.0104, F.S., to provide an exception to the authorized uses of revenues received by counties imposing the TDT for a county defined in s. 125.011(1), F.S. (i.e. Miami-Dade County). The bill specifies that revenues may be used to complete any project underway or to perform any contract in existence as of July 1, 2024, and that revenues may not be used to renew or extend the contracts or projects. Bonds or other outstanding debt as of July 1, 2024, may be refinanced; however, the duration of the debt pledging the TDT may not be extended and the outstanding principal may not be increased, except to account for the costs of issuance.

Revenues not needed for projects, debt obligations, or contracts must be distributed as follows:
- 50 percent must be distributed proportionally to the governing authorities of the municipalities within the county on a monthly basis. The receiving municipality may use the distributions to:
  - Promote and advertise tourism.
  - Fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus. Municipalities may enter into interlocal agreements for the purpose of using the revenue for these stated purposes in combination with moneys used by the county for a countywide convention and visitor bureau pursuant to s. 212.0305(4)(b)2.b.(II), F.S.
  - Acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or finance public facilities within the boundaries of the municipality, if the public facilities are needed to increase tourist-related business activities in the municipality. Tax distributions may be used for any related land acquisition, land improvement, design and engineering costs, and all other professional and related costs required to bring the public facilities into service. Tax distributions may only be used if:
    - At least 2/3 of the governing authority of the municipality approves the use;
    - No more than 70 percent of the cost will be paid for using TDT revenues;
No more than 40 percent of all TDT revenues distributed to the municipality are spent to promote and advertise tourism.

- Acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote parks or trails that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public.
- Reimburse expenses incurred in providing public safety services including emergency medical services as defined in s. 401.107(3), F.S., and law enforcement needed to address impacts related to increased tourism and visitors to a municipality.
- Finance water quality improvement projects including, but not limited to, flood mitigation; algae control, cleanup, or prevention measures; and Biscayne Bay and waterway network restoration activities.
- Provide for septic-to-sewer conversion projects.

The county must distribute the remaining tax revenues monthly as follows:

- 20 percent for the primary bureau, department, or association responsible for organizing, funding, and promoting artist and cultural organizations;
- 30 percent for visitors bureaus and homeless shelters under s. 212.0306(3), F.S.; and
- 50 percent for regular TDT uses.

The bill amends s. 212.0305, F.S., to revise the purposes for how a county may use charter county convention development moneys. The bill provides that 50 percent of charter county convention development money must be distributed proportionally to the governing boards of the municipalities within the county on a monthly basis. Moneys collected in unincorporated areas of the county are not included in the distribution. The distributions may be used for the following purposes:

- To acquire, construct, extend, enlarge, remodel, repair, improve, operate, or maintain a convention center, an exhibition hall, a coliseum, an auditorium, a performing arts center, or a related building or parking facility to such buildings.
- To promote and advertise tourism and to fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus. Municipalities may enter into interlocal agreements to use the revenue in combination with moneys used by the county for a countywide convention and visitor’s bureau.

The county must use the remaining charter county convention development money only for the following purposes:

- To acquire, construct, extend, enlarge, remodel, repair, improve, operate, or maintain a convention center, an exhibition hall, a coliseum, an auditorium, a performing arts center, or a related building or parking facility for such buildings.
- To acquire, construct, extend, enlarge, remodel, repair, improve, operate, or maintain a countywide convention and visitors bureau which, by interlocal agreement and contract with the municipalities within the county, has the primary responsibility for promoting the county and its municipalities as a destination site for conventions, trade shows, and pleasure travel, or to be used for regular TDT uses. If the county is not or is no longer a party to an interlocal agreement, the county must distribute the revenue for regular TDT uses.
The bill deletes the requirement that the county notify the governing board of each municipality before enacting an ordinance imposing the levy, as well as the designation or appointment of an authority and the powers granted to the authority.

Lastly, the bill directs the Division of Law Revision to replace the phrase “the effective date of this act” wherever it occurs in this act with the date the act becomes law.

The bill takes effect July 1, 2024.

A. Municipality/County Mandates Restrictions:

   Article VII, section 18 of the Florida Constitution requires a two-thirds vote of the membership of each house of the Legislature to pass legislation requiring counties and municipalities to spend funds, limiting their ability to raise revenue, or reducing the percentage of a state tax shared with them. This bill does not require counties or municipalities to spend funds, limit their authority to raise revenue, or reduce the percentage of a state tax shared with them as specified in Article VII, section 18 of the Florida Constitution. Therefore, the provisions of Article VII, section 18 of the Florida Constitution do not apply.

B. Public Records/Open Meetings Issues:

   None.

C. Trust Funds Restrictions:

   None.

D. State Tax or Fee Increases:

   The bill does not create or raise a state tax or fee. Therefore, the requirements of Art. VII, s. 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

   None identified.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

   None.

B. Private Sector Impact:

   None.
C. Government Sector Impact:

None.

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Statutes Affected:

This bill substantially amends sections 125.0104 and 212.0305 of the Florida Statutes.

VIII. 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 Avila

A bill to be entitled
An act relating to tourist development; amending s. 125.0104, F.S.; providing an exception to the authorized uses of revenues received by counties imposing the tourist development tax; specifying uses of tax revenues received by certain counties imposing the tourist development tax; defining the term "public facilities"; amending s. 212.0305, F.S.; requiring that charter county convention development moneys be distributed to the governing boards of municipalities for specified purposes; revising the purposes for which a county may use charter county convention development moneys; deleting the requirement that the county notify the governing board of each municipality under certain circumstances; providing a directive to the Division of Law Revision; providing an effective date.

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

Section 1. Paragraphs (a) and (e) of subsection (5) of section 125.0104, Florida Statutes, are amended, and paragraph (f) is added to that subsection, to read:
125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—
(5) AUTHORIZED USES OF REVENUE.—
(a) Except for counties identified in paragraph (f), all tax revenues received pursuant to this section by a county imposing the tourist development tax shall be used by that county for the following purposes only:
1. To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more:
   a. Publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums within the boundaries of the county or subcounty special taxing district in which the tax is levied;
   b. Auditoriums that are publicly owned but are operated by organizations that are exempt from federal taxation pursuant to 26 U.S.C. s. 501(c)(3) and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied;
   c. Aquariums or museums that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied;
   2. To promote zoological parks that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public;
   3. To promote and advertise tourism in this state and nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event must have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists;
   4. To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county, which may include any indirect administrative
59 costs for services performed by the county on behalf of the
60 promotion agency;
61 5. To finance beach park facilities, or beach, channel,
62 estuary, or lagoon improvement, maintenance, renourishment,
63 restoration, and erosion control, including construction of
64 beach groins and shoreline protection, enhancement, cleanup, or
65 restoration of inland lakes and rivers to which there is public
66 access as those uses relate to the physical preservation of the
67 beach, shoreline, channel, estuary, lagoon, or inland lake or
68 river. However, any funds identified by a county as the local
69 matching source for beach renourishment, restoration, or erosion
70 control projects included in the long-range budget plan of the
71 state’s Beach Management Plan, pursuant to s. 161.091, or funds
72 contractually obligated by a county in the financial plan for a
73 federally authorized shore protection project may not be used or
74 loaned for any other purpose. In counties of fewer than 100,000
75 population, up to 10 percent of the revenues from the tourist
76 development tax may be used for beach park facilities; or
77 6. To acquire, construct, extend, enlarge, remodel, repair,
78 improve, maintain, operate, or finance public facilities within
79 the boundaries of the county or subcounty special taxing
80 district in which the tax is levied, if the public facilities
81 are needed to increase tourist-related business activities in
82 the county or subcounty special district and are recommended by
83 the county tourist development council created pursuant to
84 paragraph (4)(e). Tax revenues may be used for any related land
85 acquisition, land improvement, design and engineering costs, and
86 all other professional and related costs required to bring the
87 public facilities into service. As used in this subparagraph,
revenues collected pursuant to this section for a purpose not expressly authorized by paragraph (3)(i) or paragraph (3)(n) or paragraphs (a)-(d) and (f) of this subsection is expressly prohibited.

(f) All tax revenues received pursuant to this section by a county, as defined in s. 125.011(1), imposing the tourist development tax may only be used by the county as specified in this paragraph:

1. Revenues may be used to complete any project underway as of the effective date of this act or to perform any contract in existence on the effective date of this act, pursuant to this section as this section existed before the effective date of this act. Revenues may not be used to renew or extend such contracts or projects. Bonds or other debt outstanding as of the effective date of this act may be refinanced, but the duration of such debt pledging the tourist development tax may not be extended and the outstanding principal may not be increased, except to account for the costs of issuance.

2. Revenues not needed for projects, contracts, or debt obligations pursuant to subparagraph 1. must be distributed and used as follows:

a. Fifty percent must be distributed monthly by the county to the governing authorities of the municipalities within the county. Distributions to each municipality must be in proportion to the amount collected in the prior month within the municipality as a share of the total amount collected from all municipalities in the county. These distributions may be used by the receiving municipality to:

(i) Promote and advertise tourism.

(II) Fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus. Municipalities may enter into interlocal agreements for the purpose of using the revenue received for the purpose stated in this sub-sub-subparagraph in combination with moneys used by the county for a countywide convention and visitors bureau under s. 212.0305(4)(b)2.b.(II).

(III) Acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or finance public facilities within the boundaries of the municipality, if the public facilities are needed to increase tourist-related business activities in the municipality.

(A) As used in this sub-sub-subparagraph, the term "public facilities" means major capital improvements that have a life expectancy of 5 or more years, including, but not limited to, transportation; sanitary sewer, including solid waste, drainage, and potable water; and pedestrian facilities.

(B) Tax distributions may be used for any related land acquisition, land improvement, design and engineering costs, and all other professional and related costs required to bring the public facilities into service.

(C) Tax distributions may be used for the purposes stated in sub-sub-subparagraph (B) only if the following conditions are satisfied:

i. The governing authority of the municipality approves the use for each proposed public facility by a vote of at least two-thirds of its membership.

ii. No more than 70 percent of the cost of a proposed public facility will be paid for using tourist development tax revenues, and sources of funding for the remaining costs are...
identified and confirmed by the governing authority of the municipality.

iii. No more than 40 percent of all tourist development tax revenues distributed to the municipality are spent to promote and advertise tourism as provided in this paragraph.

(IV) Acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote parks or trails that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public, within the boundaries of the municipality.

(V) Reimburse expenses incurred in providing public safety services, including, but not limited to, emergency medical services as defined in s. 401.107(3), and law enforcement services, needed to address impacts related to increased tourism and visitors to a municipality.

(VI) Finance water quality improvement projects, including, but not limited to, all of the following:

(A) Flood mitigation.

(B) Algae control, cleanup, or prevention measures.

(C) Biscayne Bay and waterway network restoration initiatives.

(VII) Provide for septic-to-sewer conversion projects important to the local tourism industry which are primarily undertaken to reduce or prevent the discharge of untreated or partially treated wastewater into surface waters.

b. A county shall use the remaining tax revenues received pursuant to this section as provided in this sub-subparagraph.

Twenty percent must be distributed monthly to the governing board of the county to fund the primary bureau, department, or

Section 2. Paragraph (b) of subsection (4) of section 212.0305, Florida Statutes, is amended to read:

212.0305 Convention development taxes; intent; authorization to levy; use of proceeds; other requirements.—

(b) Charter county levy for convention development.—

1. Each county, as defined in s. 125.011(1), may impose, under an ordinance enacted by the governing body of the county, a levy on the exercise within its boundaries of the taxable privilege of leasing or letting transient rental accommodations described in subsection (3) at the rate of 3 percent of the total consideration charged therefor. The proceeds of this levy shall be known as the charter county convention development tax.

2. a. Fifty percent of all charter county convention development moneys, including any interest accrued thereon, received by a county imposing the levy shall be distributed monthly to the governing boards of the municipalities within the county in proportion to the amount collected in the prior month within each municipality compared with the total collected from all municipalities in the county. Moneys collected within the
unincorporated area of the county are not included in the
distribution under this subparagraph. The distributions as
described in this sub-subparagraph may be used by the receiving
municipality only for the following purposes:

(I) To acquire, construct, extend, enlarge, remodel,
repair, improve, operate, or maintain one or more of the
following:

(A) A convention center.

(B) An exhibition hall.

(C) A coliseum.

(D) An auditorium.

(E) A performing arts center.

(F) A related building or parking facility to such
buildings described in sub-sub-subparagraphs (A)-(E).

(II) To promote and advertise tourism and to fund
convention bureaus, tourist bureaus, tourist information
centers, and news bureaus. Municipalities may enter into
interlocal agreements for the purpose of using the revenue
received for the purpose stated in this sub-sub-subparagraph in
combination with moneys used by the county for a countywide
convention and visitor’s bureau under sub-sub-subparagraph b.

(iii).

b. The governing body of the county shall use the remaining
charter county convention development moneys only for the
following purposes:

(I) To acquire, construct, extend, enlarge, remodel,
repair, improve, operate, or maintain one or more of the
following:

(A) A convention center.

(B) An exhibition hall.

(C) A coliseum.

(D) An auditorium.

(E) A performing arts center.

(F) A related building or parking facility to such
buildings described in sub-sub-subparagraphs (A)-(E).

(II) To acquire, construct, extend, enlarge, remodel,
repair, improve, operate, or maintain a countywide convention
and visitors bureau which, by interlocal agreement and contract
with the municipalities within the county, has the primary
responsibility for promoting the county and its municipalities
as a destination site for conventions, trade shows, and pleasure
travel, or to be used for purposes provided in s.

125.014(5)(a)2.b. or c. If the county is not or is no longer a
party to such an interlocal agreement, the county must allocate
the proceeds of such tax for the purposes described in s.

125.014(5)(a)2.b. or c.

a. Two-thirds of the proceeds shall be used to extend,
enlarge, and improve the largest existing publicly owned
convention center in the county.

b. One-third of the proceeds shall be used to construct a
new multipurpose convention/coliseum/exhibition center/stadium
or the maximum components thereof as funds permit in the most
populous municipality in the county.

c. After the completion of any project under sub-
subparagraph a., the tax revenues and interest accrued under
sub-subparagraph a. may be used to acquire, construct, extend,
enlarge, remodel, repair, improve, plan for, operate, manage, or
maintain one or more convention centers, stadiums, exhibition
3. The governing body of each municipality in which a public or private investment in tourism is desired may authorize the creation of an authority having the sole power to: 

a. Approve the concept, location, program, and design of the facilities or improvements to be built in accordance with this paragraph and to administer and disburse such proceeds and any other related source of revenue. 

(I) As collateral, pledged, or hypothecated for projects authorized by this paragraph, including bonds issued in connection therewith; or 

(II) As a pledge or capital contribution in conjunction with a partnership, joint venture, or other business arrangement between a municipality and one or more business entities for projects authorized by this paragraph. 

b. May be used, as determined by the county, to operate an authority created pursuant to subparagraph 2.b., or to acquire, construct, extend, enlarge, remodel, repair, improve, operate, or maintain one or more convention centers, stadiums, exhibition halls, arenas, coliseums, auditoriums, golf courses, or related buildings and parking facilities in the most populous municipality in the county. 

c. After completion of any project under sub-subparagraph b., the tax revenues and interest accrued under sub-subparagraph b. may be used, as determined by the county, to operate an authority created pursuant to subparagraph 2.b., or to acquire, construct, extend, enlarge, remodel, repair, improve, operate, or maintain one or more convention centers, stadiums, exhibition halls, arenas, coliseums, auditoriums, golf courses, or related buildings and parking facilities in the most populous municipality in the county. 

d. For the purposes of completion of any project pursuant to this paragraph, tax revenues and interest accrued may be used:

(I) As collateral, pledged, or hypothecated for projects authorized by this paragraph, including bonds issued in connection therewith; or

(II) As a pledge or capital contribution in conjunction with a partnership, joint venture, or other business arrangement between a municipality and one or more business entities for projects authorized by this paragraph.

The governing body of each municipality in which a municipal tourist tax is levied may adopt a resolution prohibiting imposition of the charter county convention development levy within such municipality. If the governing body adopts such a resolution, the convention development levy must be imposed by the county in all other areas of the county except such municipality. No funds collected pursuant to this paragraph may be expended in a municipality which has adopted such a resolution.

4.a. Before the county enacts an ordinance imposing the levy, the county shall notify the governing body of each municipality in which projects are to be developed pursuant to subparagraph 2.a., sub-subparagraph 2.a., or sub-subparagraph 2.b. As a condition precedent to receiving funding, the governing bodies of such municipalities shall designate or appoint an authority that shall have the sole power to:

(I) Appoint and dismiss the authority’s executive director, general counsel, and any other consultants retained by the authority. The governing body shall have the right to approve or disapprove the initial appointment of the authority’s executive director and general counsel.

b. The members of each such authority shall serve for a term of not less than 1 year and shall be appointed by the governing body of such municipality. The annual budget of such authority shall be subject to approval of the governing body of
the municipality. If the governing body does not approve the budget, the authority shall use as the authority’s budget the previous fiscal year budget.

c. The authority, by resolution to be adopted from time to time, may invest and reinvest the proceeds from the convention development tax and any other revenues generated by the authority in the same manner that the municipality in which the authority is located may invest surplus funds.

The charter county convention development levy shall be in addition to any other levy imposed pursuant to this section.

5. A certified copy of the ordinance imposing the levy shall be furnished by the county to the department within 10 days after approval of such ordinance. The effective date of imposition of the levy shall be the first day of any month at least 60 days after enactment of the ordinance.

6. Revenues collected pursuant to this paragraph shall be deposited in a convention development trust fund, which shall be established by the county as a condition precedent to receipt of such funds.

Section 3. The Division of Law Revision is directed to replace the phrase “the effective date of this act” wherever it occurs in this act with the date this act becomes a law.

Section 4. This act shall take effect July 1, 2024.
I. Summary:

SB 1346 amends the Florida Revised Limited Liability Company Act in ch. 605, F.S., to provide for the formation of a protected series limited liability company (LLC) under Florida law. The bill specifies definitions, operations and governance, powers and duties, liability limitations, and requirements related to service and notice, reporting, management, merger, and dissolution.

The bill also changes an internal reference in s. 605.0103, F.S., related to knowledge and notice.

The bill takes effect January 1, 2025.

II. Present Situation:

Limited Liability Companies

A limited liability company (LLC) is a type of business entity recognized by and regulated under ch. 605, F.S., the Florida Revised Limited Liability Company Act (LLC Act). Benefits to forming a business as an LLC include a flexible tax structure\(^1\) and a “vertical liability shield,”

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\(^1\) Depending on elections made by an LLC’s members, the IRS will treat an LLC as either a corporation, a partnership, or a disregarded entity. This last option allows for what is known as “pass-through taxation,” in which the LLC’s members claim the LLC’s profits or losses as part of their personal taxes, alleviating the LLC of needing to file its own tax return and preventing the profits and losses from being taxed twice. IRS, Limited Liability Company (LLC), https://www.irs.gov/businesses/small-businesses-self-employed/limited-liability-company-llc (last visited Jan. 29, 2024).
which limits the personal liability of the LLC’s members and managers for company obligations.

**Forming a Florida LLC**

To form an LLC in Florida, the authorized representatives must first choose a name, which name must be distinguishable from the names of all other business entity names in the records of the Department of State (DOS) and include the words “limited liability company” or the abbreviation “LLC” or “L.L.C.” The authorized representatives must also designate a registered agent to accept legal notices and service of process on behalf of the LLC at a registered office located in Florida.

Once these steps are completed, the authorized representatives must sign and deliver to the DOS for filing articles of organization stating the LLC’s name; the street and mailing addresses of the LLC’s principal office; and the name, street address in Florida, and written acceptance of the LLC’s registered agent. An LLC is formed when the LLC’s articles of organization become effective and when at least one person becomes a member at the time the articles of organization become effective.

Once formed, the members of the LLC may establish an operating agreement to lay the groundwork for the company, which agreement governs the:

- Relations among the members as members and between the members and the LLC;
- Rights and duties of a person serving in the capacity of manager;
- LLC’s activities and affairs; and
- Means and conditions for amending the operating agreement.

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2 “Member” means a person who: (a) is a member of an LLC under s. 605.0401, F.S., or was a member in a company when the company became subject to the Act; and (b) has not dissociated from the LLC under s. 605.0602, F.S. Section 605.0102(40), F.S.

3 “Manager” means a person who, under the operating agreement of a manager-managed LLC, is responsible, alone or in concert with others, for performing the management functions stated in ss. 605.0407(3) and 605.04073(2), F.S. Section 605.0102(38), F.S.

4 Exceptions to the liability shield include a member’s or manager’s written consent to be liable for an obligation; a statutory claw-back provision for improper distributions; provisions in agreements signed before the LLC’s organization; a member’s or manager’s tortious conduct; a member’s or manager’s action or inaction that results in a violation of criminal law or improper personal gain; liability arising under federal tax laws of the Florida sales and use tax laws; and a violation of fiduciary duties to creditors. Section 605.0304, F.S. Daniel S. Kleinberger, *Limited Liability Limited* (Aug. 28, 2019), https://www.americanbar.org/groups/business_law/publications/blt/2019/09/limited-liability/ (last visited Jan. 29, 2024).

5 One or more persons may act as authorized representatives to form an LLC. Section 605.0201, F.S.

6 Section 605.0112, F.S.

7 The registered agent must be an individual who resides in Florida and whose business address is identical to the address of the registered office; another domestic entity that is an authorized entity and whose business address is identical to the address of the registered office; or a foreign entity authorized to transact business in Florida that is an authorized entity and whose business address is identical to the address of the registered office. Section 605.0113, F.S.

8 The articles of organization may contain statements on additional matters as specified in statute. Section 605.0201, F.S.

9 Except as otherwise provided, any document delivered to the DOS for filing under the LLC Act may specify an effective time and a delayed effective date. In the case of initial articles of organization, a prior effective date may be specified in the articles of organization if such date is within five business days before the date of filing. If the record does not specify an effective time or a prior or delayed effective date, the record is effective on the date and at the time the record is accepted, as evidenced by the DOS’s endorsement of the date and time on the filing. Section 605.0207, F.S.

10 Section 605.0201, F.S.

11 Section 605.0105, F.S.
An LLC must also deliver to the DOS for filing an annual report stating:

- The LLC’s name;
- The LLC’s principal office and mailing addresses;
- The date of the LLC’s organization;
- The LLC’s federal employer identification number\(^{12}\) or, if none exists, whether one has been applied for;
- The name, title or capacity, and address of at least one person with the authority to manage the LLC; and
- Any additional information that is necessary or appropriate to enable the DOS to carry out the LLC Act.\(^ {13}\)

**Foreign LLCs Doing Business in Florida**

An entity organized as an LLC under the laws of another jurisdiction (a foreign LLC) that wishes to do business in Florida must, through an authorized representative, first apply for a certificate of authority to transact business in Florida by delivering an application for such a certificate to the DOS, which application must contain:

- The foreign LLC’s name;
- The name of the foreign LLC’s jurisdiction of formation;
- The foreign LLC’s principal office and mailing addresses;
- The name and street address in Florida of, and the written acceptance by, the foreign LLC’s initial registered agent in Florida;
- The name, title or capacity, and address of at least one person with the authority to manage the foreign LLC; and
- Additional information as may be necessary or appropriate in order to enable the DOS to determine whether the foreign LLC is entitled to file an application for a certificate of authority and to determine and assess applicable fees.\(^ {14}\)

Unless the DOS determines that such an application does not comply with the LLC Act’s filing requirements, the DOS must, upon the payment of all filing fees, file the certificate of authority application.\(^ {15}\) The filing of the application means the foreign LLC has obtained a certificate of authority and is authorized to do business in Florida.\(^ {16}\) Such an LLC must file annual reports as required of a domestic LLC, which reports must include additional information pertinent to a foreign LLC as specified in the LLC Act.\(^ {17}\)

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\(^ {12}\) The federal employer identification number, also known as a federal tax identification number, is issued by the IRS and used to identify a business for federal tax purposes. IRS, *Employer ID Numbers*, [https://www.irs.gov/businesses/small-businesses-self-employed/employer-id-numbers](https://www.irs.gov/businesses/small-businesses-self-employed/employer-id-numbers) (last visited Jan. 29, 2024)

\(^ {13}\) Section 605.0212, F.S.

\(^ {14}\) Section 605.0902, F.S.

\(^ {15}\) Section 605.0903, F.S.

\(^ {16}\) *Id.*

\(^ {17}\) Section 605.0212, F.S.
Protected Series Limited Liability Companies

In 1996, Delaware enacted legislation providing for the formation of a “protected series limited liability company” (protected series LLC), which offers both the traditional, vertical liability shield of an LLC and a new, horizontal liability shield for any protected series of the LLC; in other words, the assets of any one protected series of an LLC are not available to satisfy the claims of creditors of the LLC or of any other protected series of the LLC.\textsuperscript{18} Since then, 20 other states and the District of Columbia have enacted legislation providing for the formation of some type of protected series LLC.\textsuperscript{19}

In response to the growing popularity of this type of business entity, the Uniform Law Commission promulgated the Uniform Protected Series Act (UPSA) in 2017, intended as a model law that could be inserted into a state’s existing LLC statutes.\textsuperscript{20} The UPSA contains definitions; a description of the nature and purpose of a protected series LLC, as well as its powers, purpose, and duration; a description of how a protected series is governed by the LLC’s operating agreement; and rules for applying certain provisions of a state’s existing LLC act to a protected series.\textsuperscript{21}

\textbf{Florida}

A protected series LLC formed in another state (a foreign series LLC) is currently authorized to do business in Florida if it meets all applicable statutory requirements for a foreign LLC and registers with the DOS.\textsuperscript{22} However, Florida law does not currently recognize the protected series LLC model; thus, each series in a foreign series LLC must qualify to do business in Florida as if each series were a separate legal entity. Moreover, there is no guidance for lawyers and judges being asked to address a foreign series LLC with respect to contracts, claims, and disputes.\textsuperscript{23}

In 2020, the Business Law Section of the Florida Bar formed the Protected Series LLC Task Force (Task Force) to analyze the UPSA and consider its adoption in Florida.\textsuperscript{24} The Task Force ultimately proposed that new sections be added to the LLC Act to authorize the formation of a protected series LLC under Florida law, using model language borrowed from the UPSA and language which deviates from the UPSA to address unique aspects of Florida law.\textsuperscript{25}

\begin{footnotes}
\item[19] These states are: Wisconsin, Oklahoma, Illinois, Nevada, Tennessee, Iowa, Texas, Kansas, Missouri, Montana, Utah, Alabama, Indiana, Arkansas, Nebraska, North Dakota, South Dakota, Virginia, Wyoming, and Ohio. Puerto Rico also recognizes a protected series LLC. \textit{Id.}
\item[21] \textit{Id.}
\item[22] See Business Law Section, \textit{supra} note 18.
\item[23] \textit{Id.}; See s. 605.0902, F.S., authorizing the DOS to require each individual series of a foreign series LLC to make a separate application for a certificate of authority, and to make such other filings as may be required for purposes of complying with the requirements of the LLC Act as if such series was a separate foreign LLC.
\item[24] See Business Law Section, \textit{supra} note 18.
\item[25] \textit{Id.}
\end{footnotes}
III. Effect of Proposed Changes:

The bill adopts the Business Law Section Task Force’s recommendations, creating The Uniform Protected Series Provisions in ss. 605.2101-605.2802, F.S., within the LLC Act to allow for the formation of a protected series LLC under Florida law. The bill refers to a protected series LLC as a “series LLC” and defines the term to mean a domestic LLC with at least one protected series established under s. 605.2201, F.S.

Practically speaking, this may encourage a business wishing to organize as a protected series LLC to organize under Florida law. The bill also recognizes the structure of existing foreign series LLCs wishing to do business in Florida, and provides clarity for lawyers and judges engaging with a business organized as a series LLC.

Series LLC Formation

The bill specifies that the provisions of the LLC Act applicable to the formation of an LLC generally also apply to the formation of a series LLC or protected series, except as otherwise provided. The bill also establishes provisions specific to the formation of a series LLC or protected series.

Section 5 specifies a short title for sections 605.2101 through 605.2802 – the “Uniform Protected Series Provisions.”

Section 6 specifies definitions for use in the provisions.

Designation of Protected Series

Section 13 creates s. 605.2201, F.S., to provide that, with the affirmative vote or consent of all members of an LLC, the LLC may establish a protected series. To establish a protected series after such a vote, the bill requires an LLC to deliver to the DOS for filing a protected series designation, signed by the LLC, stating the names of the LLC and of the protected series to be established, and any other information the DOS requires for filing.

Under the bill, a protected series is established when the protected series designation takes effect. To amend such a designation, a series LLC must deliver to the DOS for filing a statement of designation change, signed by the company, that sets forth:

- The names of the series LLC and of the protected series to which the designation applies;
- Each change to the protected series designation; and
- A statement that the change was approved by the affirmative vote or consent of the members of the series LLC required to make the designated change.

The amendment takes effect when the statement of designation change takes effect.

Protected Series Name

Section 14 creates s. 605.2202, F.S., to specify that a protected series’ name generally must meet the statutory requirements for LLC names. However, under the bill, a protected series’ name must also:
• Begin with the series LLC’s name, including any word or abbreviation required by the LLC Act; and
• Contain the phrase “protected series” or the abbreviation “P.S.” or “PS.”

If a series LLC changes its name, the LLC must deliver to the DOS for filing a statement of designation change for each of the LLC’s protected series, changing the name of each such series to comply with this section.

Nature of a Protected Series
Section 7 creates s. 605.2103, F.S., to provide that a protected series is a person26 distinct from all of the following:
• The series LLC, generally.
• Another protected series of the series LLC.
• A member of the series LLC, regardless of whether the member is an associated member27 of the protected series.
• A protected-series transferee28 of a protected series of the series LLC.
• A transferee of a transferrable interest29 of the series LLC.

Powers and Duties of a Protected Series
Section 8 creates s. 605.2104, F.S., to provide that a protected series:
• Can sue and be sued in its own name.
• Generally has the same powers and purposes as the series LLC.
• Ceases to exist not later than when the series LLC completes its winding up.
• May not:
  o Be a member of the series LLC;
  o Establish a protected series; or
  o Except as otherwise authorized by Florida law, have a purpose or power, or take an action, that Florida law prohibits an LLC from having or taking.

Liability Limitations

The bill recognizes both the traditional, vertical liability shield of an LLC and the new, horizontal liability shield of a series LLC, and establishes the limitations of such shields as applied to a series LLC.

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26 “Person” means an individual, business corporation, nonprofit corporation, partnership, limited partnership, LLC, limited cooperative association, unincorporated nonprofit association, statutory trust, business trust, common law business trust, estate, trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or another legal or commercial entity. See s. 605.0102, F.S.
27 An “associated member” is a member of a series LLC that meets statutory requirements and is associated with a protected series. See s. 605.2302, F.S.
28 “Protected-series transferee” means a person to which all or part of a protected-series transferable interest of a protected series has been transferred, other than the series LLC company, and includes a person that owns a protected-series transferable interest as a result of ceasing to be an associated member of a protected series.
29 “Protected series transferrable interest” means a right to receive a distribution from a protected series.
**Liability Shield**

**Section 24** creates s. 605.2401, F.S., to provide that the following concepts generally apply:

- A series LLC’s debt, obligation, or other liability is solely the debt, obligation, or liability of the series LLC.
- A protected series’ debt, obligation, or other liability is solely the debt, obligation, or liability of the protected series.
- A series LLC is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of its protected series solely by reason of the protected series being a protected series of the series LLC, or the series LLC:
  - Being or acting as a protected-series manager of the protected series;
  - Having the protected series manage the series LLC; or
  - Owning a protected-series transferrable interest of the protected series.
- A protected series is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the series LLC or another protected series of the series LLC, solely by reason of:
  - Being a protected series of the series LLC;
  - Being or acting as a manager of the series LLC or a protected-series manager of another protected series of the company; or
  - Having the series LLC or another protected series of the company be or act as a protected-series manager of the protected series.

Further, the bill specifies that a person is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of:

- A protected series of a series LLC solely by reason of being or acting as:
  - An associated member, protected-series manager, or protected-series transferee of the protected series;
  - A member, manager, or a transferee of the series LLC.
- A series LLC solely by reason of being or acting as an associated member, protected-series manager, or protected-series transferee of a protected series of the LLC.

**Claim Seeking to Disregard Liability Limitation**

**Section 25** creates s. 605.2402, F.S., to provide that a claim seeking to disregard a liability limitation pertaining to a series LLC, a protected series, or persons connected thereto, including a principal providing a right to a creditor or holding a person liable for a debt, obligation, or other liability of another person, is governed by the principles of law and equity which would apply if each protected series were an LLC formed separately from the series LLC and distinct from the series LLC and any other protected series of such LLC. The bill also specifies that:

- Failure of an LLC or a protected series to observe the formalities of its activities and affairs is not grounds to disregard a limitation in s. 605.2401(1), F.S., relating to the liability of persons acting in specified roles, but may be grounds to disregard a limitation in s. 605.2401(2), F.S., relating to the liability of a protected series or series LLC.
This section applies to a claim seeking to disregard a liability limitation applicable to a foreign series LLC\(^{30}\) or a foreign protected series\(^{31}\) and comparable to a limitation stated in s. 605.2401, F.S., if:
- The claimant is a Florida resident, transacting business in Florida, or authorized to transact business in Florida; or
- The claim is to establish or enforce a liability arising under Florida law other than the LLC Act or from an act or omission in Florida.

**Remedies of Certain Judgment Creditors**

Section 26 creates s. 605.2403, F.S., to specify that the provisions of s. 605.0503, F.S., which provide or restrict remedies available to a judgment creditor\(^{32}\) of a member or transferee of an LLC, apply to a judgment creditor of:
- An associated member or protected-series transferee of a protected series; and
- A series LLC, to the extent the LLC owns a protected-series transferable interest of a protected series.

**Enforcement of Claim Against Non-Associated Assets**

Section 27 creates s. 605.2404, F.S., to specify that, if a claim against a series LLC or a protected series of the LLC has been reduced to judgment, in addition to any other remedy provided by law or equity, the judgment may be enforced in accordance with the following:
- A judgment against a series LLC may be enforced against an asset\(^{33}\) of a protected series of the LLC if the asset:
  - Was a non-associated asset\(^{34}\) of the protected series on the incurrence date;\(^{35}\) or
  - Is a non-associated asset of the protected series on the enforcement date.\(^{36}\)
- A judgment against a protected series may be enforced against the series LLC if the asset:
  - Was a non-associated asset of the series LLC on the incurrence date; or
  - Is a non-associated asset of the series LLC on the enforcement date.
- A judgment against a protected series may be enforced against an asset of another protected series of the LLC if the asset:

\(^{30}\) A “foreign series LLC” is a foreign LLC that has at least one foreign series or protected series.

\(^{31}\) A “foreign protected series” means an arrangement, configuration, or other structure established by a foreign LLC which has attributes comparable to a protected series established under ch. 605, F.S., regardless of whether the law under which such company is organized refers to “series” or “protected series.”

\(^{32}\) A “judgment creditor” is a person with the right to demand the payment of monetary damages awarded as part of a judgment rendered in a civil action. Legal Information Institute, *Judgment Creditor*, [https://www.law.cornell.edu/wex/judgment_creditor](https://www.law.cornell.edu/wex/judgment_creditor) (last visited Jan. 29, 2024).

\(^{33}\) “Asset” means property: (a) in which a series LLC or a protected series has rights; or (b) as to which the series LLC or protected series has the power to transfer rights.

\(^{34}\) A “non-associated asset” means: (a) an asset of a series LLC which is not an associated asset of such LLC; or (b) an asset of a protected series which is not an associated asset of the protected series. “Associated asset,” meanwhile, means an asset that meets the requirements of s. 605.2301, F.S. In other words, associated assets have only one owner (that is, either the series LLC or the protected series), while non-associated assets are available to the creditors of both the series LLC and the protected series.

\(^{35}\) “Incurrence date” means the date on which a series LLC or protected series incurred the liability giving rise to a claim that a claimant seeks to enforce under s. 605.2404, F.S.

\(^{36}\) “Enforcement date” means 12:01 a.m. on the date on which a claimant first serves process on a series LLC or protected series in an action seeking to enforce a claim against an asset of the LLC or protected series by attachment, levy, or the like under s. 605.2404, F.S.
Was a non-associated asset of the other protected series on the incurrence date; or

Is a non-associated asset of the other protected series on the enforcement date.

Further, under the bill:

- If a claim against a series LLC or a protected series has not been reduced to a judgment, and a law other than the LLC Act authorizes a prejudgment remedy by attachment,\(^{37}\) levy,\(^{38}\) or the like, the court may apply the foregoing as a prejudgment remedy.
- The party asserting that an asset is or was an associated asset of a series LLC or a protected series has the burden of proof on the issue.
- Newly-created s. 605.2404, F.S., applies to an asset of a foreign series LLC or foreign protected series under specified circumstances, including that the asset is real or tangible property located in Florida.

**Protected Series LLC Operations and Governance**

The bill specifies that the provisions of the LLC Act applicable to LLCs in general, and their members and managers, including, but not limited to, provisions relating to LLC operation, existence, and management; court proceedings; and filings with the DOS and other state or local government agencies, generally apply to each series LLC and to each protected series established under s. 605.2201, F.S. The bill also creates provisions of the LLC Act applicable only to the operation and governance of a series LLC and a protected series.

**Protected Series Governing Law**

**Sections 9 and 39** create ss. 605.2105 and 605.2701, F.S., respectively, to provide that Florida law governs:

- The internal affairs of a protected series or foreign protected series.
- The relations between a protected series or foreign protected series and specified parties, including the series LLC or foreign series LLC and another protected series of such LLC.
- The liability of a person for a debt, obligation, or other liability of a protected series or foreign protected series arising under specified circumstances.
- The liability of a series LLC or foreign series LLC for a debt, obligation, or other liability of its protected series arising under specified circumstances.
- The liability of a protected series or foreign protected series for a debt, obligation, or other liability of the series LLC or foreign series LLC arising under specified circumstances.

**Operating Agreements**

**Section 10** creates s. 605.2106, F.S., to provide that a series LLC’s operating agreement generally governs the internal affairs of a protected series and relations between a protected series and specified parties. The bill also specifies:

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\(^{37}\) An “attachment” is a court order directing the freezing or seizure of specific assets belonging to a debtor, pending the outcome of a civil matter involving a creditor who may obtain a judgment in his or her favor that could be satisfied by the sale or application of the assets. Legal Information Institute, *Attachment*, [https://www.law.cornell.edu/wex/attachment](https://www.law.cornell.edu/wex/attachment) (last visited Jan. 29, 2024).

\(^{38}\) A “levy” is the court-ordered seizure and sale of property to satisfy a delinquent debt or judgment. Legal Information Institute, *Levy*, [https://www.law.cornell.edu/wex/levy](https://www.law.cornell.edu/wex/levy) (last visited Jan. 29, 2024).
- How such matters are determined if the operating agreement of a series LLC does not provide for such matters in an authorized manner.
- How certain restrictions on operating agreements imposed by the LLC Act or other laws apply.

**Section 11** creates s. 605.2107, F.S., to provide that an operating agreement for a series LLC may not vary the effect of specified provisions of law created by the bill, except to the extent otherwise specified therein. Under the bill, an operating agreement may not unreasonably restrict the duties and rights of a person who is not an associated member of a protected series to information concerning the protected series, but may impose reasonable restrictions on the availability and use of such information, and may provide appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on such use.

**Application**

**Section 12** creates s. 605.2108, F.S., which specifies application of ch. 605, F.S., to specified provisions of protected series, and exemptions.

**Registered Agent**

**Section 15** creates s. 605.2203, F.S., to provide that the registered agent in Florida for a series LLC is the registered agent in Florida for each protected series of that LLC, but a series LLC must agree with a registered agent that the agent will serve as the registered agent in Florida for the LLC and for each protected series of the LLC before delivering a protected series designation to the DOS for filing. Further, under the bill, a person that ceases to be the registered agent for a:
- Series LLC ceases to be the registered agent for each protected series of such LLC.
- Protected series, other than as a result of the termination of the protected series, ceases to be the registered agent of the series LLC and any other protected series of such LLC.

The bill also provides that, except as otherwise agreed upon by a series LLC and its registered agent, the registered agent is not obligated to distinguish between a process, notice, demand, or other record concerning the series LLC and a process, notice, demand, or other record concerning a protected series of the series LLC.

**Service of Process, Notice, Demand, or Other Record**

**Section 16** creates s. 605.2204, F.S., to provide that process against a series LLC, a protected series, a registered foreign series LLC, or a registered foreign protected series may be served in the same manner as service is made on such entity under s. 48.062 and chapters 48 or 49, F.S. Under the bill, any notice or demand on a series LLC or protected series may be given or made to any member of a member-managed series LLC or to any manager of a manager-managed LLC; to the registered agent of a series LLC at the registered office of the series LLC in Florida; or to any other address in Florida which is the principal Florida office of the series LLC. Similarly, any notice or demand on a registered foreign series LLC or a registered foreign protected series may be given or made to any member of a member-managed foreign series LLC or to any manager of a manager-managed foreign series LLC; the registered agent of the registered foreign series LLC at the registered office of the foreign series LLC; or to the principal office address, or any other Florida address, which is the principal Florida office of the registered
foreign series LLC. However, the bill does not affect the right to serve process on, give notice to, or make a demand on a series LLC or a protected series thereof, or on a foreign series LLC or a protected series thereof, in any other manner provided by law.

Section 3 amends s. 605.0117, F.S., to delete a provision that a registered series of a foreign series limited liability company may be served in the same manner as a registered limited liability company.

Section 1 amends s. 48.062, F.S., to define “registered foreign protected series of a foreign series LLC” and “registered foreign series LLC” and to provide that:
• Service on a series LLC is notice to each protected series thereof.
• Service on a protected series is notice to the series LLC thereof.
• Service on a registered foreign series LLC is notice to each protected series thereof.
• Service on a registered foreign protected series is notice to each registered foreign series LLC thereof.

Foreign Series LLCs and Foreign Protected Series

Section 40 creates s. 605.2702, F.S., to provide that, in determining whether a foreign series LLC or foreign protected series is transacting business in Florida or is subject to the personal jurisdiction of Florida courts, the activities and affairs of the:
• Foreign series LLC are not attributable to a foreign protected series of such LLC solely by reason of the foreign protected series being a foreign protected series of the LLC.
• Foreign protected series are not attributable to a foreign series LLC or another foreign protected series of the LLC solely by reason of the foreign protected series being a foreign protected series of the foreign series LLC.

Section 41 creates s. 605.2703, F.S., to require that an application by a foreign protected series for a certificate of authority to do business in Florida must include specified information, including the name and jurisdiction of formation of the foreign series LLC and the foreign protected series seeking the certificate and, if the foreign series LLC has other foreign protected series, the name, title, capacity, and street and mailing address of at least one person who has the authority to manage the foreign series LLC and who knows specified information about the protected series. The bill also specifies which provisions of the LLC Act apply to the application for a certificate of authority by a foreign series LLC, which provisions include the naming requirements and provisions relating to required information.

Section 42 creates s. 605.2704, F.S., to provide that, not later than 30 days after becoming a party to a proceeding before a civil, administrative, or other adjudicative tribunal of or located in Florida, or a tribunal of the United States located in Florida: 39
• A foreign series LLC must disclose to each other party the name and street and mailing address of:
  o Each of its foreign protected series; and

39 The disclosure requirements are tolled under the bill if a foreign series LLC or foreign protected series challenges the personal jurisdiction of the tribunal, until the tribunal determines whether it has personal jurisdiction.
o Each foreign protected series manager of and a registered agent for service of process for each foreign protected series.

- A foreign protected series must disclose to each other party the name and street and mailing address of:
  o The foreign series LLC;
  o An agent for service of process for the foreign series LLC;
  o Any other foreign protected series of the foreign series LLC; and
  o Each foreign protected-series manager of and an agent for service of process for the other foreign protected series.

Under the bill, where a foreign series LLC or foreign protected series does not comply with the disclosure requirements under s. 605.2704, F.S., a party to the proceeding may ask the tribunal to treat the noncompliance as a failure to comply with the tribunal’s discovery rules or bring a separate proceeding to the court to enforce compliance.

**Issuance of Certificate of Status or Authority**

**Section 17** creates s. 605.2205, F.S., to provide that, upon the satisfaction of specified requirements, the DOS must issue a certificate of status for a protected series, or a certificate of authority for a foreign protected series, if:

- In the case of a protected series, the records show that the DOS has accepted and filed articles of organization for the series LLC and a protected series designation for the protected series.
- In the case of a foreign protected series, the records show that the DOS has filed a certificate of authority for the foreign series LLC and a certificate of authority for the foreign protected series.

A certificate issued under this section must contain specified information, including:

- In the case of a protected series, the name of the protected series, the series LLC’s name, the date the protected series designation took effect, and other information.
- In the case of a foreign protected series, the foreign protected series’ name, the foreign series LLC’s name, the fact that the foreign series LLC is authorized to do business in Florida, and other information.

Under the bill, the certificate may be relied on as conclusive evidence of the facts stated therein, subject to any qualifications stated by the DOS in the certificate.

**Annual Report Information**

**Section 18** creates s. 605.2206, F.S., to require that, in its annual report, a series LLC must include the name of each its protected series:

- For which the series LLC has previously delivered to the DOS for filing a protected series designation; and
- Which has not dissolved and completed winding up.

Under the bill, a series LLC’s failure to comply with this requirement with regard to a protected series prevents issuance of a certificate of status pertaining to the protected series, but does not otherwise affect the protected series.
Similarly, the bill requires that, in its annual report, a registered foreign series LLC include the name of each registered foreign protected series of the registered foreign series LLC:

- For which the registered foreign series LLC has previously delivered to the DOS for filing an application for a certificate of authority to do business in Florida, which the DOS has accepted; and
- Which has not withdrawn its certificate of authority.

Under the bill, the failure of a registered foreign series LLC to comply with this requirement with regard to a registered foreign protected series prevents issuance of a certificate of status pertaining to the foreign protected series.

Associated Assets

Section 19 creates s. 605.2301, F.S., to provide that only an asset of a protected series may be an associated asset of the protected series, while only an asset of a series LLC may be an associated asset of the series LLC. Further, the bill specifies that an asset of a protected series is an associated asset of the protected series, and an asset of a series LLC is an associated asset of the series LLC, only if the protected series or series LLC creates and maintains specified records that state the name of the protected series or series LLC and describe the asset with sufficient specificity to permit a disinterested, reasonable individual to make specified determinations about the asset. Such records may be organized by specific listing, category, type, quantity, or computational or allocational formula or procedure, including a percentage or share of any asset, or in any other reasonable manner.

Further, under the bill, a series LLC or protected series may, to the extent authorized by law, hold an associated asset directly or indirectly, except that:

- A protected series may not hold an associated asset in the name of the series LLC or another protected series of such LLC; and
- The series LLC may not hold an associated asset in the name of its protected series.

The bill also provides for the effect of a deed or other instrument granting an interest in real property to or from a series LLC or one or more protected series of a series LLC, or any other instrument otherwise affecting an interest in real property held by such entity, in each case to the extent such deed or other instrument is recorded in the office for recording transfers or other matters affecting real property and specified records are maintained.

Associated Member

Section 20 creates s. 605.2302, F.S., to specify that only a member of a series LLC may be an associated member of a protected series of such LLC. Under the bill, a member of a series LLC becomes an associated member of a protected series of such LLC if the operating agreement or a procedure established therein states:

- That the member is an associated member of the protected series;
- The date on which the member became an associated member of the protected series; and
- Any protected-series transferable interest the associated member has in connection with becoming or being an associated member of the protected series.
Further, the bill specifies:
- That if a person that is an associated member of a protected series is dissociated from the series LLC, the person ceases to be an associated member of the protected series.
- The rights of an associated member of a protected series to vote on or consent to an amendment to the series LLC’s operating agreement or any other matter being decided by the members or to maintain a derivative action to enforce a right of the LLC.
- That an associated member of a protected series is an agent of the protected series with certain powers to bind the protected series.

Protected-Series Transferrable Interest

Section 21 creates s. 605.2303, F.S., to provide that a protected-series transferrable interest of a protected series must be owned initially by an associated member of the protected series or the series LLC. Under the bill, if a protected series has no associated members when established, the series LLC owns the protected-series transferrable interests in the protected series. A series LLC may also acquire a protected-series transferrable interest through a transfer from another person or as provided in the operating agreement.

Further, except as otherwise specified, a provision of the:
- LLC Act which applies to a protected-series transferee of a protected series applies to the series LLC in its capacity as an owner of a protected-series transferrable interest of the protected series.
- Operating agreement of a series LLC which applies to a protected-series transferee of a protected series applies to the series LLC in its capacity as an owner of a protected-series transferrable interest of the protected series.

Management

Section 22 creates s. 605.2304, F.S., to specify that a protected series may have more than one protected-series manager and, if a protected series has no associated members, the series LLC is the protected-series manager. The bill also provides for the determination of any duties of a protected-series manager to:
- The protected series;
- Any associated member of the protected series; and
- Any protected-series transferee of the protected series.

However, the bill provides that, solely by reason of being or acting as a protected-series manager, a person owes no duty to:
- The series LLC;
- Another protected series of the series LLC; or
- Another person in that person’s capacity as:
  - A member of the series LLC which is not an associated member of the protected series;
  - A protected-series transferee or protected-series manager of another protected series; or
  - A transferee of the series LLC.
Right of Non-Associated Members to Specified Information

Section 23 creates s. 605.2305, F.S., to specify the rights to information concerning the protected series of a member of a series LLC which is not an associated member of a protected series of such LLC; a person who was formerly an associated member of a protected series; the legal representative of a deceased associated member of a protected series; and a protected-series manager of a protected series. Such rights generally correspond to the current rights of the counterparts of such persons under the LLC Act. The bill also provides that the court-ordered inspection provisions of s. 605.0411, F.S., apply to such information rights.

Entity Transactions

Section 31 specifies definitions for use in provisions relating to entity transactions and mergers.

The bill provides for the role of, and in some instance prohibits the participation of, a series LLC or a protected series in certain entity transactions, including conversions, domestications, interest exchanges, and mergers.

Sections 32 and 33 create ss. 605.2602 and 605.2603, F.S., respectively, to provide that a protected series and a series LLC, respectively, may not be a party to, be formed, organized, established, or created in, or result from:
- A conversion, domestication, or an interest exchange under the LLC Act or the law of a foreign jurisdiction; or
- A transaction with the same substantive effect as a conversion, domestication, or interest exchange.

The bill also specifies that a:
- Protected series may not be a party to, be formed, organized, established, or created in, or result from a merger under the LLC Act or the law of a foreign jurisdiction or a transaction with the same substantive effect as a merger.
- Series LLC may not, except as otherwise provided by law, be a party to or the surviving company of a merger under the LLC Act or the law of a foreign jurisdiction or a transaction with the same substantive effect as a merger.

Mergers Authorized

Section 34 creates s. 605.2604, F.S., to authorize a series LLC to be party to a merger only if:
- Each other party to the merger is an LLC; and
- The surviving company is not created in the merger.

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40 S. 605.0411, F.S., applies if an LLC does not allow a member, manager, or other person who complies with applicable law to inspect and copy any records required to be available for inspection. Under this section, the circuit court may summarily order inspection and copying of the records demanded under specified circumstances, and may order the LLC to pay the costs, including reasonable attorney fees, incurred by the member, manager, or other person seeking the records to obtain the order and enforce its rights.

41 A “conversion” is a transaction authorized under ss. 605.1041-605.1046, F.S.

42 A “domestication” is a transaction authorized under ss. 605.1051-605.1056, F.S.

43 An “interest exchange” is a transaction authorized under ss. 605.1031-605.1036, F.S.

44 A “merger” is a transaction authorized under ss. 605.1021-605.1026, F.S.

45 “Surviving company” means a merging company that continues in existence after a merger.
Section 35 creates s. 605.2605, F.S., to require that the plan of merger:
- Comply with the requirements for the contents of a plan of merger for an LLC; and
- State specified information in a record, which information depends on whether the protected series is a protected series of a non-surviving company, a protected series of a surviving company, a relocated protected series, a continuing protected series, or a protected series to be established by the surviving company.

Section 36 creates s. 605.2606, F.S., to require that the articles of merger:
- Comply with the requirements for the articles of merger for an LLC; and
- Include specified attachments, including, as appropriate, a signed statement of designation cancellation and termination; a signed statement of relocation and a statement of protected series designation; or a signed protected series designation.

Effect of Merger

Section 37 creates s. 605.2607, F.S., to establish the effects of a merger which occur in addition to the effects stated in s. 605.1026, F.S., relating to the merger of an LLC. Under this section:
- As provided in the plan of merger, each protected series of each merging series LLC which was established before the merger is a relocated or continuing protected series or is dissolved, wound up, and terminated.
- Any protected series to be established due to the merger is established.
- Any relocated or continuing protected series is the same person it was before the merger.
- All property of a relocated or continuing protected series continues to be vested in such protected series.
- All debts, obligations, and other liabilities of a relocated or continuing protected series continue as debts, obligations, and other liabilities of such protected series.
- Except as otherwise provided by law or the plan of merger, all rights, privileges, immunities, powers, and purposes of a relocated or continuing protected series remain in such protected series.
- The new name of a relocated protected series may be substituted for its former name in any pending action or proceeding.
- To the extent provided in the plan of merger:
  o A person becomes an associated member or a protected-series transferee or a relocated protected series or continuing protected series.
  o A person becomes an associated member of a protected series established by the surviving company due to the merger.

46 “Non-surviving company” means a merging company that does not continue in existence after a merger.
47 “Relocated protected series” means a protected series of a non-surviving company which, after a merger, continues in uninterrupted existence as a protected series of the surviving company.
48 “Continuing protected series” means a protected series of a surviving series LLC which continues in uninterrupted existence after a merger.
49 Under s. 605.1025, F.S., after a plan of merger is approved, articles of merger must be signed by each merging entity and delivered to the DOS for filing. The articles must also contain specified information, including the merger’s effective date and the name, jurisdiction of formation, and type of entity of each merging entity that is not the surviving entity and of each entity that is the surviving entity.
Any change in a person’s rights or obligations in the person’s capacity as an associated member or a protected series or continuing protected series takes effect.

Any consideration to be paid to a person that before the merger was an associated member or a protected-series transferee of a relocated protected series or continuing protected series is due.

- Any person that is an associated member of a relocated protected series becomes a member of the surviving company, if not already a member.

Section 38 creates s. 605.2608, F.S., to specify how creditors’ rights existing under s. 605.2404, F.S., immediately before a merger may be enforced.

Protected Series Dissolution and Reinstatement

The bill establishes the methods by which a protected series may be voluntarily or is automatically dissolved under the LLC Act.

Events Causing Protected Series Dissolution

Section 28 creates s. 605.2501, F.S., to provide that a protected series is dissolved, and its activities and affairs must be wound up, upon the occurrence of specified events, including:

- Dissolution of the series LLC;
- Occurrence of an event which the operating agreement states causes dissolution;
- Affirmative vote or consent of all members of the protected series;
- Entry of a court order dissolving the protected series under specified circumstances;
- Automatic or involuntary dissolution of the series LLC that established the protected series; and
- The filing of a statement of administrative dissolution\(^50\) by the DOS.

Winding Up Dissolved Protected Series

Section 29 creates s. 605.2502, F.S., to provide the manner in which a dissolved protected series must wind up its activities and affairs, including by filing with the DOS articles of protected series dissolution and a statement of designation cancellation, and the extent to which judicial supervision or another judicial remedy is available in such a winding up. Further, the bill specifies that a series LLC does not complete its winding up until each of its protected series has completed its winding up.

Effect of Reinstatement or Voluntary Dismissal Revocation

Section 30 creates s. 605.2503, F.S., to provide that, if a series LLC that has been administratively dissolved is reinstated, or a series LLC that voluntarily dissolved revokes its articles of dissolution, before filing a statement of termination:

- Each protected series of the series LLC ceases winding up; and
- The provisions of s. 605.0708, F.S., relating to revocation of articles of dissolution, apply to the series LLC and to each protected series as specified in law.

\(^{50}\) Administrative dissolution is governed by s. 605.0714, F.S.
Electronic Signatures

Section 43 creates s. 605.2801, F.S., to provide that s. 605.1102, F.S., relating to the applicability of the Electronic Signatures in Global and National Commerce Act, applies to the Uniform Protected Series Provisions.

Other Provisions

Section 2 amends s. 605.0103, F.S., to specify that a person knows a fact if they are deemed to know the fact under paragraph (4)(a), changing the reference from the current (4)(b).

Section 4 amends s. 605.0211, F.S., to make clarifying changes to provisions related to certificates of status.

Effective Date

Section 44 creates s. 605.2802, F.S., to provide that:
- Beginning July 1, 2025, Chapter 605, F.S., governs all domestic and foreign series LLCs, all domestic protected series, and all foreign series that do business in Florida.
- A domestic LLC formed before January 1, 2025, may not create or designate any protected series before the bill’s effective date.

Section 45 provides an effective date of January 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:
   None.

B. Public Records/Open Meetings Issues:
   None.

C. Trust Funds Restrictions:
   None.

D. State Tax or Fee Increases:
   None.

E. Other Constitutional Issues:
   None identified.
V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate. New or additional business entities may organize and do business in the state.

C. Government Sector Impact:

Indeterminate. New or additional entities registering with the Department of State may marginally increase their workload.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 48.062, 605.0103, 605.0117, and 605.0211.


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.
A bill to be entitled

An act relating to limited liability companies; amending s. 48.062, F.S.; defining the terms "registered foreign protected series of a foreign series limited liability company" and "registered foreign series limited liability company"; specifying that certain limited liability companies are considered a nonresident under certain circumstances; providing for service of a summons and complaint on such companies and series; specifying that such service serves as notice to such companies and series; amending s. 605.0103, F.S.; correcting a cross-reference; amending s. 605.0117, F.S.; conforming a provision to changes made by the act; amending s. 605.0211, F.S.; revising requirements for certificates of status; creating s. 605.2101, F.S.; providing a short title; creating s. 605.2102, F.S.; defining terms; creating s. 605.2103, F.S.; providing that a protected series of a series limited liability company is a person distinct from certain other entities; creating s. 605.2104, F.S.; providing for powers and prohibitions for protected series of series limited liability companies; creating s. 605.2105, F.S.; providing construction; creating s. 605.2106, F.S.; providing construction regarding protected series operating agreements; providing applicability with regard to certain restrictions on limited liability companies; creating s. 605.2107, F.S.; providing prohibitions and authorizations relating to operating agreements; creating s. 605.2108, F.S.; providing applicability; creating s. 605.2201, F.S.; authorizing domestic limited liability companies to establish protected series; specifying requirements for establishing protected series and amending protected series designations; creating s. 605.2202, F.S.; specifying requirements for naming a protected series; creating s. 605.2203, F.S.; providing specifications and requirements for the registered agent for a protected series; specifying requirements relating to protected series designations; specifying that a registered agent is not required to distinguish between certain processes, notices, demands, and records unless otherwise agreed upon; creating s. 605.2204, F.S.; authorizing service on, and provision of notice and demand to, certain limited liability companies and protected series in a specified manner; providing that certain notice is effective regardless of whether any notice or demand identify a person if certain requirements are met; providing authorizations relating to certain services and notices; providing construction; creating s. 605.2205, F.S.; requiring the Department of State to issue a certificate of status under certain circumstances; specifying requirements for certificates of status; providing that a certificate of status may be relied upon as conclusive evidence of the facts stated in the certificate; creating s. 605.2206, F.S.; requiring series limited liability companies and registered...
foreign series limited liability companies to include specified information in a required annual report; specifying that failure to include such information prevents a certificate of status from being issued; creating s. 605.2301, F.S.; specifying that only certain assets may be considered associated assets; specifying requirements for an asset to be considered an associated asset; authorizing that certain records and recordkeeping be organized in a specified manner; authorizing series limited liability companies or protected series of such companies to hold an associated asset in a specified manner; providing exceptions; creating s. 605.2302, F.S.; specifying requirements for becoming an associated member of a protected series of a series limited liability company; creating s. 605.2303, F.S.; requiring that protected-series transferable interests be owned initially by an associated member of the protected series or the series limited liability company; providing for ownership when a protected series of a series limited liability company does not have associated members upon establishment under certain circumstances; authorizing series limited liability companies to acquire such interests by transfer; providing applicability; creating s. 605.2304, F.S.; authorizing a protected series to have one or more protected-series managers; specifying that if a protected series does not have associated members, the series limited liability company is the protected-
providing events causing the dissolution of protected series of series limited liability companies; creating s. 605.2502, F.S.; specifying requirements and authorizations relating to dissolved protected series; specifying that a series limited liability company has not completed winding up until each of the protected series of the company has done so; creating s. 605.2503, F.S.; providing for the effect of reinstatements of series limited liability companies and revocations of voluntary dissolutions; creating s. 605.2601, F.S.; defining terms; creating s. 605.2602, F.S.; prohibiting protected series from involvement in certain transactions; creating s. 605.2603, F.S.; prohibiting series limited liability companies from involvement in certain transactions; creating s. 605.2604, F.S.; authorizing series limited liability companies to be a party to a merger under certain circumstances; creating s. 605.2605, F.S.; requiring that plans of merger meet certain requirements; creating s. 605.2606, F.S.; requiring articles of merger to meet certain requirements; creating s. 605.2607, F.S.; providing for effects of mergers of protected series; creating s. 605.2608, F.S.; providing the means for enforcement of creditors’ rights; providing applicability of certain provisions after a merger; creating s. 605.2701, F.S.; providing that the law of the jurisdiction of a foreign series limited liability company’s formation governs certain aspects of the internal affairs of the foreign series of the protected series of such companies; requiring an application by a foreign protected series for a certificate of authority to include certain information and comply with specified provisions; providing applicability; creating s. 605.2704, F.S.; requiring foreign series limited liability companies and foreign protected series of such companies to make specified disclosures; tolling such requirements under certain circumstances; authorizing certain parties to make a specified request or bring a separate proceeding if such company or series fails to make the disclosures; creating s. 605.2801, F.S.; providing applicability of provisions relating to electronic signatures; creating s. 605.2802, F.S.; providing construction; prohibiting domestic limited liability companies from creating or designating any protected series before a specified date; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:
Section 1. Present subsection (7) of section 48.062, Florida Statutes, is redesignated as subsection (11), a new subsection (7) and subsections (8), (9), and (10) are added to that section, and subsections (1) and (6) of that section are amended, to read:

48.062 Service on a domestic limited liability company or registered foreign limited liability company.—

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

(a) “Registered foreign limited liability company” means a foreign limited liability company that has an active certificate of authority to transact business in this state pursuant to a record filed with the Department of State.

(b) “Registered foreign protected series of a foreign series limited liability company” means a protected series of a foreign series limited liability company that has an active certificate of authority to transact business in this state pursuant to a record filed with the Department of State.

(c) “Registered foreign series limited liability company” means a foreign series limited liability company that has an active certificate of authority to transact business in this state pursuant to a record filed with the Department of State.

(6) A foreign limited liability company, foreign series limited liability company, or foreign protected series of a foreign series limited liability company engaging in business in this state which is not registered is considered, for purposes of service of process, a nonresident engaging in business in this state and may be served pursuant to s. 48.181 or by order of the court under s. 48.102.

(7) Service of a summons and complaint on a series limited liability company is notice to each protected series of the series limited liability company of service of the summons and complaint and the contents of the complaint.

(8) Service of a summons and complaint on a protected series of a series limited liability company is notice to the series limited liability company and any other protected series of the series limited liability company of service of the summons and complaint and the contents of the complaint.

(9) Service of a summons and complaint on a registered foreign series limited liability company is notice to each registered foreign protected series of the registered foreign series limited liability company of service of the summons and complaint and the contents of the complaint.

(10) Service of a summons and complaint on a registered foreign protected series of a foreign series limited liability company is notice to the foreign series limited liability company and to any other registered foreign protected series of the foreign series limited liability company of service of the summons and complaint and the contents of the complaint.

(11) This section does not apply to service of process on insurance companies.

Section 2. Subsection (1) of section 605.0103, Florida Statutes, is amended to read:

605.0103 Knowledge; notice.—

(1) A person knows a fact if the person:

(a) Has actual knowledge of the fact; or

(b) Is deemed to know the fact under paragraph (4)(a), or a law other than this chapter.

Section 3. Subsection (3) of section 605.0117, Florida Statutes, is redesignated as subsection (11), a new subsection (3) and subsections (4)(a) and (4)(b) are added to that section, and subsections (1), (6), and (7) of that section are amended, to read:

This section does not apply to service of process on insurance companies.
Stats., is amended to read:

605.0117 Serving process, giving notice, or making a

(1) A registered series of a foreign series limited
liability company may be served in the same manner as a
registered limited liability company.

Section 4. Paragraphs (c) through (f) of subsection (1) and
subsection (2) of section 605.0211, Florida Statutes, are
amended to read:

605.0211 Certificate of status.—

(1) The department, upon request and payment of the
requisite fee, shall issue a certificate of status for a limited
liability company if the records filed in the department show
that the department has accepted and filed the company’s
articles of organization. A certificate of status must state the
following:

(c) Whether all fees and penalties due to the department
under this chapter have been paid.

(d) Whether the company’s most recent annual report
required under s. 605.0212 has been filed by the department.

(e) Whether the department has administratively
dissolved the company or received a record notifying the
department that the company has been dissolved by judicial
action pursuant to s. 605.0705.

(f) Whether the department has filed articles of
dissolution for the company.

(2) The department, upon request and payment of the
requisite fee, shall furnish a certificate of status for a
foreign limited liability company if the filed records filed

show that the department has filed a certificate of authority
for that company. A certificate of status for a foreign limited
liability company must state the following:

(a) The foreign limited liability company’s name and any
current alternate name adopted under s. 605.0906(1) for use in
this state.

(b) That the foreign limited liability company is
authorized to transact business in this state.

(c) Whether all fees and penalties due to the department
under this chapter or other law have been paid.

(d) Whether the foreign limited liability company’s most
recent annual report required under s. 605.0212 has been
filed by the department.

(e) Whether the department has:

1. Revoked the foreign limited liability company’s
   certificate of authority; or

2. Filed a notice of withdrawal of certificate of authority
   of the foreign limited liability company.

Section 5. Section 605.2101, Florida Statutes, is created
to read:

605.2101 Short title.—Sections 605.2101-605.2802 may be
cited as the "Uniform Protected Series Provisions."

Section 6. Section 605.2102, Florida Statutes, is created
to read:

605.2102 Definitions.—As used in ss. 605.2101-605.2802, the
term:

(1) "Asset" means either of the following:
   (a) Property in which a series limited liability company or
       a protected series has rights; or
(b) Property as to which the series limited liability company or protected series has the power to transfer rights.

(2) “Associated asset” means an asset that meets the requirements of s. 605.2301.

(3) “Associated member” means a member that meets the requirements of s. 605.2302.

(4) “Foreign protected series” means an arrangement, a configuration, or another structure established by a foreign limited liability company which has attributes comparable to a protected series established under this chapter, regardless of whether the law under which the foreign company is organized refers to “series” or “protected series.”

(5) “Foreign series limited liability company” means a foreign limited liability company that has at least one foreign series or protected series.

(6) “Non-associated asset” means either of the following:

(a) An asset of a series limited liability company which is not an associated asset of the protected series.

(b) An asset of a protected series of a series limited liability company which is not an associated asset of the protected series.

(7) “Person” has the same meaning as in s. 605.0102 and includes a protected series and a foreign protected series.

(8) “Protected series,” except in the phrase “foreign protected series,” means a protected series established under s. 605.2201.

(9) “Protected-series manager” means a person under whose authority the powers of a protected series are exercised and under whose direction the activities and affairs of the protected series are managed under the operating agreement and this chapter.

(10) “Protected-series transferable interest” means a right to receive a distribution from a protected series.

(11) “Protected-series transferee” means a person other than the series limited liability company to which all or part of a protected-series transferable interest of a protected series of a series limited liability company has been transferred. The term includes a person that owns a protected-series transferable interest as a result of ceasing to be an associated member of a protected series.

(12) “Registered foreign protected series” means a protected series of a foreign series limited liability company that has an active certificate of authority to transact business in this state pursuant to a record filed with the department.

(13) “Registered foreign series limited liability company” means a foreign series limited liability company that has an active certificate of authority to transact business in this state pursuant to a record filed with the department.

(14) “Series limited liability company,” except in the phrase “foreign series limited liability company,” means a domestic limited liability company that has at least one protected series.

Section 7. Section 605.2103, Florida Statutes, is created to read:

605.2103 Nature of protected status. A protected series of a series limited liability company is a person distinct from all of the following:

(1) The series limited liability company, subject to ss.
26-00011D-24

605.2104(3), 605.2501(1), and 605.2502(4).

(2) Another protected series of the series limited liability company.

(3) A member of the series limited liability company,
regardless of whether the member is an associated member of the protected series of the series limited liability company.

(4) A protected-series transferee of a protected series of the series limited liability company.

(5) A transferee of a transferable interest of the series limited liability company.

Section 8. Section 605.2104, Florida Statutes, is created to read:

605.2104 Powers and duration of protected series.—

1. A protected series of a series limited liability company has the capacity to sue and be sued in its own name.

2. Except as otherwise provided in subsections (3) and (4), a protected series of a series limited liability company has the same powers and purposes as the series limited liability company.

(3) A protected series of a series limited liability company ceases to exist not later than when the series limited liability company completes its winding up.

(4) A protected series of a series limited liability company may not be or do, as applicable, any of the following:

(a) Be a member of the series limited liability company;

(b) Establish a protected series; or

(c) Except as permitted by the laws of this state other than this chapter, have a purpose or power, or take an action, that the laws of this state other than this chapter prohibit a

Florida Senate - 2024

CODING: Words [stricken] are deletions; words [underlined] are additions.
series limited liability company.
(d) A protected-series manager that is not a protected-series manager of the protected series.
(e) A protected-series transferee that is not a protected-series transferee of the protected series.
(3) The liability of a person for a debt, an obligation, or another liability of a protected series if the debt, obligation, or liability is asserted solely by reason of the person being or acting as any of the following:
(a) An associated member, protected-series transferee, or protected-series manager of the protected series;
(b) A member of the series limited liability company which is not an associated member of the protected series;
(c) A protected-series manager that is not a protected-series manager of the protected series;
(d) A protected-series transferee that is not a protected-series transferee of the protected series;
(e) A manager of the series limited liability company; or
(f) A transferee of a transferable interest of the series limited liability company.
(4) The liability of a series limited liability company for a debt, an obligation, or another liability of a protected series of the series limited liability company if the debt, obligation, or liability is asserted solely in connection with any of the following on the part of the series limited liability company:
(a) Having delivered to the department for filing under s. 605.2201(2) a protected series designation pertaining to the protected series or under s. 605.2201(4) or s. 605.2202(3) a statement of designation change pertaining to the protected series;
(b) Being or acting as a protected-series manager of the protected series;
(c) Having the protected series be or act as a manager of the series limited liability company; or
(d) Owning a protected-series transferable interest of the protected series.
(5) The liability of a protected series of a series limited liability company for a debt, an obligation, or another liability of the series limited liability company or of another protected series of the series limited liability company if the debt, obligation, or liability is asserted solely by reason of any of the following:
(a) The protected series:
1. Being a protected series of the series limited liability company or having as a protected-series manager the series limited liability company or another protected series of the series limited liability company; or
2. Being or acting as a protected-series manager of another protected series of the series limited liability company or a manager of the series limited liability company; or
(b) The series limited liability company owning a protected-series transferable interest of the protected series.
Section 10. Section 605.2106, Florida Statutes, is created to read: 605.2106 Relation of a protected series operating agreement and the protected series provisions of this chapter.—
4. A person in the person’s capacity as:
   a. A member of the series limited liability company which is not an associated member of the protected series;
   b. A protected-series transferee or protected-series manager of another protected series; or
   c. A transferee of the series limited liability company.

(2) If this chapter restricts the power of an operating agreement to affect a matter, the restriction applies to a matter under ss. 605.2101-605.2802 in accordance with s. 605.0105.

(3) If a law of this state other than this chapter imposes a prohibition, limitation, requirement, condition, obligation, liability, or other restriction on a limited liability company; a member, a manager, or another agent of a limited liability company; or a transferee of a limited liability company, except as otherwise provided in the laws of this state other than this chapter, the restriction applies in accordance with s. 605.2108.

(4) Except as otherwise provided in s. 605.2107, if the operating agreement of a series limited liability company does not provide for a matter described in subsection (1) in a manner authorized by ss. 605.2101-605.2802, the matter is determined in accordance with the following:
   a. To the extent that ss. 605.2101-605.2802 address the matter, ss. 605.2101-605.2802 govern.
   b. To the extent that ss. 605.2101-605.2802 do not address the matter, this chapter governs the matter in accordance with s. 605.2108.

Section 11. Section 605.2107, Florida Statutes, is created to read:

605.2107 Additional limitations on operating agreements—
(1) An operating agreement may not vary the effect of:

(a) This section;

(b) Section 605.2103;

(c) Section 605.2104(1);

(d) Section 605.2104(2), to provide a protected series a power beyond those provided in this chapter to a limited liability company;

(e) Section 605.2104(3) or (4);

(f) Section 605.2106;

(g) Section 605.2201, except to vary the manner in which a series limited liability company approves establishing a protected series;

(h) Section 605.2202;

(i) Sections 605.2301, except to decrease or eliminate a limitation of liability stated in that section;

(j) Section 605.2302;

(k) Section 605.2303;

(l) Section 605.2304(3) or (6);

(m) Section 605.2304(1) or (2);

(n) Section 605.2401, except to designate a different person to manage winding up;

(o) Section 605.2402;

(p) Section 605.2403;

(q) Section 605.2404;

(r) Section 605.2501(1), (4), and (5);

(s) Section 605.2502, except to designate a different person to manage winding up;

(u) Section 605.2503;

(v) Sections 605.2601-605.2608;

(w) Sections 605.2701-605.2704;

(x) Sections 605.2801-605.2802, except to vary the person that has the right to sign and deliver to the department for filing a record under this chapter; or

(y) A provision of this chapter pertaining to:

1. A registered office or registered agents; or

2. The department, including provisions relating to records authorized or required to be delivered to the department for filing under this chapter.

(2) An operating agreement may not unreasonably restrict the duties and rights conferred under s. 605.2305 but may impose reasonable restrictions on the availability and use of information obtained under that section and may provide appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use.

Section 12. Section 605.2108, Florida Statutes, is created to read:

605.2108 Application of this chapter to protected series.—

(a) A protected series of a series limited liability company is deemed to be a limited liability company that is formed separately from the series limited liability company and is distinct from the series limited liability company and any other protected series of the series limited liability company;

(b) An associated member of the protected series of a series limited liability company is deemed to be a member of the...
(3) Except to the extent otherwise specified in ss. 609, 637, and 638, a series that is established pursuant to s. 605.2201 and its associated asset shall be deemed to be a transferee of the series limited liability company deemed to exist under paragraph (a); or

(a) The name of the series limited liability company and the name of the protected series to which the change to the series designation takes effect under s. 605.2107.

(b) An asset of the series limited liability company deemed to exist under paragraph (a), regardless of whether the asset is an associated asset of the protected series; or

(c) A protected-series transferee of the protected series is deemed to be a transferee of the series limited liability company deemed to exist under paragraph (a); or

(d) A protected-series transferable interest of the protected series is deemed to be a transferable interest of the series limited liability company deemed to exist under paragraph (a); or

(e) A protected-series manager is deemed to be a manager of the series limited liability company deemed to exist under paragraph (a); or

(f) An asset of the protected series is deemed to be an asset of the series limited liability company deemed to exist under paragraph (a), regardless of whether the asset is an associated asset of the protected series; or

(g) Any creditor or other obligee of the protected series is deemed to be a creditor or obligee of the series limited liability company deemed to exist under paragraph (a).

(2) Subsection (1) does not apply if its application would do either of the following:

(a) Contravene s. 605.0105; or

(b) Authorize or require the department to:

1. Accept for filing a type of record which this chapter does not authorize or require a person to deliver to the department for filing; or

2. Make or deliver a record that this chapter does not authorize or require the department to make or deliver.

(3) Except to the extent otherwise specified in ss. 605.2101-605.2802, the provisions of this chapter applicable to limited liability companies in general and their managers, members, and transferees, including, but not limited to, provisions relating to formation, powers, operation, existence, management, court proceedings, and filings with the department and other state or local government agencies, are applicable to each series limited liability company and to each protected series established pursuant to s. 605.2201.

Section 13. Section 605.2201, Florida Statutes, is created to read:

605.2201 Establishment of protected series; change of designation.—

(1) With the affirmative vote or consent of all members of a limited liability company, the company may establish a protected series.

(2) To establish a protected series, a limited liability company shall deliver to the department for filing a protected series designation, signed by the company, stating the name of the company and the name of the protected series to be established, and any other information the department requires for filing.

(3) A protected series is established when the protected series designation takes effect under s. 605.0207.

(4) To amend a protected series designation, a series limited liability company shall deliver to the department for filing a statement of designation change, signed by the company, that sets forth the following:

(a) The name of the series limited liability company and the name of the protected series to which the change to the
(b) Each change to the protected series designation; and
(c) A statement that each designation change was approved
by the affirmative vote or consent of the members of the series
limited liability company required to make each change to the
protected series designation.
(5) Each designation change made pursuant to subsection (4)
takes effect when the statement of designation change takes
effect under s. 605.0207.

Section 14. Section 605.2202, Florida Statutes, is created
to read:
605.2202 Protected series name.—
(1) Except as otherwise provided in subsection (2), the
name of a protected series must comply with s. 605.0112.
(2) The name of a protected series of a series limited
liability company must:
(a) Begin with the name of the series limited liability
company, including any word or abbreviation required by s.
605.0112; and
(b) Contain the phrase “protected series” or the
abbreviation “P.S.” or “PS.”
(3) If a series limited liability company changes its name,
the company must deliver to the department for filing a
statement of designation change for each of the company’s
protected series, changing the name of each protected series to
comply with this section.

Section 15. Section 605.2203, Florida Statutes, is created
to read:
605.2203 Registered agent.—

(1) The registered agent in this state for a series limited
liability company is the registered agent in this state for each
protected series of that company.
(2) Before delivering a protected series designation to the
department for filing, a series limited liability company must
agree with a registered agent specifying that the agent will
serve as the registered agent in this state for that company and
for each protected series of that company.
(3) A person that signs a protected series designation
delivered to the department for filing affirms as a fact that
the series limited liability company on whose behalf the
designation is delivered has complied with subsection (2).
(4) A person that ceases to be the registered agent for a
series limited liability company ceases to be the registered
agent for each protected series of that company.
(5) A person that ceases to be the registered agent for a
protected series of a series limited liability company, other
than as a result of the termination of the protected series,
ceases to be the registered agent of that company and any other
protected series of that company.
(6) Except as otherwise agreed upon by a series limited
liability company and its registered agent, the registered agent
is not obligated to distinguish between a process, notice,
demand, or other record concerning the company and a process,
notice, demand, or other record concerning a protected series of
the company.

Section 16. Section 605.2204, Florida Statutes, is created
to read:
605.2204 Series limited liability company; service of
(1) Process against a series limited liability company, a registered foreign series limited liability company, or a registered foreign protected series of a series limited liability company, respectively, may be served in the same manner as service is made on each such entity under s. 48.062 and chapter 48 or chapter 49.

(2) Any notice or demand on a series limited liability company or a protected series of a series limited liability company under this chapter may be given or made to any member of a member-managed series limited liability company or to any manager of a manager-managed series limited liability company; to the registered agent of a series limited liability company at the registered office of the series limited liability company in this state, or to any other address in this state which is the principal office in this state of the series limited liability company.

(3) Any notice or demand on a registered foreign series limited liability company or a registered foreign protected series of a registered foreign series limited liability company under this chapter may be given or made to any member of a member-managed foreign series limited liability company or to any manager of a manager-managed foreign series limited liability company; to the registered agent of the registered foreign series limited liability company at the registered office of the registered foreign series limited liability company in this state; or to any other address in this state which is the registered office in this state of the registered foreign series limited liability company.

Office in this state of the registered foreign series limited liability company.

(4) This section does not affect the right to serve process on, give notice to, or make a demand on a series limited liability company or any protected series of a series limited liability company, or to or on any foreign series limited liability company or any protected series of the foreign series limited liability company, in any other manner provided by law.

Section 17. Section 605.2205, Florida Statutes, is created to read:

605.2205 Certificate of status for domestic or foreign protected series.—

(1) The department, upon request, payment of the requisite fee, and compliance with any other filing requirements of the department, shall issue a certificate of status for a protected series of a series limited liability company if the records filed in the department show that the department has accepted and filed articles of organization for the series limited liability company and a protected series designation for the protected series. A certificate of status for a protected series of a series limited liability company must state all of the following:

(a) The series limited liability company’s name.

(b) The name of the protected series.

(c) That the series limited liability company was organized under the laws of this state and the date of organization.

(d) That the protected series was designated under the laws of this state and the date of designation.

(e) Whether all fees and penalties due to the department...
(f) Whether the series limited liability company’s most recent annual report required by s. 605.0212 has been filed by the department.

(g) Whether the series limited liability company’s most recent annual report includes the name of the protected series, unless:

1. When the series limited liability company delivered the annual report for filing, the protected series designation pertaining to the protected series had not yet taken effect; or

2. After the series limited liability company delivered the annual report for filing, the company delivered to the department for filing a statement of designation change, which changes the name of the protected series.

(h) Whether the department has administratively dissolved the series limited liability company or received a record notifying the department that the company has been dissolved by judicial action pursuant to s. 605.0705.

(i) Whether the department has administratively dissolved the protected series or received a record notifying the department that the protected series has been dissolved by judicial action pursuant to s. 605.2501(4) or (5).

(j) Whether the department has filed articles of dissolution for the series limited liability company.

(k) Whether the department has filed a statement of dissolution, termination, or relocation for the protected series.

(2) The department, upon request, payment of the requisite fee, and compliance with any other filing requirements of the department, shall issue a certificate of status for a foreign protected series of a foreign series limited liability company if the records filed in the department show that the department has filed a certificate of authority for the foreign series limited liability company and a certificate of authority for the foreign protected series. A certificate of status for a registered foreign protected series of a registered foreign series limited liability company must state all of the following:

(a) The foreign series limited liability company’s name and any current alternative name adopted under s. 605.0906(1) for use in this state.

(b) The name of the foreign protected series and any current alternative name adopted under s. 605.0906(1) for use in this state.

(c) That the foreign series limited liability company is authorized to transact business in this state.

(d) That the foreign protected series is authorized to transact business in this state.

(e) Whether all fees and penalties due to the department under this chapter or other law by the foreign series limited liability company and the foreign protected series have been paid.

(f) Whether the foreign series limited liability company’s most recent annual report required by s. 605.0212 has been filed by the department.

(g) Whether the foreign series limited liability company’s most recent annual report includes the name of the foreign
protected series, unless:

1. When the foreign series limited liability company delivered the annual report for filing, the foreign protected series designation pertaining to the foreign protected series had not yet taken effect; or
2. After the foreign series limited liability company delivered the annual report for filing, the foreign series limited liability company delivered to the department for filing a statement of designation change which changes the name of the foreign protected series.

(b) Whether the department has:
1. Revoked the foreign series limited liability company’s certificate of authority or revoked the foreign protected series certificate of authority; or
2. Filed a notice of withdrawal of the certificate of authority for the foreign series limited liability company or for the foreign protected series.

(3) Subject to any qualification stated by the department in a certificate of status, a certificate of status issued by the department may be relied upon as conclusive evidence of the facts stated in the certificate of status as to the active status of the domestic or foreign series limited liability company and any protected series of the domestic or foreign limited liability company authorized to transact business in this state.

Section 18. Section 605.2206, Florida Statutes, is created to read:

605.2206 Information required in annual report; failure to comply.—

(1) In the annual report required by s. 605.0212, a series limited liability company shall include the name of each protected series of the company:
(a) For which the series limited liability company has previously delivered to the department for filing a protected series designation; and
(b) Which has not dissolved and completed winding up.
(2) The failure of a series limited liability company to comply with subsection (1) with regard to a protected series prevents issuance of a certificate of status pertaining to the protected series, but does not otherwise affect the protected series.

(3) In the annual report required by s. 605.0212, a registered foreign series limited liability company shall include the name of each registered foreign protected series of the registered foreign series limited liability company:
(a) For which the registered foreign series limited liability company has previously delivered to the department for filing an application for a certificate of authority to transact business in this state, which has been accepted by the department; and
(b) Which has not withdrawn its certificate of authority to transact business in this state.
(4) The failure of a registered foreign series limited liability company to comply with subsection (3) with regard to a registered foreign protected series prevents issuance of a certificate of status pertaining to the registered foreign protected series.

Section 19. Section 605.2301, Florida Statutes, is created to read:
(b) A deed or other instrument granting an interest in real property to or from a series limited liability company, or any other instrument otherwise affecting an interest in real property held by a series limited liability company, in each case to the extent such deed or other instrument is in favor of a person who gives value without knowledge of the lack of authority of the person signing and delivering a deed or other instrument and is recorded in the office for recording transfers or other matters affecting real property, is conclusive of the authority of the person signing and constitutes a record that such interest in real property is an associated asset of liability, as applicable, of the protected series.

(3)(a) An asset of a series limited liability company is an associated asset of the company only if the company creates and maintains records that state the name of the company and describe the asset with sufficient specificity to permit a disinterested, reasonable individual to:

1. Identify the asset and distinguish it from any other asset of the protected series, any asset of the series limited liability company, and any asset of any other protected series of the company;

2. Determine when and from which person the protected series acquired the asset or how the asset otherwise became an asset of the protected series; and

3. If the protected series acquired the asset from the series limited liability company or another protected series of the company, determine any consideration paid, the payor, and the payee.

(b) A deed or other instrument granting an interest in real property to or from one or more protected series of a series limited liability company, or any other instrument otherwise affecting an interest in real property held by a series limited liability company, in each case to the extent such deed or other instrument is in favor of a person who gives value without knowledge of the lack of authority of the person signing and delivering a deed or other instrument and is recorded in the office for recording transfers or other matters affecting real property, is conclusive of the authority of the person signing and constitutes a record that such interest in real property is an associated asset of liability, as applicable, of the protected series.

A deed or other instrument granting an interest in real property to or from a series limited liability company, or any other instrument otherwise affecting an interest in real property held by a series limited liability company, in each case to the extent such deed or other instrument is in favor of a person who gives value without knowledge of the lack of authority of the person signing and delivering a deed or other instrument and is recorded in the office for recording transfers or other matters affecting real property, is conclusive of the authority of the person signing and constitutes a record that such interest in real property is an associated asset of liability, as applicable, of the protected series.

A person who gives value without knowledge of the lack of authority of the person signing and delivering a deed or other instrument and is recorded in the office for recording transfers or other matters affecting real property, is conclusive of the authority of the person signing and constitutes a record that such interest in real property is an associated asset of liability, as applicable, of the protected series.
Florida Senate - 2024  
SB 1346  

CODING: Words ______________ are deletions; words ______________ are additions.

or other matters affecting real property, is conclusive of the
authority of the person signing and constitutes a record that
such interest in real property is an associated asset or
liability, as applicable, of the series limited liability
company.

(4) The records and recordkeeping required by subsections
(2) and (3) may be organized by specific listing, category,
type, quantity, or computational or allocative formula or
procedure, including a percentage or share of any asset, or in
any other reasonable manner.

(5) To the extent authorized by this chapter and the laws
of this state other than this chapter, a series limited
liability company or protected series of a series limited
liability company may hold an associated asset directly or
indirectly, through a representative, nominee, or similar
arrangement, except for the following:

(a) A protected series may not hold an associated asset in
the name of the series limited liability company or another
protected series of the company; and

(b) A series limited liability company may not hold an
associated asset in the name of a protected series of the
company.

Section 20. Section 605.2302, Florida Statutes, is created
to read:

605.2302 Associated member.—

(1) Only a member of a series limited liability company may
be an associated member of a protected series of the company.

(2) A member of a series limited liability company becomes
an associated member of a protected series of the company if the
operating agreement or a procedure established by the operating
agreement states all of the following:

(a) That the member is an associated member of the
protected series.

(b) The date on which the member became an associated
member of the protected series.

(c) Any protected-series transferable interest the
associated member has in connection with becoming or being an
associated member of the protected series.

(3) If a person that is an associated member of a protected
series of a series limited liability company is dissociated from
the company, the person ceases to be an associated member of the
protected series.

Section 21. Section 605.2303, Florida Statutes, is created
to read:

605.2303 Protected-series transferable interest.—

(1) A protected-series transferable interest of a protected
series of a series limited liability company must be owned
initially by an associated member of the protected series of the
series limited liability company.

(2) If a protected series of a series limited liability
company has no associated members when established, the company
owns the protected-series transferable interests in the
protected series.

(3) In addition to acquiring a protected-series
transferable series interest under subsection (2), a series
limited liability company may acquire a protected-series
transferable interest through a transfer from another person or
as provided in the operating agreement.
(4) Except for s. 605.2108(1)(c), any provision of this chapter which applies to a protected-series transferee of a protected series of a series limited liability company applies to the company in its capacity as an owner of a protected-series transferee of a protected series limited liability company which applies to a protected-series transferee of a protected series of the company applies to the company in its capacity as an owner of a protected-series transferee of a protected series.

Section 22. Section 605.2304, Florida Statutes, is created to read:

605.2304 Management.—

(1) A protected series may have one or more protected-series managers.

(2) If a protected series has no associated members, the series limited liability company is the protected-series manager.

(3) Section 605.2108 applies to the determination of any duties of a protected-series manager of a protected series to each of the following:

(a) The protected series.

(b) Any associated member of the protected series.

(c) Any protected-series transferee of the protected series.

(4) Solely by reason of being or acting as a protected-series manager of a protected series, a person owes no duty to any of the following:

(a) The series limited liability company.
(4) A protected-series manager of a protected series has a right to information concerning the protected series to the same extent, in the same manner, and under the same conditions that a manager of a manager-managed limited liability company has a right to information concerning the company under s. 605.0410(3)(a).

(5) The court-ordered inspection provisions of s. 605.0411 apply to the information rights regarding series limited liability companies and protected series of such companies. Section 24. Section 605.2401, Florida Statutes, is created to read:

605.2401 Limitations on liability.—

(1) A person is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, an obligation, or another liability of either of the following:

(a) A protected series of a series limited liability company solely by reason of being or acting as:

1. An associated member, protected-series manager, or protected-series transferee of the protected series; or

2. A member, manager, or transferee of the company; or

(b) A series limited liability company solely by reason of being or acting as an associated member, protected-series manager, or protected-series transferee of a protected series of the company.

(2) Subject to s. 605.2404, the following apply:

(a) A debt, an obligation, or another liability of a series limited liability company is solely the debt, obligation, or liability of the company.

(b) A debt, an obligation, or another liability of a protected series is solely the debt, obligation, or liability of the company.
Section 25. Section 605.2402, Florida Statutes, is created to read:

605.2402 Claim seeking to disregard limitation of the protected series.

(c) A series limited liability company is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, an obligation, or another liability of a protected series of the company solely by reason of the protected series being a protected series of the company, or the series limited liability company:

1. Being or acting as a protected-series manager of the protected series;
2. Having the protected series manage the series limited liability company; or
3. Owning a protected-series transferable interest of the protected series.

(d) A protected series of a series limited liability company is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, an obligation, or another liability of the company or another protected series of the company solely by reason of:

1. Being a protected series of the series limited liability company;
2. Being or acting as a manager of the series limited liability company or a protected-series manager of another protected series of the company; or
3. Having the series limited liability company or another protected series of the company be or act as a protected-series manager of the protected series.

(cod) Section 26. Section 605.2403, Florida Statutes, is created to read:

605.2403 Except as otherwise provided in subsection (2), a claim seeking to disregard a limitation in s. 605.2401 is governed by the principles of law and equity, including a principle providing a right to a creditor or holding a person liable for a debt, an obligation, or another liability of another person, which would apply if each protected series of a series limited liability company were a limited liability company formed separately from the series limited liability company and distinct from the series limited liability company and any other protected series of the series limited liability company.

(1) The failure of a limited liability company or a protected series to observe formalities relating to the exercise of its powers or management of its activities and affairs is not a ground to disregard a limitation in s. 605.2401(1) but may be a ground to disregard a limitation in s. 605.2401(2).

(2) This section applies to a claim seeking to disregard a limitation of liability applicable to a foreign series limited liability company or foreign protected series and comparable to a limitation stated in s. 605.2401, if either of the following applies:

(a) The claimant is a resident of this state, transacting business in this state, or authorized to transact business in this state; or
(b) The claim is to establish or enforce a liability arising under law of this state other than this chapter or from an act or omission in this state.

Section 26. Section 605.2403, Florida Statutes, is created to read:
(4) In a proceeding under this section, the party asserting

(a) A judgment against the series limited liability company

may be enforced against an asset of a protected series of the

company if the asset:

1. Was a non-associated asset of the protected series on

   the incurrence date; or

2. Is a non-associated asset of the protected series on

   the enforcement date.

(b) A judgment against a protected series may be enforced

against an asset of the series limited liability company if the

asset:

1. Was a non-associated asset of the series limited

   liability company on the incurrence date; or

2. Is a non-associated asset of the series limited

   liability company on the enforcement date.

(c) A judgment against a protected series may be enforced

against an asset of another protected series of the series

limited liability company if the asset:

1. Was a non-associated asset of the other protected series

   on the incurrence date; or

2. Is a non-associated asset of the other protected series

   on the enforcement date.

(3) In addition to any other remedy provided by law or

equity, if a claim against a series limited liability company or

a protected series has not been reduced to a judgment, and law

other than this chapter permits a prejudgment remedy by

attachment, levy, or similar means, the court may apply

subsection (2) as a prejudgment remedy.

(4) In a proceeding under this section, the party asserting
that an asset is or was an associated asset of a series limited liability company or a protected series of the series limited liability company has the burden of proof on the issue.

(5) This section applies to an asset of a foreign series limited liability company or foreign protected series if all of the following apply:

(a) The asset is real or tangible property located in this state.

(b) The claimant is a resident of this state or transacting business or authorized to transact business in this state, or the claim under this section is to enforce a judgment, or to seek a prejudgment remedy, pertaining to a liability arising from the law of this state other than this chapter or an act or omission in this state.

(c) The asset is not identified in the records of the foreign series limited liability company or foreign protected series in a manner comparable to the manner required by s. 605.2301.

Section 28. Section 605.2501, Florida Statutes, is created to read:

605.2501 Events causing dissolution of protected series.—A protected series of a series limited liability company is dissolved, and its activities and affairs must be wound up, upon the occurrence of any of the following:

(1) Dissolution of the series limited liability company.

(2) Occurrence of an event or a circumstance that the operating agreement states causes dissolution of the protected series.

(3) Affirmative vote or consent of all associated members.

(4) Entry by the court of an order dissolving the protected series on application by an associated member or a protected series manager of the protected series:

(a) In accordance with s. 605.2108; and

(b) To the same extent, in the same manner, and on the same grounds the court would enter an order dissolving a limited liability company on application by a member or manager of the limited liability company pursuant to s. 605.0702.

(5) Entry by the court of an order dissolving the protected series on application by the series limited liability company or a member or manager of the series limited liability company:

(a) In accordance with s. 605.2108; and

(b) To the same extent, in the same manner, and on the same grounds the court would enter an order dissolving a limited liability company on application by a member or manager of the limited liability company pursuant to s. 605.0702.

(6) Automatic or involuntary dissolution of the series limited liability company that established the protected series.

(7) The filing of a statement of administrative dissolution of the limited liability company or a protected series of the company by the department pursuant to s. 605.0714.

Section 29. Section 605.2502, Florida Statutes, is created to read:

605.2502 Winding up dissolved protected series.—

(1) Subject to subsections (2) and (3) and in accordance with s. 605.2108, the following apply:

(a) A dissolved protected series shall wind up its activities and affairs in the same manner that a dissolved
(2) When a protected series of a series limited liability company dissolves, the company may deliver to the department for filing its articles of protected series dissolution stating the name of the series limited liability company and the protected series and that the protected series is dissolved. The filing of the articles of dissolution by the department has the same effect with regard to the protected series as the filing by a limited liability company of articles of dissolution with the department under s. 605.0707.

(3) When a protected series of a series limited liability company has completed winding up in accordance with s. 605.0709, the company that established the protected series may deliver to the department for filing a statement of designation cancellation, stating all of the following:

(a) The name of the company and the protected series.

(b) That the protected series is terminated with the effective date of the termination if that date is not the date of filing of the statement of designation cancellation.

(c) Any other information required by the department.

(4) The filing of the statement of designation cancellation by the department has the same effect as the filing by the department of a statement of termination under s. 605.0709(7).

(5) A series limited liability company has not completed its winding up until each of the protected series of the company has completed its winding up.

Section 30. Section 605.2503, Florida Statutes, is created to read:

605.2503 Effects of reinstatement of series limited liability company; revocation of voluntary dissolution.—If a series limited liability company that has been administratively dissolved is reinstated, or if a series limited liability company that voluntarily dissolved revokes its articles of dissolution before filing a statement of termination, both of the following apply:

1. Each protected series of the series limited liability company ceases winding up.

2. Section 605.0708 applies to the series limited liability company and to each protected series of the company, in accordance with s. 605.2108.

Section 31. Section 605.2601, Florida Statutes, is created to read:

605.2601 Entity transactions involving a series limited liability company or a protected series of the company restricted; definitions.—As used in ss. 605.2601-605.2608, the term:

1. “After a merger” or “after the merger” means when a merger under s. 605.2604 becomes effective and any time thereafter.

2. “Before a merger” or “before the merger” means before a merger under s. 605.2604 becomes effective.

3. “Continuing protected series” means a protected series...
of a series limited liability company which continues in uninterrupted existence after a merger under s. 605.2604.

(4) “Merging company” means a limited liability company that is party to a merger under s. 605.2604.

(5) “Non-surviving company” means a merging company that does not continue in existence after a merger under s. 605.2604.

(6) “Relocated protected series” means a protected series of a non-surviving company which, after a merger under s. 605.2604, continues in uninterrupted existence as a protected series of the surviving company.

(7) “Surviving company” means a merging company that continues in existence after a merger under s. 605.2604.

Section 32. Section 605.2602, Florida Statutes, is created to read:

605.2602 Restrictions on entity transactions involving protected series.—Except as provided in ss. 605.2605(2), 605.2606(2), and 605.2607(1), a protected series may not be a party to; be formed, organized, established, or created in; or result from either of the following:

(1) A conversion, domestication, interest exchange, or merger under this chapter or the law of a foreign jurisdiction, however the transaction is denominated under such law; or

(2) A transaction with the same substantive effect as a conversion, domestication, interest exchange, or merger.

Section 33. Section 605.2603, Florida Statutes, is created to read:

605.2603 Restrictions on entity transactions involving series limited liability company.—A series limited liability company may not be:

Page 47 of 62

CODING: Words stricken are deletions; words underlined are additions.
(a) For any protected series of a non-surviving company, whether, after the merger, the protected series will be a relocated protected series or be dissolved, wound up, and terminated.

(b) For any protected series of the surviving company which exists before the merger, whether, after the merger, the protected series will be a continuing protected series or be dissolved, wound up, and terminated.

(c) For each relocated protected series or continuing protected series:

1. The name of any person that becomes an associated member or a protected-series transferee of the protected series after the merger, any consideration to be paid by, on behalf of, or in respect of the person, the name of the payor, and the name of the payee;

2. The name of any person whose rights or obligations in the person’s capacity as an associated member or a protected-series transferee will change after the merger;

3. Any consideration to be paid to a person that before the merger was an associated member or a protected-series transferee of the protected series and the name of the payor; and

4. If, after the merger, the protected series will be a relocated protected series, its new name.

(d) For any protected series to be established by the surviving company as a result of the merger:

1. The name of the protected series and the address of its principal office;

2. Any protected-series transferable interest to be owned by the surviving company when the protected series is established; and

3. The name of and any protected-series transferable interest owned by any person that will be an associated member of the protected series when the protected series is established.

(e) For any person that is an associated member of a relocated protected series and will remain a member after the merger, any amendment to the operating agreement of the surviving limited liability company which:

1. Is or is proposed to be in a record; and

2. Is necessary or appropriate to state the rights and obligations of the person as a member of the surviving limited liability company.

Section 36. Section 605.2606, Florida Statutes, is created to read:

605.2606 Articles of merger.—In a merger under s. 605.2504, the articles of merger must do all of the following:

1. Comply with s. 605.1025 relating to the articles of merger.

2. Include as an attachment all of the following records, each to become effective when the merger becomes effective:

(a) For a protected series of a merging company being terminated as a result of the merger, a statement of designation cancellation and termination signed by the non-surviving merging company.

(b) For a protected series of a non-surviving company which after the merger will be a relocated protected series:

1. A statement of relocation signed by the non-surviving company when the protected series is established.
company which contains the name of the series limited liability company and the name of the protected series before and after the merger; and

2. A statement of protected series designation signed by the surviving company.

(c) For a protected series being established by the surviving company as a result of the merger, a protected series designation signed by the surviving company.

Section 37. Section 605.2607, Florida Statutes, is created to read:

605.2607 Effect of merger.—When a merger of a protected series under s. 605.2604 becomes effective, in addition to the effects stated in s. 605.1026, all of the following apply:

1. As provided in the plan of merger, each protected series of each merging series limited liability company which was established before the merger is either a relocated protected series or continuing protected series, or is dissolved, wound up, and terminated.

2. Any protected series to be established as a result of the merger is established.

3. Any relocated protected series or continuing protected series is the same person without interruption as it was before the merger.

4. All property of a relocated protected series or continuing protected series continues to be vested in the protected series without transfer, reversion, or impairment.

5. All debts, obligations, and other liabilities of a relocated protected series or continuing protected series continue as debts, obligations, and other liabilities of the

Section 38. Section 605.2608, Florida Statutes, is created to read:

(6) Except as otherwise provided by law or the plan of merger, all the rights, privileges, immunities, powers, and purposes of a relocated protected series or continuing protected series remain in the protected series.

(7) The new name of a relocated protected series may be substituted for the former name of the relocated protected series in any pending action or proceeding.

(8) To the extent provided in the plan of merger, the following apply:

(a) A person becomes an associated member or a protected series transferee of a relocated protected series or continuing protected series.

(b) A person becomes an associated member of a protected series established by the surviving company as a result of the merger.

(c) Any change in the rights or obligations of a person in the person’s capacity as an associated member or a protected series transferee of a relocated protected series or continuing protected series takes effect.

(d) Any consideration to be paid to a person that before the merger was an associated member or a protected-series transferee of a relocated protected series or continuing protected series is due.

(9) Any person that is an associated member of a relocated protected series becomes a member of the surviving company, if not already a member.
605.2608 Application of s. 605.2404 after merger.

(1) A creditor’s right that existed under s. 605.2404 immediately before a merger under that section may be enforced after the merger in accordance with the following provisions:

(a) A creditor’s right that existed immediately before the merger against the surviving company, a continuing protected series, or a relocated protected series continues without change after the merger.

(b) A creditor’s right that existed immediately before the merger against a non-surviving company:

1. May be asserted against an asset of the non-surviving company which vested in the surviving company as a result of the merger; and

2. Does not otherwise change.

(c) Subject to subsection (2), the following provisions apply:

1. In addition to the remedy stated in paragraph (b), a creditor with a right conferred under s. 605.2404 which existed immediately before the merger against a non-surviving company or a relocated protected series may assert the right against:

a. An asset of the surviving company, other than an asset of the non-surviving company which vested in the surviving company as a result of the merger;

b. An asset of a continuing protected series;

c. An asset of a protected series established by the surviving company as a result of the merger;

d. If the creditor’s right was against an asset of the non-surviving company, an asset of a relocated protected series; or

e. If the creditor’s right was against an asset of a

2. In addition to the remedy stated in paragraph (b), a creditor with a right that existed immediately before the merger against the surviving company or a continuing protected series may assert the right against:

a. An asset of a relocated protected series; or

b. An asset of a non-surviving company which vested in the surviving company as a result of the merger.

(2) For the purposes of paragraph (1)(c) and s. 605.2404(2)(a), (b), and (c), the incurrence date is deemed to be the date on which the merger becomes effective.

(3) A merger under s. 605.2604 does not affect the manner in which s. 605.2404 applies to a liability incurred after the merger becomes effective.

Section 39. Section 605.2701, Florida Statutes, is created to read:

605.2701 Governing law; foreign series limited liability companies and foreign protected series.—The law of the jurisdiction of formation of a foreign series limited liability company governs all of the following:

(1) The internal affairs of a foreign protected series of the foreign series limited liability company, including the following:

(a) Relations among any associated members of the foreign protected series,

(b) Relations between the foreign protected series and:

1. Any associated member;

2. Any protected-series manager; or
3. Any protected-series transferee.
   (c) Relations between any associated member and:
   
1. Any protected-series manager; or
2. Any protected-series transferee.
(d) The rights and duties of a protected-series manager.
   (e) Governance decisions affecting the activities and affairs of the foreign protected series and the conduct of those activities and affairs.
(f) Procedures and conditions for becoming an associated member or a protected-series transferee.

2. Relations between the foreign protected series and the following:
   (a) The foreign series limited liability company.
   (b) Another foreign protected series of the foreign series limited liability company.
   (c) A member of the foreign series limited liability company which is not an associated member of the foreign protected series.
   (d) A foreign protected-series manager that is not a protected-series manager of the foreign protected series.
   (e) A foreign protected-series transferee that is not a protected-series transferee of the foreign protected series.
   (f) A transferee of a transferable interest of the foreign series limited liability company.
   
3. Except as otherwise provided in ss. 605.2402 and 605.2404, the liability of a person for a debt, an obligation, or another liability of a foreign protected series of a foreign series limited liability company if the debt, obligation, or liability is asserted solely by reason of the person being or acting as a foreign protected series manager; or

4. Except as otherwise provided in ss. 605.2402 and 605.2404, the following apply:
   (a) An associated member, a protected-series transferee, or a protected-series manager of the foreign protected series.
   (b) A member of the foreign series limited liability company which is not an associated member of the foreign protected series.
   (c) A protected-series manager of another foreign protected series of the foreign series limited liability company.
   (d) A protected-series transferee of another foreign protected series of the foreign series limited liability company.
   (e) A manager of the foreign series limited liability company.
   (f) A transferee of a transferable interest of the foreign series limited liability company.
   
5. Except as otherwise provided in ss. 605.2402 and 605.2404, the following apply:
   (a) The liability of the foreign series limited liability company for a debt, an obligation, or another liability of a foreign protected series of the foreign series limited liability company if the debt, obligation, or liability is asserted solely by reason of the foreign protected series being a foreign protected series of the foreign series limited liability company, or the foreign protected series limited liability company.
   
1. Being or acting as a foreign protected-series manager of the foreign protected series;
   
2. Having the foreign protected series manage the foreign protected series;
The activities and affairs of the foreign series limited liability company are not attributable to a foreign limited liability company or another foreign protected series of the foreign series limited liability company, if the debt, obligation, or liability is asserted solely by reason of the foreign protected series:

1. Being a foreign protected series of the foreign series limited liability company or having the foreign series limited liability company or another foreign protected series of the foreign series limited liability company be or act as a foreign protected-series manager of the foreign protected series; or

2. Managing the foreign series limited liability company or being or acting as a foreign protected-series manager of another foreign protected series of the foreign series limited liability company.

Section 40. Section 605.2702, Florida Statutes, is created to read:

605.2702 No attribution of activities constituting transacting business or for establishing jurisdiction.—In determining whether a foreign series limited liability company or foreign protected series of the foreign series limited liability company is transacting business in this state or is subject to the personal jurisdiction of the courts in this state, the following apply:

1. The activities and affairs of the foreign series limited liability company are not attributable to a foreign protected series of the foreign series limited liability company, solely by reason of the foreign protected series being a foreign protected series of the foreign series limited liability company; or

2. Owning a protected-series transferable interest of the foreign protected series.
(2) An application by a foreign protected series of a foreign series limited liability company for a certificate of authority to transact business in this state must include all of the following:

(a) The name and jurisdiction of formation of the foreign series limited liability company and the foreign protected series seeking a certificate of authority, and all of the other information required under s. 605.0902, and any other information required by the department.

(b) If the company has other foreign protected series, the name, title, capacity, and street and mailing address of at least one person that has the authority to manage the foreign limited liability company and who knows the name and street and mailing address of:

1. Each other foreign protected series of the foreign series limited liability company; and

2. The foreign protected-series manager of, and the registered agent for service of process on, each other foreign protected series of the foreign series limited liability company.

(3) The name of a foreign protected series applying for a certificate of authority to transact business in this state must comply with ss. 605.0112 and 605.2202, which may be accomplished by using an alternate name pursuant to ss. 605.0906 and 865.09, if the alternate name complies with ss. 605.0112, 605.0906, and 605.2202.

(4) The requirements in s. 605.0907 relating to required information and amending of a certificate of authority apply to the information required by subsection (2).

(5) Sections 605.0903–605.0912 apply to a foreign limited liability company and to a protected series of a foreign series limited liability company applying for, amending, or withdrawing a certificate of authority to transact business in this state.

Section 42. Section 605.2704, Florida Statutes, is created to read:

605.2704 Disclosure required when a foreign series limited liability company or foreign protected series becomes a party to a proceeding.—

(1) Not later than 30 days after becoming a party to a proceeding before a civil, administrative, or other adjudicative tribunal of or located in this state, or a tribunal of the United States located in this state;

(a) A foreign series limited liability company shall disclose to each other party the name and street and mailing address of:

1. Each foreign protected series of the foreign series limited liability company; and

2. Each foreign protected-series manager of and a registered agent for service of process for each foreign protected series of the foreign series limited liability company.

(b) A foreign protected series of a foreign series limited liability company shall disclose to each other party the name and street and mailing address of:

1. The foreign series limited liability company and each manager of the foreign series limited liability company and an agent for service of process for the foreign series limited liability company; and
2. Any other foreign protected series of the foreign series limited liability company and each foreign protected-series manager of and an agent for service of process for the other foreign protected series.

(2) If a foreign series limited liability company or foreign protected series challenges the personal jurisdiction of the tribunal, the requirement that the foreign series limited liability company or foreign protected series make disclosure under subsection (1) is tolled until the tribunal determines whether it has personal jurisdiction.

(3) If a foreign series limited liability company or foreign protected series does not comply with subsection (1), a party to the proceeding may do one or both of the following:

(a) Request the tribunal to treat the noncompliance as a failure to comply with the tribunal’s discovery rules.

(b) Bring a separate proceeding in the court to enforce subsection (1).

Section 43. Section 605.2801, Florida Statutes, is created to read:

605.2801 Relation to Electronic Signatures in Global and National Commerce Act.—Section 605.1102 applies to ss. 605.2101–605.2802.

Section 44. Section 605.2802, Florida Statutes, is created to read:

605.2802 Effective date.—

(1) Beginning January 1, 2025, this chapter governs all domestic and foreign protected series limited liability companies and all domestic protected series and all foreign series that transact business in this state.

(2) A domestic limited liability company formed before January 1, 2025, may not create or designate any protected series before the effective date of this act.

Section 45. This act shall take effect January 1, 2025.
I. Summary:

SB 1596 changes the law regulating work hours for minors. The bill specifies that minors 15 years of age or younger may not work for more than 15 hours in any one week when school is in session.

The bill changes the time restrictions placed on minors 16 and 17 years of age by providing that 16 and 17 year olds are not allowed to:
- Work before 5:30 a.m. or work after 12:00 a.m., when school is scheduled the next day.
- Work for more than 8 hours in any one day when school is scheduled the following day, except when the day of work is on holiday or Sunday.

The bill also alters requirements for consecutive working days and breaks for minors 17 years and younger, lowering the age limit to 15 years and younger.

The bill provides exemptions for minors 16 and 17 years of age who are in a home education program or are enrolled in an approved virtual instruction program in which the minor is separated from the teacher by time only. The Department of Business and Professional Regulation (DBPR) is allowed to grant a waiver of the restrictions.

Finally, the bill provides that an employer that violates the restrictions commits a violation of the law, punishable as a criminal misdemeanor and subject to a fine.

The bill provides an effective date of July 1, 2024.
II. Present Situation:  

Overview  

Subject to some exceptions, federal and state child labor laws prevent work hours and timeframes from interfering with the child’s health, safety, and education. At the federal level, the Fair Labor Standards Act (FLSA) determines the minimum age for work during school hours, performing certain jobs after school, and places restraints on work considered hazardous. Florida’s Child Labor Law also restricts the employment of minors, sometimes more than federal law. Florida’s Child Labor Law contains protections specifically directed to 16 and 17-year-olds, including restrictions on what times during a day they may work, how many hours in a week they may work, and what jobs or occupations they may perform.

Florida authorizes cities and counties to enact their own curfew ordinances for minors under the age of 16. The law provides that any minor under the age of 16 cannot be present at a public establishment during the following hours, not including legal holidays:

- Sunday to Thursday from 11:00 p.m. to 5:00 a.m.
- Saturday or Sunday from 12:01 a.m. to 6:00 a.m.
- 9:00 a.m. to 2:00 p.m. if suspended from school.

The statutory curfew does not apply unless the curfew is adopted by a governing body of the county or municipality. A governing body of a county or municipality is allowed to adopt restrictions that are more or less stringent than the statutory curfew.

Federal Fair Labor Standards Act  

The federal Fair Labor Standards Act (FLSA), enacted in 1938, provides covered workers with minimum wage, overtime pay, and child labor protections.\(^1\) Congress adopted the FLSA to prevent substandard labor conditions from being used as an “unfair method of competition.”\(^2\) The FLSA covers employees and enterprises engaged in interstate commerce. An enterprise is covered if it has annual sales or business done of at least $500,000.\(^3\) Regardless of the dollar volume of business, the FLSA applies to hospitals; institutions primarily engaged in the care of the sick, aged, mentally ill, or disabled who reside on the premises; schools for children who are mentally or physically disabled or gifted; federal, state, and local governments; and preschools, elementary and secondary schools, and institutions of higher education.\(^4\)

The FLSA was adopted as a minimum set of standards, which allowed states to provide more protections for employees. Under the FLSA, if states enact minimum wage, overtime, or child labor laws that are more protective than what is provided by the FLSA, the state law applies.\(^5\) Because states may enact laws that are more protective than what is provided by the FLSA, minimum wage, overtime, and child labor standards vary state by state.

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\(^1\) 29 U.S.C. § 201-219 and 29 C.F.R. ch. V.
\(^3\) 29 C.F.R. §§779.258-779.259.
\(^5\) 29 U.S.C § 218.
**Child Labor**

The FLSA prohibits the employment of “oppressive child labor” in the United States and the shipment of goods made in proximity to oppressive child labor. The FLSA establishes a general minimum age of 16 years for employment in nonhazardous occupations, and a minimum age of 18 years for employment in any occupation determined by the Secretary of Labor to be hazardous to the health or well-being of minors. However, children younger than 16 may work if certain conditions are met, and rules for agricultural and nonagricultural employment vary significantly.

According to the US Department of Labor (DOL), two things are certain:

- Once an employee is 18 years-of-age, there are no Federal child labor rules.
- Federal child labor rules do not require work permits. However, many states issue age certificates if you are asked to provide them by your employer.

**Nonagricultural Employment – Minimum Standards**

For nonexempt children, the minimum age for employment in nonagricultural occupations is:

- 18 years-of-age for occupations determined by the Secretary of Labor to be hazardous to the health and well-being of children (i.e., “hazardous occupations”);
- 16 years-of-age for employment in nonhazardous occupations; or
- 14 years-of-age for a limited set of occupations, with restrictions on hours and work conditions, as determined by the Secretary of Labor.

A child under the age of 14 may not be employed unless his or her employment is explicitly excluded from the definition of oppressive child labor (e.g., a parent is the child’s sole employer in a nonhazardous occupation) or exempt from the FLSA child labor provisions (e.g., newspaper delivery).

The hours and times of day that 14- and 15-year-olds are allowed to work and specific occupations that are permitted or prohibited for such minors in nonagricultural occupations are set by federal and state law.

The FLSA allows the employment of minors 14 and 15 years-of-age during the following hours and times-of-day:

- Outside of school hours;
- Not more than 40 hours in any 1 week when school is not in session;
- Not more than 18 hours in any 1 week when school is in session;

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9 29 CFR § 570.2.
10 29 CFR § 570.119.
12 29 C.F.R. § 570.35(b) defines “school hours” as the hours that the local public school district where the minor resides while employed is in session during the regularly scheduled school year.
- Not more than 8 hours in any 1 day when school is not in session;
- Not more than 3 hours in any 1 day when school is in session, including Fridays; and
- Between 7 a.m. and 7 p.m. in any 1 day, except during the summer (June 1 through Labor Day) when the evening hour will be 9 p.m.

**Oppressive Child Labor**

The following occupations constitute oppressive child labor within the meaning of the FLSA when performed by minors who are 14 and 15 years-of-age:\(^{13}\)

- Manufacturing, mining, or processing occupations.
- Occupations that the Secretary of Labor may, pursuant to section 3(l) of the FLSA, find and declare to be hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being.
- Occupations that involve operating, tending, setting up, adjusting, cleaning, oiling, or repairing hoisting apparatus.
- Work performed in or about boiler or engine rooms or in connection with the maintenance or repair of the establishment, machines, or equipment.
- Occupations that involve operating, tending, setting up, adjusting, cleaning, oiling, or repairing any power-driven machinery, including but not limited to lawn mowers, golf carts, all-terrain vehicles, trimmers, cutters, weed-eaters, edgers, food slicers, food grinders, food choppers, food processors, food cutters, and food mixers. Youth 14 and 15 years of age may, however, operate office equipment pursuant to § 570.34(a) and vacuum cleaners and floor waxes pursuant to § 570.34(h).
- The operation of motor vehicles.
- Outside window washing that involves working from window sills, and all work requiring the use of ladders, scaffolds, or their substitutes.
- All baking and cooking activities except that cooking which is permitted by § 570.34(c).
- Work in freezers and meat coolers and all work in the preparation of meats for sale except as permitted by § 570.34(j). This section, however, does not prohibit the employment of 14- and 15-year-olds whose duties require them to occasionally enter freezers only momentarily to retrieve items as permitted by § 570.34(i).
- Youth peddling, which entails the selling of goods or services to customers at locations other than the youth-employer’s establishment, such as the customers’ residences or places of business, or public places such as street corners and public transportation stations.
- Loading and unloading of goods or property onto or from motor vehicles, railroad cars, or conveyors, except the loading and unloading of personal non-power-driven hand tools, personal protective equipment, and personal items to and from motor vehicles as permitted by § 570.34(k).
- Catching and cooping of poultry in preparation for transport or for market.
- Public messenger service.
- Occupations in connection with transportation of persons or property, warehousing and storage, communications and public utilities, and construction (including demolition and repair).

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\(^{13}\) 29 C.F.R. § 570.33.
**Authorized Occupations**

The FLSA allows the following occupations to be performed by minors 14 and 15 years-of-age when performed within the required timeframes:¹⁴

- Office and clerical work, including the operation of office machines.
- Work of an intellectual or artistically creative nature.
- Cooking with electric or gas grills which does not involve cooking over an open flame.
- Cashiering, selling, modeling, art work, work in advertising departments, window trimming, and comparative shopping.
- Price marking and tagging by hand or machine, assembling orders, packing, and shelving.
- Bagging and carrying out customers' orders.
- Errand and delivery work by foot, bicycle, and public transportation.
- Clean up work, including the use of vacuum cleaners and floor waxers, and the maintenance of grounds, but not including the use of power-driven mowers, cutters, trimmers, edgers, or similar equipment.
- Kitchen work and other work involved in preparing and serving food and beverages.
- Cleaning vegetables and fruits, and the wrapping, sealing, labeling, weighing, pricing, and stocking of items.
- The loading onto motor vehicles and the unloading from motor vehicles of the light, non-power-driven, hand tools and personal protective equipment that the minor will use as part of his or her employment at the work site; and the loading onto motor vehicles and the unloading from motor vehicles of personal items such as a back pack, a lunch box, or a coat that the minor is permitted to take to the work site.
- The employment of 15-year-olds (but not 14-year-olds) to perform permitted lifeguard duties at traditional swimming pools and water amusement parks (including such water park facilities as wave pools, lazy rivers, specialized activity areas that may include waterfalls and sprinkler areas, and baby pools; but not including the elevated areas of power-driven water slides) when such youth have been trained and certified by the American Red Cross, or a similar certifying organization, in aquatics and water safety.
- Employment inside and outside of places of business where machinery is used to process wood products.
- Work in connection with cars and trucks if confined to dispensing gasoline and oil; courtesy service; car cleaning, washing and polishing by hand; and other occupations permitted by this section, but not including work involving the use of pits, racks, or lifting apparatus, or involving the inflation of any tire mounted on a rim equipped with a removable retaining ring.
- Work in connection with riding inside passenger compartments of motor vehicles.

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¹⁴ 29 CFR § 570.34.
**Agricultural Employment – Minimum Standards**

With some exceptions, the minimum age for employment in agricultural occupations is:

- 16 years-of-age for employment in any agricultural job, including those determined to be hazardous by the Secretary of Labor, with no restrictions on hours of work;\(^{15}\)
- 14 years-of-age for employment in nonhazardous agricultural jobs, outside of school hours;\(^{16}\)
- 12 years-of-age (up to 13 years) for employment in nonhazardous agricultural jobs, outside of school hours, with the written consent of a parent; written consent is not required if the work takes place on a farm that also employs the child’s parent;\(^{17}\)
- 10 years-of-age (and up to 11 years) for employment to hand-harvest select crops for up to eight weeks in nonhazardous agricultural jobs, outside of school hours, with the written consent of a parent, providing the employer has obtained a waiver permitting this employment from the Secretary of Labor;\(^{18}\) or
- Any age (up to 12 years), for employment in nonhazardous agricultural jobs, outside of school hours on certain small farms, with a parent’s written consent.\(^{19}\)

A child of any age who is employed by a parent on a farm owned or operated by the parent may work without restriction.\(^{20}\) DOL regulations also provide limited exemptions to child labor rules concerning hazardous agricultural occupations for student learners and graduates of vocational training programs that meet regulatory criteria.\(^{21}\)

**FLSA Child Labor Exemptions**

The FLSA excludes the following occupations and work arrangements from coverage of its child labor provisions:

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\(^{15}\) 29 CFR § 570.2.  
\(^{16}\) 29 U.S.C. §213(c)(1)(C). DOL regulations identify the set of jobs and activities that—subject to hours-of-work restrictions—do not constitute oppressive child labor for children ages 14 and 15 years old; these are at 29 C.F.R. §570.33.  
\(^{18}\) The conditions under which the Secretary of Labor will grant a waiver permitting the employment of 10 and 11 year old children to harvest certain crops are in 29 U.S.C. 213(c)(4) and 29 C.F.R. § part 575. However, as DOL notes “the Department was enjoined from issuing such waivers in 1980 because of issues involving exposure, or potential exposure, to pesticides (see National Ass’n of Farmworkers Organizations v. Marshall, 628 F.2d 604 (DC Cir. 1980)). Therefore, no waivers have been granted under FLSA section 13(c)(4) for thirty years.” DOL-WHD, “Child Labor Regulations, Orders and Statements of Interpretation; Child Labor Violations-Civil Money Penalties - A Proposed Rule,” 75 Federal Register 54842, September 2, 2011.  
\(^{19}\) 29 U.S.C. §213(c)(1)(A). Applies to the employment of children on farms that are exempt from FLSA minimum wage provisions because they employed fewer than 500 “man-days of agricultural labor” during any calendar quarter in the previous calendar year. FLSA defines a man-day of agricultural labor as “any day during which an employee performs any agricultural labor for not less than one hour”; 29 U.S.C. §203(u).  
\(^{21}\) 29 C.F.R. §570.72.
- **Children with a Parental Employer:** Children who work for a parent or a person standing in place of a parent\(^{22}\) in an occupation other than manufacturing, mining, or hazardous work may be employed at any age and for any number of hours.\(^{23}\)

- **Child Performers:** Children of any age may be employed as actors or performers in motion pictures or in theatrical, radio, or television productions.\(^{24}\)

- **Newspaper Delivery Persons:** Children of any age may be employed to deliver newspapers to consumers.\(^{25}\)

- **Evergreen Wreath Producers (Homebased):** Children of any age may be employed as homeworkers to make evergreen wreaths and to harvest forest products used in making such wreaths.\(^{26}\)

**Hazardous Occupations**

Seventeen groups of nonagricultural occupations have been determined to be hazardous or detrimental to the health or well-being of children between the ages of 16 and 18 years.\(^{27}\) Employment in these jobs is prohibited, with limited exemptions for registered apprentices and student learners.\(^{28}\) In some instances, children’s employment is banned in entire industries (e.g., coal mining) with some exceptions for office, sales, or maintenance work; others prohibit children’s exposure to materials (e.g., radioactive substances) or equipment (e.g., power-driven hoisting apparatus).

Eleven types of agricultural occupations have been determined to be hazardous, in which—with few exceptions—a child below the age of 16 may not be employed.\(^{29}\) These include, for example, handling or applying certain agricultural chemicals, and working on a farm in a pen occupied by a stud horse maintained for breeding purposes. The prohibition on employment in agricultural hazardous occupations does not apply to children employed by a parent on a farm owned or operated by the parent.\(^{30}\) When certain requirements are met, student learners and graduates of tractor or machine operation programs that meet regulatory criteria may be employed in select hazardous occupations.

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\(^{22}\) Parent or person standing in place of a parent is defined in 29 C.F.R. §570.126 as including “natural parents, or any other person, where the relationship between that person and a child is such that the person may be said to stand in place of a parent. For example, one who takes a child into his home and treats it as a member of his own family, educating and supporting the child as if it were his own, is generally said to stand to the child in place of a parent.”

\(^{23}\) This exemption stems from the FLSA definition of oppressive child labor at 29 U.S.C. §203(1), which excludes children employed by a parent in most nonhazardous occupations. For children employed in nonagricultural work, the parent must be the sole employer for the exemption to hold. The parent need not be the sole employer for children working in agriculture on a farm owned or operated by the parent.

\(^{24}\) 29 U.S.C. §213(c)(3).


\(^{26}\) 29 U.S.C. §213(d).

\(^{27}\) 29 C.F.R. §§570.50-570.68.

\(^{28}\) The prohibition on minors’ employment in the nonagricultural hazardous occupations applies even if the child is employed by a parent. The conditions under which a registered apprentice or student learner may participate in hazardous occupation tasks are described in 29 C.F.R. §570.50 (b) and (c).

\(^{29}\) Hazardous agricultural occupations are described in 29 C.F.R. §570.71; exemptions to the ban on children’s employment in hazardous agricultural occupations are in 29 C.F.R. §570.72.

\(^{30}\) 29 U.S.C. §213(c)(2).
**FLSA Violations**

Two remedies are available for violations of the FLSA child labor provisions. The Secretary of Labor may assess civil penalties or seek other relief, including injunctive relief. Employers who violate the FLSA child labor provisions may be assessed the following civil penalties:

- Up to $15,138 for each employee who was the subject of a child labor violation; or
- Up to $68,801 for each violation that causes the death or serious injury of a minor employee, a penalty may be doubled if the violation is a repeated or willful violation.\(^{31}\)

U.S. district courts have jurisdiction to enjoin violations of the FLSA’s child labor provisions.\(^{32}\) For example, a federal court may order an employer to halt employment of a minor in a hazardous occupation or may enjoin a producer from shipping goods out of state from an establishment in or about which a child labor violation has occurred. Criminal penalties are also prescribed for willful violations of the FLSA’s child labor provisions.\(^{33}\)

**Florida Child Labor Law**

The Florida Department of Business and Professional Regulation, Division of Regulation, administers and enforces the state’s Child Labor Law\(^ {34}\) through its Child Labor Program.\(^ {35}\) The “mission of the Child Labor Program is to provide a program of education, enforcement, and administrative initiatives designed to achieve full compliance in the enforcement of Child Labor laws and ensure the health, education and welfare of Florida’s working minors."\(^ {36}\)

Florida’s Child Labor Law restricts the employment of minors, sometimes more than federal law. Once a worker reaches the age of 18, child labor laws do not restrict their employment.

Florida’s Child Labor Law defines “child” or “minor” as any person 17 years of age or younger, unless:\(^ {37}\)

- The person is or has been married;
- The person’s disability of nonage has been removed by a court of competent jurisdiction;
- The person is serving or has served in the Armed Forces of the United States;
- It has been found by a court having jurisdiction over the person that it is in the best interest of such minor to work and the court specifically approves any employment of such person, including the terms and conditions of such employment; or
- The person has graduated from an accredited high school or holds a high school equivalency diploma.

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\(^{31}\) These civil money penalties took effect on January 16, 2023, and are as adjusted for inflation as provided by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (P.L. 114-74).


\(^{34}\) See ss. 450.001-450.165, F.S.

\(^{35}\) Section 450.155, provides that Child Labor Law program appropriations made by the Legislature shall be used to carry out the proper responsibilities of administering the Child Labor Law, to protect the working youth of the state, and to provide education about the Child Labor Law to employers, public school employees, the general public, and working youth.


\(^{37}\) Section 450.012(3), F.S.
Minimum Age

Under Florida’s Child Labor law, minors of any age may be employed as follows:38

- As pages in the Florida Legislature.
- By the entertainment industry as prescribed in ss. 450.012, F.S., and 450.132, F.S.
- In domestic or farm work in connection with their own homes or the farm or ranch on which they live, or directly for their own parents or guardian, or in the herding, tending, and management of livestock, during the hours they are not required by law to be in school.

The law provides the following prohibitions:

- **Persons 10 years-of-age or younger:** Prohibited from engaging in the sale and distribution of newspapers.
- **Except as provided above, persons 13 years-of-age or younger:** Prohibited from being employed, permitted, or suffered to work in any gainful occupation at any time.
- **Persons 17 years old or younger:** Whether or not such person’s disabilities of nonage have been removed by marriage or otherwise, are prohibited from being employed, permitted, or suffered to work in any place where alcoholic beverages are sold at retail, except as provided in s. 562.13, F.S.39 For example, a 16- or 17-year-old may work at a grocery store that sells alcohol under certain conditions and a restaurant that sells beer and wine under certain conditions.

The law provides the following prohibition to prevent minors being exploited and becoming victims of human trafficking:40

- A person under the age of 18, whether or not such person’s disabilities of nonage have been removed by marriage or otherwise, may not be employed, permitted, or suffered to work in an adult theater, as defined in s. 847.001(2)(b), F.S.

Hazardous Occupations

Florida law prohibits minors 15 years-of-age or younger, whether or not such person’s disabilities of nonage have been removed by marriage or otherwise, from being employed or permitted or suffered to work in any of the following occupations:41

- In connection with power-driven machinery, except power mowers with cutting blades 40 inches or less.
- In any manufacturing that makes or processes a product with the use of industrial machines.
- The manufacture, transportation, or use of explosive or highly flammable substances.
- Sawmills or logging operations.
- On any scaffolding.
- In heavy work in the building trades.

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38 Section 450.021, F.S.
39 Section 562.13, F.S., prohibits any vendor licensed under the Beverage Law from employing any person under 18 years of age. However, this section provides specific exceptions, including, but not limited to, professional entertainers under 17 years of age, certain minors employed in the entertainment industry, persons under the age of 18 employed in drugstores, grocery stores, department stores, florists, specialty gift shops, or automobile service stations for consumption off the premises.
40 Section 450.021(5), F.S.
41 Section 450.061(1), F.S.
• In the operation of a motor vehicle, except a motorscooter which he or she is licensed to operate, except that 14-year-old and 15-year-old workers may drive farm tractors in the course of their farmwork under the close supervision of their parents on a family-operated farm, and except that qualified 14-year-old and 15-year-old workers may drive tractors in the course of their farmwork under the close supervision of the farm operator. “Qualified,” as used herein, means having completed a training course in tractor operation sponsored by a recognized agricultural or vocational agency, as evidenced by duly executed certificate, such certificate to be filed with the farm operator for the duration of the employment.
• In oiling, cleaning, or wiping machinery or shafting or applying belts to pulleys.
• In repairing of elevators or other hoisting apparatus.
• Work in freezers or meat coolers and all work in preparation of meats for sale, except wrapping, sealing, labeling, weighing, pricing, and stocking when performed in another area. This shall not prohibit work done in the normal operations of a food service facility licensed by chapter 509, F.S.
• In the operation of power-driven laundry or drycleaning machinery or any similar power-driven machinery.
• At spray painting.
• Alligator wrestling, work in connection with snake pits, or similar hazardous activities.
• Door-to-door selling of magazine subscriptions, candy, cookies, flowers, or other merchandise or commodities, except merchandise of nonprofit organizations, such as the Girl Scouts of America or the Boy Scouts of America.
• In working with meat and vegetable slicing machines.

Florida law prohibits minors under 18 years-of-age, whether such person’s disabilities of nonage have been removed, from being employed or permitted or suffered to work in any of the following places of employment or in any of the following occupations: 42
• In or around explosive or radioactive materials.
• On any scaffolding, roof, superstructure, residential or nonresidential building construction, or ladder above 6 feet.
  o Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
• In or around toxic substances or corrosives, including pesticides or herbicides, unless proper field entry time allowances have been followed.
• Any mining occupation.
• In the operation of power-driven woodworking machines.
  o Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
• In the operation of power-driven hoisting apparatus.
• In the operation of power-driven metal forming, punching, or shearing machines.
  o Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
• Slaughtering, meat packing, processing, or rendering, except as provided in 29 C.F.R. s. 570.61(c), F.S.

42 Section 450.061(2), F.S.
o Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- In the operation of power-driven bakery machinery.
- In the operation of power-driven paper products and printing machines.
o Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- Manufacturing brick, tile, and like products.
- Wrecking or demolition.
- Excavation operations.
o Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- Logging or sawmilling.
- Working on electric apparatus or wiring.
o Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- Firefighting.
o Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- Operating or assisting to operate, including starting, stopping, connecting or disconnecting, feeding, or any other activity involving physical contact associated with operating, a tractor over 20 PTO horsepower, any trencher or earthmoving equipment, fork lift, or any harvesting, planting, or plowing machinery, or any moving machinery.

Florida law prohibits the employment of minors under 18 years-of-age, whether such person’s disabilities of nonage have been removed by marriage or otherwise, from being employed or permitted or suffered to work in any place of employment or at any occupation hazardous or injurious to the life, health, safety, or welfare of such minor, as such places of employment or occupations may be determined and declared by the department to be hazardous and injurious.

These prohibitions do not apply to minors employed in the entertainment industry. 43

**Hours of Work**

Generally, Florida law allows minors who are 16 and 17 years-of-age to work in a broad range of jobs, unless the jobs are hazardous. Minors who are 14 and 15 years-of-age are allowed to work in a broad range of jobs but are limited in the number of hours per day and per week they may work, especially when school is in session. 44 Minors 13 years old or younger are prohibited from working in Florida, except in some limited situations.

**Minors Under the Age of 16**

For minors younger than 16 years-of-age, Florida Child Labor Law provides the following restrictions on hours of work:
- Before 7 a.m. or after 7 p.m. when school is scheduled the following day or for more than 15 hours in any one week.

43 Section 450.061(4), F.S.
44 See Section 450.081, F.S.
• More than 3 hours on any school day, if not enrolled in a career education program, unless there is no session of school the following day.

• During holidays and summer vacations:
  o Before 7 a.m. or after 9 p.m.;
  o For more than 8 hours in any one day; or
  o For more than 40 hours in any one week.

**Sixteen and Seventeen-Year-Olds**

For minors 16 and 17 years-of-age, Florida’s Child Labor Law provides the following restrictions on hours of work:

• Before 6:30 a.m. or after 11:00 p.m.
• More than 8 hours in any one day when school is scheduled the following day.
• When school is in session, more than 30 hours in any one week.
• During school hours on any school day, if not enrolled in a career education program.
• More than 6 consecutive days in any one week.
• More than 4 hours continuously without an interval of at least 30 minutes for a meal period.
  o No period of less than 30 minutes is deemed to interrupt a continuous period of work.

**Exemptions**

The hours of work restrictions do not apply to the following:45

• Minors 16 and 17 years-of-age who have graduated from high school or received a high school equivalency diploma.

• Minors who are within the compulsory school attendance age limit who hold a valid certificate of exemption issued by the school superintendent or his or her designee pursuant to the provisions of s. 1003.21(3), F.S.

• Minors enrolled in a public educational institution who qualify on a hardship basis such as economic necessity or family emergency.
  o Such determination must be made by the school superintendent or his or her designee, and a waiver of hours must be issued to the minor and the employer.

• Children in domestic service in private homes, children employed by their parents, or pages in the Florida Legislature.

Florida law provides that the presence of any minor in any place of employment during working hours is prima facie evidence of his or her employment.46

**Partial Waivers**

In extenuating circumstances when it clearly appears to be in the best interest of the child, DBPR is authorized to grant a waiver of the restrictions imposed by the Child Labor Law on the employment of a child. Such waivers are granted upon a case-by-case basis and based upon such factors as the department, by rule, establishes as determinative of whether such waiver is in the best interest of a child.47

45 Section 450.081(5), F.S.
46 Section 450.081(6), F.S.
47 Section 450.095, F.S.
DBPR, or the school district designee if the minor is enrolled in the public school system, is authorized to grant a waiver of any restriction imposed by the Child Labor Law, or by rule. In determining whether to grant a Partial Waiver, the Department shall consider all relevant information which may establish what is in the best interest of the minor, including: 48

- **School Status:** DBPR, or the school district designee, is required to grant a partial waiver based on school status when:
  - The minor will receive instruction by a tutor at the place of employment;
  - The minor has been authorized by the District School Superintendent to complete his or her education through alternative methods such as home school;
  - The minor has been permanently expelled from the public school system;
  - The minor is enrolled in school in a foreign country and is visiting Florida during his or her home country’s non-school period; or
  - The employment would provide an educational, vocational, or public service experience that would be beneficial to the minor.
    - Documentation shall consist of confirmation from the minor’s school principal or the Superintendent of the School District and of copies of school records clearly defining the minor’s school status.

- **Financial Hardship:** DBPR, or the school district designee, is required to grant a partial waiver based on financial hardship when compliance with the Child Labor Law or rule will result in undue financial hardship for the minor or the minor’s immediate family. Documentation must include:
  - A notarized letter, explaining the particular circumstances creating a hardship, from a parent, guardian, or other adult, who knows and can attest to the minor’s financial hardship; written confirmation from a school recently attended;
  - Documentation from a social service agency; or
  - Verification of participation in AFDC, Food Stamp, Project Independence, or other similar programs.
  - DBPR is authorized to require other documentation which proves financial hardship.

- **Medical Hardship:** DBPR, or the school district designee, must grant a partial waiver based on medical hardship when compliance with the Child Labor Law or rule will result in physical or mental hardship for the minor. Documentation may consist of written confirmation from the minor’s physician stating the specific medical reasons that require the minor to be excused from mandatory school attendance and affirming that the minor to be excused from mandatory school attendance may be allowed to work the requested hours, or that the minor should be considered an adult for the purpose of work hours.

- **Other Hardship:** DBPR, or school district designee, must grant a partial waiver based on other hardship when compliance with the Child Labor Law or rule will result in unreasonable hardship to the minor in specific situations.

- **Court Order:** DBPR, or the school district designee, must grant a partial waiver based on a court order when compliance with the Child Labor Law or rule will result in the minor violating an order issued by a court mandating that the minor work specified hours or in a specified occupation.

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48 R. 61L-2.007, F.A.C.
Enforcement

DBPR and local law enforcement are required to:49

- Enforce the provisions of the Child Labor Law;
- Make complaints against persons violating its provisions; and
- Prosecute violations.

DBPR is authorized to enter and inspect at any time any place or establishment covered by this law and to have access to age certificates kept on file by the employer and other records. Designated school representatives are required to report to DBPR all violations of the Child Labor Law.50

The Child Labor Law also provides that:

- Trial courts in the state have the duty to issue warrants and try cases within their jurisdiction in connection with violations of the Child Labor Law.
- Grand juries have inquisitorial powers to investigate violations, and trial court judges shall specially charge the grand jury to investigate violations of the Child Labor Law.

The Child Labor Law provides the following penalties for violations:51

- Second degree misdemeanor, punishable by up to 60 days in prison52 and a $500 fine.53
  - Each day during which any violation of this law continues, and the employment of any minor in violation of the law, constitutes a separate and distinct offense.
- Second degree felony, punishable by up to 15 years in prison,54 a $10,000 fine,55 or up to 30 years in prison for habitual offenders56 any person who:57
  - Takes, receives, hires, employs, uses, exhibits, or, in any manner or under any pretense, causes or permits any child less than 18 years of age to suffer;
  - Inflicts upon any such child unjustifiable physical pain or mental suffering;
  - Willfully causes or permits the life of any such child to be endangered or his or her health to be injured or such child to be placed in such situation that his or her life may be endangered or health injured; or
  - Has in custody any such child for any of these purposes.

The Child Labor Law authorizes DBPR to provide administrative fines not to exceed $2,500 per offense.58 Upon discovery by DBPR that an employer is in violation, it is required to give written notice to the employer specifying the violation, the facts alleged to constitute the violation, and the requirements and time limitations for remedial action. If the employer refuses or fails to comply, DBPR is authorized to seek assessment of the following schedule of fines:59

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49 Section 450.121(1), F.S.
50 Section 450.121(2), F.S.
51 Section 450.141(1), F.S.
52 Section 775.082, F.S.
53 Section 775.083, F.S.
54 Section 775.082, F.S.
55 Section 775.083, F.S.
56 Section 775.084, F.S.
57 Section 450.151, F.S.
58 Section 450.141(2), F.S.
59 R. 61L-2.009, F.A.C.
<table>
<thead>
<tr>
<th>Violation</th>
<th>1st Offense</th>
<th>2nd Offense</th>
<th>3rd and Subsequent Offenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child Labor Poster</td>
<td>Up to $500</td>
<td>Up to $1,000</td>
<td>Up to $1,500</td>
</tr>
<tr>
<td>Employment of Minor</td>
<td>Up to $1,000</td>
<td>Up to $1,500</td>
<td>Up to $2,500</td>
</tr>
<tr>
<td>Proof of Age or Copy of Partial Waiver</td>
<td>Up to $700</td>
<td>Up to $1,200</td>
<td>Up to $2,000</td>
</tr>
<tr>
<td>Employment of Minor in Violation of Beverage law.</td>
<td>Up to $1,000</td>
<td>Up to $1,500</td>
<td>Up to $2,500</td>
</tr>
<tr>
<td>Work Hours or Consecutive Days</td>
<td>Up to $1,000</td>
<td>Up to $1,500</td>
<td>Up to $2,500</td>
</tr>
<tr>
<td>Hazardous Occupation</td>
<td>Up to $1,500</td>
<td>Up to $2,000</td>
<td>Up to $2,500</td>
</tr>
<tr>
<td>Employment of minor in violation of any provision of Child Labor.</td>
<td>Up to $2,500</td>
<td>Up to $2,500</td>
<td>Up to $2,500</td>
</tr>
<tr>
<td>Law or this rule chapter which results in injury or death to minor.</td>
<td></td>
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</tr>
<tr>
<td>Violation of proof of age and identity requirements for Adult Theaters.</td>
<td>Up to $1,000</td>
<td>Up to $2,000</td>
<td>Up to $2,500</td>
</tr>
<tr>
<td>Any other violation of the Child Labor Law or this rule chapter.</td>
<td>Up to $1,000</td>
<td>Up to $1,500</td>
<td>Up to $2,500</td>
</tr>
<tr>
<td>Failure to provide records or documentation upon request.</td>
<td>Up to $500</td>
<td>Up to $1,200</td>
<td>Up to $2,000</td>
</tr>
</tbody>
</table>

**Career Education Exemptions**

Florida’s Child Labor Law specifies that it does not:

- Prevent minors of any age from receiving career education furnished by the U.S., this state, or any county or other political subdivision of this state and duly approved by the Department of Education or other duly constituted authority, nor any apprentice indentured under a plan approved by the Department of Economic Opportunity; or

- Prevent the employment of any minor 14 years of age or older when such employment is authorized as an integral part of, or supplement to, such a course in career education and is authorized by regulations of the district school board of the district in which such minor is employed, provided the employment is in compliance with the provisions of ss. 450.021(4), F.S. and 450.061, F.S.
Exemptions for the employment of student learners 16 to 18 years-of-age provided in s. 450.061, F.S., apply when:

- The student learner is enrolled in a youth vocational training program under a recognized state or local educational authority.
- Such student learner is employed under a written agreement that provides:
  - That the work of the student learner in the occupation declared particularly hazardous shall be incidental to the training.
  - That such work shall be intermittent and for short periods of time and under the direct and close supervision of a qualified and experienced person.
  - That safety instructions shall be given by the school and correlated by the employer with on-the-job training.
  - That a schedule of organized and progressive work processes to be performed on the job shall have been prepared.

Proof of Identity

In order to hire a child to work, the law requires an employer to obtain and keep on record during the entire period of employment proof of the child’s age. Employers who hire minors are also required to post posters notifying minors of the Child Labor Law.

Local Juvenile Curfew Ordinances

Florida authorizes cities and counties to enact their own curfew ordinances for minors under the age of 16. The law provides the following statutory restrictions that do not apply unless they are adopted by a governing body of the county or municipality:

- A minor may not be or remain in a public place or establishment between the hours of 11:00 p.m. and 5:00 a.m. of the following day, Sunday through Thursday, except in the case of a legal holiday.
- A minor may not be or remain in a public place or establishment between the hours of 12:01 a.m. and 6:00 a.m. on Saturdays, Sundays, and legal holidays.
- A minor who has been suspended or expelled from school may not be or remain in a public place, in an establishment, or within 1,000 feet of a school during the hours of 9:00 a.m. to 2:00 p.m. during any school day.

Local curfew ordinances for minors under the age of 16 are allowed to be more or less stringent than the statutory curfew.

These restrictions do not apply to a minor who is:

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60 Section 450.161, F.S.
61 Section 450.045(1), F.S. Such proof must include photocopies of the child’s birth certificate and driver license, an age certificate issued by the district school board of the district in which the child is employed, certifying the child’s date of birth, or a photocopy of a passport or visa which lists the child’s date of birth.
62 Section 450.045(2), F.S.
63 See Section 877.20-877.25, F.S.
64 Section 877.22, F.S.
65 Section 877.25, F.S.
66 Section 877.24, F.S.
- Accompanied by his or her parent or by another adult authorized by the minor’s parent to have custody of the minor.
- Involved in an emergency or engaged, with his or her parent’s permission, in an emergency errand.
- Attending or traveling directly to or from an activity that involves the exercise of rights protected under the First Amendment of the United States Constitution.
- Going directly to or returning directly from lawful employment, or who is in a public place or establishment in connection with or as required by a business, trade, profession, or occupation in which the minor is lawfully engaged.
- Returning directly home from a school-sponsored function, a religious function, or a function sponsored by a civic organization.
- On the property of, or on the sidewalk of, the place where the minor resides, or who is on the property or sidewalk of an adult next-door neighbor with that neighbor’s permission.
- Engaged in interstate travel or bona fide intrastate travel with the consent of the minor’s parent.
- Attending an organized event held at and sponsored by a theme park or entertainment complex as defined in s. 509.013(9), F.S.

A minor in violation must receive a written warning for a first violation. A minor who violates this section after having received a prior written warning is guilty of a civil infraction and must pay a fine of $50 for each violation.67

A minor who violates a curfew and is taken into custody must be transported immediately to a police station or facility operated by a religious, charitable, or civic organization that conducts a curfew program in cooperation with a local law enforcement agency.68

After recording pertinent information about the minor, law enforcement is required to attempt to contact the parent of the minor, and:69
- If successful, request that the parent take custody of the minor and must release the minor to the parent.
- If not able to contact the minor’s parent within 2 hours after the minor is taken into custody, or if the parent refuses to take custody of the minor, the law enforcement agency is authorized to transport the minor to her or his residence or take the child into custody as provided under part IV of chapter 39, F.S.

The parent of a minor who knowingly permits the minor to violate the curfew law is required to receive a written warning for a first violation. A parent who knowingly permits the minor to violate the curfew law after receiving a prior written warning is guilty of a civil infraction and subject to a fine of $50 for each violation.70

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67 Id.
68 Id.
69 Id.
70 Section 877.23, F.S.
III. **Effect of Proposed Changes:**

SB 1596 changes the law regulating work hours for minors.

The bill amends the law to prohibit minors 15 years or younger from working more than 15 hours in any one week *when school is in session*.

The bill changes the time restrictions placed on minors 16 and 17 years of age. Currently, 16 and 17 year-olds may not work before 6:30 a.m. or after 11:00 p.m. The bill provides that 16 and 17 year-olds may not work before 5:30 a.m. or after 12:00 a.m. *when school is scheduled the following day.*

Currently, 16 and 17 year-olds may not work for more than 8 hours in any one day when school is scheduled the following day. The bill provides that 16 and 17 year-olds may not work for more than 8 hours in any one day when school is scheduled the following day, *except when the day of work is on holiday or Sunday.*

The bill also alters requirements for consecutive working days and breaks for minors 17 years old and younger, lowering the age limit to 15 years and younger. Currently, minors 17 years old or younger may not work for more than 6 consecutive days in any one week. The bill provides that minors *15 years old* or younger may not work for more than 6 consecutive days in any one week.

Currently, minors 17 years old or younger may not work for more than 4 hours continuously without an interval of at least 30 minutes for a meal period. The bill provides that minors *15 years old* or younger may not work for more than 4 hours continuously without an interval of at least 30 minutes for a meal period.

The bill provides exemptions from the above restrictions for minors 16 and 17 years of age who are in a home education program or are enrolled in an approved virtual instruction program in which the minor is separated from the teacher by time only. DBPR is allowed to grant a waiver of the restrictions.

Finally, the bill provides that an employer that violates the restrictions commits a violation of the law, punishable as a criminal misdemeanor and subject to a fine, pursuant to s. 450.141, F.S.

The bill provides an effective date of July 1, 2024

IV. **Constitutional Issues:**

A. **Municipality/County Mandates Restrictions:**

   None.

B. **Public Records/Open Meetings Issues:**

   None.
C. Trust Funds Restrictions:
   None.

D. State Tax or Fee Increases:
   None.

E. Other Constitutional Issues:
   None identified.

V. Fiscal Impact Statement:
   A. Tax/Fee Issues:
      None.
   
B. Private Sector Impact:
      The bill may increase the labor available to certain employers.
      The bill may increase labor force participation among 16 and 17-year-old individuals.
      The bill may allow employers to forgo certain scheduling requirements regarding the employment of minors.
   
C. Government Sector Impact:
   None.

VI. Technical Deficiencies:
   None.

VII. Related Issues:
   None.

VIII. Statutes Affected:
   This bill substantially amends section 450.081 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 Burgess

Section 1. Section 450.081, Florida Statutes, is amended to read:

450.081 Hours of work in certain occupations.—
(1) (a) Minors 15 years of age or younger may not be employed, permitted, or suffered to work:
1. Before 7 a.m. or after 7 p.m. when school is scheduled the following day.
2. For more than 15 hours in any one week when school is in session.
(b) On any school day, minors 15 years of age or younger who are not enrolled in a career education program may not be gainfully employed for more than 3 hours, unless there is no session of school the following day.
(c) During holidays and summer vacations, minors 15 years of age or younger may not be employed, permitted, or suffered to work before 7 a.m. or after 9 p.m., for more than 8

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

1. A bill to be entitled
An act relating to the employment of minors; amending s. 450.081, F.S.; removing certain employment restrictions for minors 16 and 17 years of age; revising the certain employment restrictions; authorizing the Department of Business and Professional Regulation to grant waivers of certain employment restrictions; specifying applicable penalties for noncompliant employers; making technical changes; providing an effective date.

2. Words ____ are deletions; words ___ are additions.
by the school superintendent or his or her designee pursuant to
the provisions of s. 1003.21(3).

(c) Minors enrolled in a public educational institution
who qualify on a hardship basis, such as economic necessity or
family emergency. Such determination shall be made by the school
superintendent or his or her designee. Shall make such
determination and issue, and a waiver of hours shall be issued
to the minor and the employer. The form and contents thereof
shall be prescribed by the department.

(d) Minors 16 and 17 years of age who are in a home
education program or are enrolled in an approved virtual
instruction program in which the minor is separated from the
teacher by time only.

(e) Minors employed by their parents, or pages in the
Florida Legislature.

(6) The department may grant a waiver of the restrictions
imposed by this section pursuant to s. 450.095.

(7) The presence of a minor in any place of
employment during working hours is prima facie evidence
of his or her employment therein.

(8) An employer who requires, schedules, or otherwise
causes a minor to be employed, permitted, or suffered to work in
violation of this section commits a violation of the law,
punishable as provided in s. 450.141.

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

SB 1688 adds requirements to improve student awareness of career and technical education opportunities. The bill adds requirements for:

- Strategic planning among local education, workforce, and economic development agencies.
- The collection of data in industry-certified career education programs and career-themed courses.
- Student and parent notifications about available career and professional academies and career-themed courses.

The bill takes effect July 1, 2024.

II. Present Situation:

The Career and Professional Education Act

The Florida Career and Professional Education (CAPE) Act provides a statewide planning partnership between the business and education communities in order to attract, expand, and retain targeted, high-value industry and to sustain a strong, knowledge-based economy.¹

Each district school board must develop, in collaboration with local workforce development boards, economic development agencies, and postsecondary institutions, a strategic three-year plan to address and meet local and regional workforce demands.² The strategic plan must be constructed and based on elements specified in law that are consistent with the goal of enhancing career and professional education.³ The strategic plan must describe in detail provisions for the efficient transportation of students, the maximum use of shared resources, access to courses

¹ Section 1003.491, F.S.
² Section 1003.491(2), F.S.
³ Section 1003.491(3), F.S.
aligned to state curriculum standards through virtual education providers legislatively authorized to provide part-time instruction to middle school students, and an objective review of proposed career and professional academy courses and other career-themed courses to determine if the courses will lead to the attainment of industry certifications included on the CAPE Industry Certification Funding List. Each strategic plan must be reviewed, updated, and jointly approved every three years by the local school district, local workforce development boards, economic development agencies, and state-approved postsecondary institutions.  

The Commissioner of Education (commissioner) is required to conduct an annual review of K-12 and postsecondary career and technical education offerings that, at a minimum, must examine:

- Alignment of offerings with the framework of quality that govern inclusion on the Master Credentials List.
- Alignment of offerings at the K-12 and postsecondary levels with credentials or degree programs identified on the Master Credentials List.
- Program utilization and unwarranted duplication across institutions serving the same students in a geographical or service area.
- Institutional performance measured by student outcomes such as academic achievement, college readiness, postsecondary enrollment, credential and certification attainment, job placement, and wages.

The DOE is responsible for collecting student achievement and performance data in industry-certified career education programs and career-themed courses that includes, but is not limited to, graduation rates, retention rates, Florida Bright Futures Scholarship awards, additional educational attainment, employment records, earnings, industry certification, return on investment, and employer satisfaction.

**CAPE Industry Certification Funding List**

The SBE is required to adopt, at least annually, based on recommendations by the commissioner, the CAPE Industry Certification Funding List that assigns additional full-time equivalent membership to certifications identified in the Master Credentials List that meet a statewide, regional, or local demand.

Certifications included on the CAPE Industry Certification Funding List:

- Require at least 150 hours of instruction; and
- Can be earned in middle and high school.
- Usually require passage of a subject area examination and some combination of work experience, educational attainment, or on-the-job training.

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4 Section 1003.491(2), F.S.
5 Section 1003.491(5)(a), F.S.
6 The Master Credentials List is maintained by the Credentials Review Committee, which is appointed by the State Workforce Development Board, to serve as a public and transparent inventory of state-approved credentials of value. Section 445.004(4)(h)1., F.S.
7 Section 1003.492(3), F.S.
8 Section 1008.44(1), F.S.
9 Rule 6A-6.0576(5)-(6), F.S.
Career and Professional Academies and Career-themed Courses

A “career and professional academy” is a research-based program that integrates a rigorous academic curriculum with an industry-specific curriculum aligned directly to priority workforce needs established by the local workforce development board or the Department of Commerce (DOC).\(^\text{10}\) School districts are required to offer a career and professional academy.\(^\text{11}\)

A “career-themed course” is a course, or a course in a series of courses, that leads to an industry certification identified in the CAPE Industry Certification Funding List.\(^\text{12}\) Career-themed courses have industry-specific curriculum aligned directly to priority workforce needs established by the local workforce development board or the DOC. School districts must offer at least two career-themed courses, and each secondary school is encouraged to offer at least one career-themed course. Students completing a career-themed course must be provided opportunities to earn postsecondary credit if the credit for the career-themed course can be articulated to a postsecondary institution approved to operate in the state.\(^\text{13}\)

Each career and professional academy and secondary school providing a career-themed course is required to:\(^\text{14}\)
- Provide a rigorous standards-based academic curriculum integrated with a career curriculum;
- Consider multiple styles of student learning;
- Promote learning by doing through application and adaptation;
- Maximize relevance of the subject matter;
- Enhance each student’s capacity to excel;
- Include an emphasis on work habits and work;
- Include one or more partnerships with postsecondary institutions through specified articulation agreements, businesses, industry, employers, economic development organizations, or other appropriate partners from the local community.

Each district school board, in collaboration with local workforce development boards, economic development agencies, and state-approved postsecondary institutions, is required to include plans to implement a career and professional academy or a career-themed course in at least one middle school in the district as part of the strategic 3-year plan.\(^\text{15}\)

In the 2021-2022 academic year, there were 10,942 registered career-themed courses and 1,842 registered career and professional academies, which served 197,266 students.\(^\text{16}\)

\(^{10}\) Section 1003.493(1)(a), F.S. In 2023, the Department of Economic Opportunity was renamed the Department of Commerce. Chapter 2023-173, s. 10, Laws of Fla.

\(^{11}\) Section 1003.493(1)(b), F.S.

\(^{12}\) Section 1003.493(1)(b), F.S.

\(^{13}\) Section 1003.493(1)(b), F.S.

\(^{14}\) Section 1003.493(4)(a), F.S.

\(^{15}\) Section 1003.4935(1), F.S.

III. **Effect of Proposed Changes:**

SB 1688 adds requirements to improve student awareness of career and technical education (CTE) opportunities. The bill adds requirements for:

- Strategic planning among local education, workforce, and economic development agencies.
- The collection of data in industry-certified career education programs and career-themed courses.
- Student and parent notifications about available career and professional academies and career-themed courses.

The bill modifies s. 1003.491, F.S., to add to the information required to inform the strategic 3-year plan developed jointly by the local school district, local workforce development boards, economic development agencies, and state-approved postsecondary institutions. The bill adds that the plan must be constructed and based, in part, on strategies to inform and promote the CTE opportunities available in the district to students, parents, the community, and stakeholders.

The bill modifies s. 1003.492, F.S., to align the collection by the DOE of student achievement and performance data in industry-certified career education programs and career-themed courses with the annual review conducted by the Commissioner of Education regarding K-12 and postsecondary CTE offerings.

The bill modifies s. 1003.4935, F.S., to require each district school board inform students and parents during course selection for middle school of the career and professional academy or career-themed courses available within the district.

The bill takes effect July 1, 2024.

IV. **Constitutional Issues:**

A. **Municipality/County Mandates Restrictions:**

   None.

B. **Public Records/Open Meetings Issues:**

   None.

C. **Trust Funds Restrictions:**

   None.

D. **State Tax or Fee Increases:**

   None.

E. **Other Constitutional Issues:**

   None identified.
V. Fiscal Impact Statement:

A. Tax/Fee Issues:
   None.

B. Private Sector Impact:
   None.

C. Government Sector Impact:
   None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1003.491, 1003.492, and 1003.4935.

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 Osgood

A bill to be entitled
An act relating to career-themed courses; amending s. 1003.491, F.S.; revising the requirements for a specified school district strategic plan to include certain information; amending s. 1003.492, F.S.; requiring the Department of Education to include specified data in an annual review of K-12 and postsecondary career and technical education offerings; amending s. 1003.4935, F.S.; requiring school districts to provide specified information to students and parents during middle school course selection; providing an effective date.

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

Section 1. Subsection (3) of section 1003.491, Florida Statutes, is amended to read:

32-00981-24 20241688__
1 An act relating to career-themed courses; amending s.
2 1003.491, F.S.; revising the requirements for a
3 specified school district strategic plan to include
4 certain information; amending s. 1003.492, F.S.;
5 requiring the Department of Education to include
6 specified data in an annual review of K-12 and
7 postsecondary career and technical education
8 offerings; amending s. 1003.4935, F.S.; requiring
9 school districts to provide specified information to
10 students and parents during middle school course
11 selection; providing an effective date.

Florida Career and Professional Education Act.—The Florida Career and Professional Education Act is created to provide a statewide planning partnership between the business and education communities in order to attract, expand, and retain targeted, high-value industry and to sustain a strong, knowledge-based economy.

(3) The strategic 3-year plan developed jointly by the local school district, local workforce development boards, economic development agencies, and state-approved postsecondary institutions must be constructed and based on:

(a) Research conducted to objectively determine local and regional workforce needs for the ensuing 3 years, using labor projections as identified by the Labor Market Statistics Center within the Department of Economic Opportunity and the Labor Market Estimating Conference as factors in the criteria for the plan;

(b) Strategies to develop and implement career academies or career-themed courses based on occupations identified by the Labor Market Statistics Center within the Department of Economic Opportunity and the Labor Market Estimating Conference;

(c) Strategies to provide shared, maximum use of private sector facilities and personnel;

(d) Strategies to ensure instruction by industry-certified faculty and standards and strategies to maintain current industry credentials and for recruiting and retaining faculty to meet those standards;

(e) Strategies to provide personalized student advisement, including a parent-participation component, and coordination with middle grades to promote and support career-themed courses and education planning;

(f) Alignment of requirements for middle school career planning, middle and high school career and professional academies or career-themed courses leading to industry certification or postsecondary credit, and high school graduation requirements;

(g) Provisions to ensure that career-themed courses and courses offered through career and professional academies are academically rigorous, meet or exceed appropriate state-adopted subject area standards, result in attainment of industry certification, and, when appropriate, result in postsecondary credit;
Florida Senate - 2024

(h) Plans to sustain and improve career-themed courses and
career and professional academies;
(i) Strategies to improve the passage rate for industry
certification examinations if the rate falls below 50 percent;
j) Strategies to recruit students into career-themed
courses and career and professional academies which include
opportunities for students who have been unsuccessful in
career-themed courses or a career and professional academy.
School boards shall provide opportunities for students who may
be deemed as potential dropouts or whose cumulative grade point
average drops below a 2.0 to enroll in career-themed courses or
participate in career and professional academies. Such students
must be provided in-person academic advising that includes
information on career education programs by a certified school
counselor or the school principal or his or her designee during
any semester the students are at risk of dropping out or have a
cumulative grade point average below a 2.0;
(k) Strategies to provide sufficient space within academies
to meet workforce needs and to provide access to all interested
and qualified students;
(l) Strategies to implement career-themed courses or career
and professional academy training that lead to industry
certification in juvenile justice education programs;
(m) Opportunities for high school students to earn weighted
or dual enrollment credit for higher-level career and technical
courses;
(n) Promotion of the benefits of the Gold Seal Bright
Futures Scholarship;

Section 3.
Subsection (1) of section 1003.4935, Florida
Statutes, is amended to read:

(o) Strategies to ensure the review of district pupil-
progression plans and to amend such plans to include career-
themed courses and career and professional academy courses and
to include courses that may qualify as substitute courses for
core graduation requirements and those that may be counted as
elective courses;
(p) Strategies to provide professional development for
secondary certified school counselors on the benefits of career
and professional academies and career-themed courses that lead
to industry certification; and
(q) Strategies to redirect appropriated career funding in
secondary and postsecondary institutions to support career
academies and career-themed courses that lead to industry
certification; and
(r) Strategies to inform and promote the career and
technical education opportunities available in the district to
students, parents, the community, and stakeholders.

Section 2. Subsection (3) of section 1003.492, Florida
Statutes, is amended to read:

1003.492 Industry-certified career education programs.—
(3) The Department of Education shall collect student
achievement and performance data in industry-certified career
education programs and career-themed courses as part of the
annual review required under s. 1003.491(5) that includes, but
need not be limited to, graduation rates, retention rates,
Florida Bright Futures Scholarship awards, additional
educational attainment, employment records, earnings, industry
certification, return on investment, and employer satisfaction.

Section 3. Subsection (1) of section 1003.4935, Florida
Statutes, is amended to read:

1003.4935 Florida Bright Futures Scholarship awards, additional
educational attainment, employment records, earnings, industry
certification, return on investment, and employer satisfaction.
177 Statutes, is amended to read:
178 1003.4935 Middle grades career and professional academy
courses and career-themed courses.—
179 (1) Beginning with the 2011-2012 school year, Each district
180 school board, in collaboration with local workforce development
181 boards, economic development agencies, and state-approved
182 postsecondary institutions, shall include plans to implement a
career and professional academy or a career-themed course, as
defined in s. 1003.493(1)(b), in at least one middle school in
the district as part of the strategic 3-year plan pursuant to s.
1003.491(2). The strategic plan must provide students the
opportunity to transfer from a middle school career and
professional academy or a career-themed course to a high school
career and professional academy or a career-themed course
currently operating within the school district. Students who
complete a middle school career and professional academy or a
career-themed course must have the opportunity to earn an
industry certificate and high school credit and participate in
career planning, job shadowing, and business leadership
development activities. The district shall inform students and
parents during course selection for middle school of the career
and professional academy or career-themed course available
within the district.

Section 4. This act shall take effect July 1, 2024.
I. Summary:

SB 1786 revises the educational and experience requirements to be eligible to take the examination for a surveyor and mapper license issued by the Board of Professional Surveyors and Mappers (board) within the Department of Agriculture and Consumer Services (DACS). The bill:

- Allows exiled foreign-trained professionals who have lawfully practiced the profession for three years to substitute their experience for the professional or occupational college degree that is required under current law;
- Specifies that the applicant’s degree must be from a college or university accredited by an accrediting body recognized by the United States Department of Education; and
- Removes the requirement that any of the additional 25 semester hours of study completed not as a part of the bachelor’s degree be approved at the discretion of the board for applicants who have a bachelor’s degree in a course study other than surveying and mapping.

The bill provides additional pathways to qualify to take the licensure examination as follows:

- Allows applicants with a high school diploma or an associate’s degree, who complete 25 semester hours of coursework in surveying and mapping or a related field from an accredited college/university, and has six years of experience (five in responsible charge) as a subordinate to a professional surveyor and mapper, to be able to take the licensure examination.
- Allows applicants who have a valid surveyor and mapper license in another jurisdiction and have two years of experience in the active practice of surveying and mapping in responsible charge to be able to take the licensure examination.
- Allows applicants who have a registered apprenticeship certificate in surveying and mapping from a registered apprenticeship program approved by the United States Department of Education and has two years of experience in responsible charge as a subordinate to a professional surveyor and mapper, to be able to take the licensure examination.
The bill takes effect July 1, 2024.

II. Present Situation:

Land Surveying and Mapping

Chapter 472, F.S., governs the practice of land surveying and mapping in Florida. The Secretary of the Department of Agriculture and Consumer Services (DACS)\(^1\) appoints the nine members of the Board of Professional Surveyors and Mappers (board), subject to confirmation by the Florida Senate.\(^2\) The DACS approves registrations, certificates, and licenses to those persons and businesses that meet all statutory and administrative requirements for licensure.\(^3\) The board is authorized to adopt administrative rules to implement the act, subject to the prior approval of DACS.\(^4\)

Licensed professional surveyors and mappers determine and display the facts of size, shape, topography, tidal datum planes, legal or geodetic location or relation, and orientation of improved or unimproved real property through direct measurement or from certifiable measurement through accepted photogrammetric procedures.\(^5\)

Licensing Examinations

All applicants for licensure must be approved by the board to be eligible to take the licensure examination.\(^6\) An applicant must be of good moral character\(^7\) and satisfy the following educational and experience requirements to be eligible to take the licensure examination:

- A bachelor’s degree in surveying and mapping or in a similarly titled program, with four or more years of work experience under a professional surveyor, with the applicant having been in responsible charge of the accuracy and correctness of the surveying work performed; or
- A bachelor’s degree in a course of study other than surveying and mapping, with six or more years of work experience under a professional surveyor, and for five of those years, the applicant must have been in responsible charge of the accuracy and correctness of the surveying work performed.\(^8\)

Applicants whose course of study was other than surveying and mapping, must meet an additional educational requirement of a minimum of 25 semester hours from a college or university approved by the board in surveying and mapping subjects, or in any combination of

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\(^1\) The regulation of professional surveyors and mappers was transferred in 2009 from the Department of Business and Professional Regulation to DACS. See Ch. 2009-66, ss. 1-30, Laws of Fla. (effective October 1, 2009).

\(^2\) Section 472.007, F.S.

\(^3\) Sections 472.006(10) and 472.015, F.S.

\(^4\) Section 472.008, and Fla. Admin. Code R. 5J-17.001 to 17.210

\(^5\) Section 472.005(3), F.S.

\(^6\) Section 472.013, F.S.

\(^7\) The term “good moral character means “a personal history of honesty, fairness, and respect for the rights of others and for the laws of this state and nation.” See s. 472.013(5)(a), F.S.

\(^8\) Section 472.013(2), F.S.
courses in civil engineering, surveying, mapping, mathematics, photogrammetry, forestry, or land law and the physical sciences.\(^9\)

The board, by rule, is authorized to establish fees for examination.\(^{10}\) The initial application and examination fee must not exceed $125 plus the actual per applicant cost to DACS to purchase the examination from the National Council of Engineering Examiners or a similar national organization.\(^{11}\) The examination fee must be sufficient to cover the cost of obtaining and administering the examination and is refundable if the applicant is found ineligible to sit for the examination; the application fee is nonrefundable.\(^{12}\)

An exiled foreign-trained professional seeking to become a licensed surveyor and mapper is eligible to take the required examination if the exiled professional:

- Immigrated to the United States after leaving their home country because of political reasons, when the home country is located in the Western Hemisphere and does not have diplomatic relations with the United States;
- Applies to DACS and submits a fee;
- Was a resident of Florida immediately preceding the application;
- Demonstrates through submission of documentation to DACS that is verified by the applicant’s respective professional association in exile, that the applicant graduated with an appropriate professional or occupational degree from a college or university, but DACS may not require documentation from the Republic of Cuba;
- Lawfully practiced land surveying and mapping for at least three years;
- Prior to 1980, successfully completed an approved course of study pursuant to chs. 74-105 and 75-177, Laws of Florida, relating to continuing education; and
- Presents a certificate demonstrating the successful completion of a board-approved continuing education program, which offers a course of study that will prepare the applicant for the examination.\(^{13}\)

Upon request of a person who meets the requirements for foreign-trained professionals and submits an examination fee, DACS must conduct a written practical examination, on behalf of the board, that tests the person’s current ability to competently practice the profession in accordance with the actual practice of the profession.\(^{14}\) The fees charged for the examinations must be established by DACS by rule for the board,\(^{15}\) and must be sufficient to develop or to contract for the development of the examination and its administration, grading, and grade reviews.\(^{16}\)

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\(^9\) Section 472.013(2)(b), F.S.


\(^{11}\) Id.

\(^{12}\) Id.

\(^{13}\) Section 472.0101(1), F.S.

\(^{14}\) Section 472.0101(2), F.S. DACS must treat documentary evidence submitted by an exiled professional who is eligible to take the examination as evidence of the applicant’s preparation in the academic and preprofessional fundamentals, and DACS may not examine the applicant on such fundamentals. Id.


\(^{16}\) Section 472.0101(3), F.S.
**Licensure by Endorsement**

The board is required to certify an applicant as qualified for a license by endorsement if the applicant currently holds a valid license to practice surveying and mapping issued by another state or territory of the United States before July 1, 1999, and the applicant:

- Has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 472.013, F.S.; and has a specific experience record of at least eight years as a subordinate to a registered surveyor and mapper in the active practice of surveying and mapping, six years of which must be of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed; or
- Holds a valid license to practice surveying and mapping issued by another state or territory of the United States, if the criteria for issuance were substantially the same as the licensure criteria that existed in Florida at the time the license was issued.\(^\text{17}\)

All applicants for licensure by endorsement must pass the Florida law and rules portion of the examination prior to licensure.\(^\text{18}\)

**III. Effect of Proposed Changes:**

Section 1 amends s. 472.0101, F.S., to authorize exiled foreign-trained professionals who have lawfully practiced the profession for three years to substitute their experience for the professional or occupational college degree that is required under current law.

Section 2 amends s. 472.013, F.S., to revise the educational and experience requirements for an applicant to be eligible to take the surveyor and mapper licensure examination. The bill specifies that the applicant’s degree must be from a college or university accredited by an accrediting body recognized by the United States Department of Education. The bill also removes the requirement that any of the additional 25 semester hours of study completed not as a part of the bachelor’s degree be approved at the discretion of the board for applicants who have a bachelor’s degree in a course study other than surveying and mapping.

The bill creates additional pathways for becoming eligible to take the surveying and mapping licensure exam for applicants who have received:

- An associate degree, completed 25 semester hours of coursework by in surveying and mapping or in any combination of courses in civil engineering, surveying, mapping, mathematics, photogrammetry, forestry, or land law and the physical sciences from an accredited college or university, and has 6 years of experience (5 in responsible charge) as a subordinate to a professional surveyor and mapper;
- A high school diploma or its equivalent, completed 25 semester hours in surveying and mapping subjects or in any combination of courses in civil engineering, surveying, mapping, mathematics, photogrammetry, forestry, or land law and the physical sciences from an accredited college or university, and has 6 years of experience (5 in responsible charge) as a subordinate to a professional surveyor and mapper;

\(^{17}\) Section 472.015(5)(a), F.S.

\(^{18}\) Section 472.015(5)(b), F.S.
• A valid license to practice surveying and mapping in another state, jurisdiction, or territory, and has at least 2 years of experience in the active practice of surveying and mapping in responsible charge; and
• A registered apprenticeship certificate in surveying and mapping from a registered apprenticeship program approved by the Department of Education and has 2 years of experience in responsible charge as a subordinate to a professional surveyor and mapper.

Section 3 provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:
   None.

B. Public Records/Open Meetings Issues:
   None.

C. Trust Funds Restrictions:
   None.

D. State Tax or Fee Increases:
   None.

E. Other Constitutional Issues:
   None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:
   None.

B. Private Sector Impact:
   None.

C. Government Sector Impact:
   Indeterminate. The DACS could see a positive fiscal impact due to the new applicant fees.

VI. Technical Deficiencies:

None.
VII. Related Issues:
None.

VIII. Statutes Affected:
This bill substantially amends sections 472.0101 and 472.013 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 DiCeglie

18-01580A-24

A bill to be entitled
An act relating to professional licensure and
certification; amending s. 472.0101, F.S.; authorizing
the practice of a profession as a substitute for
certain professional or occupational degrees for
certain foreign-trained professionals; amending s.
472.013, F.S.; revising education and work experience
requirements for taking the surveyor and mapper
licensure examination; providing an effective date.

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

Section 1. Subsection (1) of section 472.0101, Florida
Statutes, is amended to read:

472.0101 Foreign-trained professionals; special examination
and license provisions.—

(1) When not otherwise provided by law, the department
shall by rule provide procedures under which exiled
professionals may be examined under this chapter. A person is
eligible for the examination if the exiled professional:
(a) Immigrated to the United States after leaving the
person’s home country because of political reasons, provided the
country is located in the Western Hemisphere and does not have
diplomatic relations with the United States;
(b) Applies to the department and submits a fee;
(c) Was a resident of this state immediately preceding the
person’s application;
(d) Demonstrates to the department, through submission of
documentation verified by the applicant’s respective

CODING: Words strikethrough are deletions; words underlined are additions.
United States Department of Education [board and has a specific experience record of 4 or more years as a subordinate to a professional surveyor and mapper in the active practice of surveying and mapping, which experience is of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed. Work experience acquired as a part of the education requirement may not be construed as experience in responsible charge.

(b) The applicant has received a bachelor’s degree, its equivalent, or higher in a course of study, other than in surveying and mapping, at an accredited college or university accredited by an accrediting body recognized by the United States Department of Education and has a specific experience record of 6 or more years as a subordinate to a registered surveyor and mapper in the active practice of surveying and mapping, 5 years of which shall be of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed. The applicant must have completed a minimum of 25 semester hours from a college or university accredited by an accrediting body recognized by the United States Department of Education approved by the board in surveying and mapping subjects or in any combination of courses in civil engineering, surveying, mapping, mathematics, photogrammetry, forestry, or land law and the physical sciences. Work experience acquired as a part of the education requirement may not be construed as experience in responsible charge.

(c) The applicant has received an associate degree and has a specific experience record of at least 6 years as a subordinate to a professional surveyor and mapper in the active practice of surveying and mapping, at least 5 years of which shall be of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed. The applicant must have completed at least 25 semester hours from a college or university accredited by an accrediting body recognized by the United States Department of Education in surveying and mapping subjects or in any combination of courses in civil engineering, surveying, mapping, mathematics, photogrammetry, forestry, or land law and the physical sciences. Work experience acquired as a part of the education requirement may not be construed as experience in responsible charge.

(d) The applicant has received a high school diploma or its equivalent and has a specific experience record of at least 6 years as a subordinate to a professional surveyor and mapper in the active practice of surveying and mapping, at least 5 years of which shall be of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed. The applicant must have completed at least 25 semester hours from a college or university accredited by an accrediting body recognized by the United States Department of Education in surveying and mapping subjects or in any combination of courses in civil engineering, surveying, mapping, mathematics, photogrammetry, forestry, or
land law and the physical sciences. Work experience acquired as
a part of the education requirement may not be construed as
experience in responsible charge.

(e) The applicant holds a valid license to practice
surveying and mapping in another state, jurisdiction, or
territory, and has at least 2 years of experience in the active
practice of surveying and mapping, which experience is of a
nature indicating that the applicant was in responsible charge
of the accuracy and correctness of the surveying and mapping
work performed.

(f) The applicant has received a registered apprenticeship
certificate in surveying and mapping after completing a
registered apprenticeship program approved by the Department of
Education and has a specified experience record of at least 2
years as a subordinate to a professional surveyor and mapper in
the active practice of surveying and mapping, which experience
is of a nature indicating that the applicant was in responsible
charge of the accuracy and correctness of the surveying and
mapping work performed. Work experience acquired as a part of
the education requirement may not be construed as experience in
responsible charge.

Section 3. This act shall take effect July 1, 2024.
I. Summary:

SB 1448 creates the “Transparency in Social Media Act,” to require each foreign-adversary-owned entity operating a social media platform in Florida to publicly disclose the core functional elements of the social media platform’s content curation and algorithms. The disclosures must identify the following:

- Factors that influence content ranking and visibility;
- Measures taken to address misinformation and harmful content; and
- The process of personalization and targeting of content.

The bill also requires each foreign-adversary-owned entity to make publicly available the source code of its algorithm through an open-source license, as well as implement a user verification system for each user and organization that purchased advertisements concerning social or political issues.

The Department of Legal Affairs is required to enforce the provisions of the bill.

The bill takes effect July 1, 2024.

II. Present Situation:

Internet and Social Media Platforms

There are many ways in which individuals access computer systems and interact with systems and other individuals on the Internet. Examples include:

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1 The United States Department of Commerce has identified China (including Hong Kong), Cuba, Iran, North Korea, Russia, and the Nicolás Maduro regime in Venezuela as foreign adversaries. See 15 CFR § 7.4.
• Social media sites, which are websites and applications that allow users to communicate informally with others, find people, and share similar interests;²
• Internet platforms, which are servers used by an Internet provider to support Internet access by their customers;³
• Internet search engines, which are computer software used to search data (such as text or a database) for specified information;⁴ and
• Access software providers, which are providers of software (including client or server software) or enabling tools for content processing.⁵

Such platforms earn revenue through various modes and models. Examples include:
• Data monetization.⁶ This uses data that is gathered and stored on the millions of users that spend time on free content sites, including specific user location, browsing habits, buying behavior, and unique interests. This data can be used to help e-commerce companies tailor their marketing campaigns to a specific set of online consumers. Platforms that use this model are typically free for users to use.⁷
• Subscription or membership fees. This model requires users pay for a particular or unlimited use of the platform infrastructure.⁸
• Transaction fees. This model allows platforms to benefit from every transaction that is enabled between two or more actors. An example is AirBnB, where users transacting on the site are charged a fee.⁹

Trade Secrets

Generally, trade secrets are intellectual property rights on confidential information that are used by a business and provide an economic advantage to that business.¹⁰

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⁵ 47 U.S.C. § 230(f)(4) defining “access software provider to mean a provider of software (including client or server software), or enabling tools that do any one or more of the following: (i) filter, screen, allow, or disallow content; (ii) pick, choose, analyze, or digest content; or (iii) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.
⁷ Investopedia, How Do Internet Companies Profit with Free Services?, available at https://www.investopedia.com/ask/answers/040215/how-do-internet-companies-profit-if-they-give-away-their-services-free.asp#:~:text=Profit%20Through%20Advertising,content%20is%20through%20advertising%20revenue,&text=Each%20of%20these%20users%20represents,and%20services%20via%20the%20Internet (last visited Jan. 29, 2024).
⁸ HIIS, supra note 6.
⁹ Id.
Section 812.081, F.S., defines a “trade secret” as information used in the operation of a business, which provides the business an advantage or an opportunity to obtain an advantage, over those who do not know or use it. The test provided for in statute, and adopted by Florida courts, requires that a trade secret be actively protected from loss or public availability to any person not selected by the secret’s owner to have access thereto, and be:

- Secret;
- Of value;
- For use or in use by the business; and
- Of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it.

**Penalties**

Florida law criminalizes the disclosure or theft of trade secrets. For example:

- Section 815.04, F.S., makes it a third degree felony for a person to willfully, knowingly, and without authorization disclose or take data, programs, or supporting documentation that are trade secrets that reside or exist internal or external to a computer, computer system, computer network, or electronic device.
- Section 812.081, F.S., makes it a third degree felony for a person to steal, embezzle, or copy without authorization an article that represents a trade secret, when done with an intent to:
  - Deprive or withhold from the trade secret’s owner the control of a trade secret, or
  - Appropriating a trade secret to his or her own use or to the use of another.

**Florida Data Privacy Regulations**

In 2023, the Florida Legislature passed SB 262, which created a unified scheme to allow Florida’s consumers to control the digital flow of their personal information. SB 262 was signed by the Governor on June 6, 2023. Among other things, SB 262 created ch. 501, part V, F.S., which takes effect on July 1, 2024, and gives Florida consumers the right to:

- Confirm and access their personal data;
- Delete, correct, or obtain a copy of that personal data;
- Opt out of the processing of personal data for the purposes of targeted advertising, the sale of personal data, or profiling in furtherance of a decision that produces a legal or similarly significant effect concerning a consumer;
- Opt out of the collection or processing of sensitive data, including precise geolocation data; and

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11 A trade secret may manifest as any scientific, technical, or commercial information, including any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof. Section 812.081, F.S.
12 See, e.g., Sepro Corp. v. Dep’t. of Envt’l. Prot., 839 So. 2d 781 (Fla. 1st DCA 2003).
13 Section 812.081(1)(c), F.S.
14 A third degree felony is punishable by up to 5 years imprisonment and a $5,000 fine. See ss. 775.082 and 775.083, F.S.
15 The offense is a second degree felony if committed for the purpose of creating or executing any scheme or artifice to defraud or to obtain property.
16 See ch. 2023-201, Laws of Fla.
• Opt out of the collection of personal data collected through the operation of a voice recognition or facial recognition feature.

The data privacy provisions of ch. 501, part V, F.S., generally apply to “controllers,” businesses that collect Florida consumers’ personal data, make in excess of $1 billion in global gross annual revenues, and meet one of the following thresholds:
• Derives 50 percent or more if its global gross annual revenues from the online sale of advertisements, including from providing targeted advertising or the sale of ads online;
• Operates a consumer smart speaker and voice command component service with an integrated virtual assistant connected to a cloud computing service that uses hands-free verbal activation; or
• Operates an app store or digital distribution platform that offers at least 250,000 different software applications for consumers to download and install.

A controller who operates an online search engine is required to make available an up-to-date plain language description of the main parameters that are most significant in determining ranking and the relative importance of those main parameters, including the prioritization or deprioritization of political partisanship or political ideology in search results. A controller must also conduct and document a data protection assessment of certain processing activities involving personal data. Additionally, a controller is required to provide consumers with a reasonably accessible and clear privacy notice, updated at least annually.

A violation of ch. 501, part V, F.S is an unfair and deceptive trade practice actionable under ch. 501, part II, F.S., to be enforced by the Department of Legal Affairs (DLA). The DLA may provide a right to cure a violation of ch. 501, part V, F.S., by providing written notice of the violation and then allowing a 45-day period to cure the alleged violation. The DLA is required to make a report publicly available by February 1 each year on the DLA’s website that describes any actions it has undertaken to enforce ch. 501, part V, F.S.

SB 262 also created s. 112.23, F.S., which prohibits employees of a governmental entity from using their position or any state resources to communicate with a social media platform to request that it remove content or accounts. Additionally, a governmental entity cannot initiate or maintain any agreements with a social media platform for the purpose of content moderation. These prohibitions do not apply to routine account maintenance, attempts to remove accounts or content pertaining to the commission of a crime, or efforts to prevent imminent bodily harm, loss of life, or property damage.

**Florida Deceptive and Unfair Trade Practices Act**

**History and Purpose**

The Florida Deceptive and Unfair Trade Practices Act (FDUTPA) became law in 1973. The FDUTPA is a consumer and business protection measure that prohibits unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in trade or

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

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. The Office of the State Attorney may enforce violations of the FDUTPA if the violations take place in its jurisdiction. 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. Consumers may also file suit through private actions.

**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.
- Civil penalties of up to $10,000 per willful violation.

Remedies for private parties are limited to the following:
- A declaratory judgment and an injunction where a person is aggrieved by a FDUTPA violation.
- Actual damages, attorney fees, and court costs, where a person has suffered a loss due to a FDUTPA violation.

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18 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.
19 See s. 501.204(2), F.S.
21 Section 501.203(2), F.S.
22 Id.
23 Section 501.211, F.S.
24 Sections 501.207(1), 501.208, and 501.2075, F.S. Civil Penalties are deposited into general revenue. Section 501.2075, F.S. Enforcing authorities may also request attorney fees and costs of investigation or litigation. Section 501.2105, F.S.
25 Section 501.211(1) and (2), F.S.
Freedom of Speech and Internet Platforms

Section 230

The federal Communications Decency Act (CDA) was passed in 1996 “to protect children from sexually explicit Internet content.” 26 47 U.S. Code § 230 (Section 230) was added as an amendment to the CDA to maintain the robust nature of Internet communication and, accordingly, to keep government interference in the medium to a minimum.” 27

Congress stated in Section 230 that “[i]t is the policy of the United States—(1) to promote the continued development of the Internet and other interactive computer services and other interactive media; [and] (2) to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation.” 28

Specifically, Section 230 states that no provider or user of an interactive computer service may be held liable on account of: 29

- Any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected; or
- Any action taken to enable or make available to information content providers or others the technical means to restrict access to material from any person or entity that is responsible for the creation or development of information provided through any interactive computer service.

Section 230 eased Congressional concern regarding the outcome of two inconsistent judicial decisions, 30 both of which applied traditional defamation law to internet providers. 31 The first decision held that an interactive computer service provider could not be liable for a third party's defamatory statement, however the second decision imposed liability where a service provider filtered content in an effort to block obscene material. 32 To provide clarity, Section 230 provides that “[n]o provider ... of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” 33 In light of the

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31 Force, 934 F.3d at 63 (quoting LeadClick, 838 F.3d at 173).
objectives of Congress, the Circuits are in general agreement that the text of Section 230(c)(1) should be construed broadly in favor of immunity.\textsuperscript{34}

Section 230 specifically addresses how the federal law affects other laws. Section 230 prohibits all inconsistent causes of action and prohibits liability imposed under any state or local law.\textsuperscript{35} Section 230 does not affect federal criminal law, intellectual property law, the Electronic Communications Privacy Act of 1986, or sex trafficking law.

There have been criticisms of the broad immunity provisions or liability shields which force individuals unhappy with third-party content to sue the user who posted it. While this immunity has fostered the free flow of ideas on the Internet, critics have argued that Section 230 shields publishers from liability for allowing harmful content.\textsuperscript{36} Congressional and executive proposals to limit immunity for claims relating to platforms purposefully hosting content from those engaging in child exploitation, terrorism, and cyber-stalking have been introduced.\textsuperscript{37} Bills have been filed that would require internet platforms to have clear content moderation policies, submit detailed transparency reports, and remove immunity for platforms that engage in certain behavioral advertising practices.\textsuperscript{38} Proposals have also been offered to limit the liability shield for internet providers who restrict speech based on political viewpoints.\textsuperscript{39}

Recently, the United States Supreme Court heard Twitter, Inc. v. Taamneh and Gonzalez v. Google; these cases alleged that Twitter and Google aided and abetted terrorists who posted content to their platforms, and a key issue in both cases was whether social media companies can be held liable for their targeted recommendation algorithms.\textsuperscript{40} However, the court decided both cases on alternative grounds, which leaves the question unanswered.

\textbf{Freedom of Speech}

The First Amendment of the United States Constitution protects the right to freedom of expression from government interference. The First Amendment is applicable to the states through the Due Process Clause of the Fourteenth Amendment.\textsuperscript{41} “The First Amendment assures the broadest tolerable exercise of free speech, free press, and free assembly, not merely for religious purposes, but for political, economic, scientific, news, or informational ends as well.”\textsuperscript{42} “Online speech is equally protected under the First Amendment as there is ‘no basis for qualifying the level of First Amendment scrutiny that should be applied’ to online speech.”\textsuperscript{43}

\begin{itemize}
  \item \textsuperscript{34} Force, 934 F.3d at 63 (quoting LeadClick, 838 F.3d at 173).
  \item \textsuperscript{35} 47 U.S.C. § 230(e).
  \item \textsuperscript{37} Id.
  \item \textsuperscript{38} Bedell, supra note 20; PACT Act, S.4066, 116th Cong. (2020); BAD ADS Act, S.4337, 116th Cong. (2020).
  \item \textsuperscript{39} Bedell, supra note 20; Limiting Section 230 Immunity to Good Samaritans Act, S.3983, 116th Cong. (2020).
  \item \textsuperscript{40} See Twitter, Inc. v. Taamneh, 143 S. Ct. 1206 (2023) and Gonzalez v. Google LLC, 143 S. Ct. 1191 (2023).
  \item \textsuperscript{41} See De Jonge v. Oregon, 299 U.S. 353, 364–65(1937)(incorporating right of assembly);(incorporating right of freedom of speech).
  \item \textsuperscript{42} Douglas v. City of Jeannette (Pennsylvania), 319 U.S. 157, 179, (1943) (Jackson, J., concurring in result).
  \item \textsuperscript{43} Reno v. Am. Civil Liberties Union, 521 U.S. 844, 870 (1997).
\end{itemize}
It is well established that 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. The government bears the burden of demonstrating the constitutionality of any such content-based regulation.

The United States Supreme Court has recognized that First Amendment protection extends to corporations. "This protection has been extended by explicit holdings to the context of political speech." Under these precedents, it is well settled that political speech does not lose First Amendment protection "simply because its source is a corporation." Generally, the government may not require a corporation to host another’s speech absent a showing of a compelling state interest.

**Supremacy Clause, Commerce Clause, and Bills of Attainder**

The U.S. Constitution’s Supremacy Clause establishes that federal statutes, treaties, and the U.S. Constitution are the “supreme Law of the Land.” Federal law may preempt state action that thwarts federal law in three ways:

- By an express statement of its intent to occupy a field. Express preemption need not be total, however—it can preempt all state laws or only certain state laws.
- With “a framework of regulation so pervasive that Congress left no room for the States to supplement it or where the federal interest is so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject.”
- Where state law conflicts, leaving an actor to choose whether to adhere to state or federal law. The state law may also be subject to conflict preemption where it “stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.”

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45 *Id.* at 660.
47 *Id.* (citing *NAACP v. Button*, 371 U.S. 415, 428-429 (1963); *Grosjean v. American Press Co.*, 297 U.S. 233, 244 (1936)).
50 U.S. CONST., Art. VI, cl. 2.
The federal government’s authority to act in the realm of foreign affairs is vested by the U.S. Constitution.\textsuperscript{54} State laws that intrude into this field of foreign affairs, even where not preempted by prior federal action, improperly impact foreign affairs and are therefore invalid.\textsuperscript{55} Courts have generally held, however, that the state’s intrusion must have more than an “incidental effect” on foreign affairs in order to be considered an encroachment onto the federal government’s powers.\textsuperscript{56}

Article I, section 8, clause 3 of the U.S. Constitution grants Congress the power to “regulate commerce with foreign nations ....” Conversely, this provision serves as a limitation on states’ authority to encroach onto the realm of foreign commerce where such action creates a risk of conflicts with foreign governments or impedes the federal government’s ability to speak with one voice in regulating industry affairs with foreign states.\textsuperscript{57} The “dormant foreign commerce power”\textsuperscript{58} voids state acts upon foreign commerce because of the Constitution’s overriding concern for national uniformity in foreign commerce—even in instances when Congress has not affirmatively acted.\textsuperscript{59} Courts also generally subject state action to a heightened scrutiny that assumes the supremacy of federal action in the realm of foreign relations.\textsuperscript{60}

Additionally, Congress has the power to regulate commerce among the states.\textsuperscript{61} Though phrased as a grant of regulatory power to Congress, the Commerce Clause has long been understood to have a negative or dormant aspect that denies the states the power to unjustifiably discriminate against or burden the interstate flow of articles of commerce.\textsuperscript{62}

Article I, section 9, of the U.S. Constitution provides that Congress shall pass “No Bill of Attainder or ex post facto Law.” Similarly, Article I, section 10, of the U.S. Constitution prohibits the states from enacting bills of attainder. The Supreme Court has described a bill of attainder as “a law that legislatively determines guilt and inflicts punishment upon an identifiable individual without provision of the protections of judicial trial.”\textsuperscript{63}

\textsuperscript{54} See, e.g., U.S. CONST., Art. I, s. 8 (power to declare war, maintain a military, and regulate foreign commerce); U.S. CONST., Art. II, s. 2 (power to enter into treaties); U.S. CONST., Art. III, s. 2 (power to hear case involving foreign states and citizens).
\textsuperscript{55} Zschernig v. Miller, 389 U.S. 429 (1968); American Ins. Ass’n. v. Garamendi, 539 U.S. 396 (2003) (finding that the President’s powers in foreign policy were so great as to outweigh any need for a direct expression of preemption.)
\textsuperscript{56} Hines v. Davidowitz, 312 U.S. 52, 67 (1941).
\textsuperscript{57} Japan Line v. County of Los Angeles, 441 U.S. 434, 446 (1979).
\textsuperscript{59} United States v. Davila-Mendoza, 972 F.3d 1264 (11th Cir. 2020).
\textsuperscript{60} “The premise […] is that the Commerce Clause analysis is identical, regardless of whether interstate or foreign commerce is involved. This premise […] must be rejected. When construing Congress’ power to ‘regulate Commerce with foreign Nations,’ a more extensive constitutional inquiry is required.” Japan Line at 446.
\textsuperscript{61} U.S. CONST., Art. I, s. 8
\textsuperscript{62} Or. Waste Sys., Inc. v. Dep’t of Envtl. Quality of Or., 511 U.S. 93, 98 (1994).
The International Emergency Economic Powers Act (IEEPA)

The IEEPA gives the President of the United States regulatory authority over a variety of economic transactions in the event of a national emergency that constitutes an unusual and extraordinary threat. As of September 1, 2023, Presidents had declared 69 national emergencies invoking IEEPA, 39 of which are ongoing. Executive Orders 13,873 and 14,034 invoked IEEPA authority in response to concerns about foreign adversaries’ access to American digital data. Executive Order 13,873, references risks posed by foreign adversaries, which the order defines as any foreign government or foreign person “engaged in a long-term pattern or serious instances of conduct significantly adverse” to U.S. security or the safety of U.S. persons. Subsequently, the Department of Commerce identified China (including Hong Kong), Cuba, Iran, North Korea, Russia, and the Nicolás Maduro regime in Venezuela as foreign adversaries.

Florida SB 7072 (2021)

In 2021, the Florida Legislature passed SB 7072, which addressed concerns related to social media platforms. SB 7072 was signed by the Governor on May 24, 2021. Section 501.2041, F.S., was created, which provides that a social media platform must:

- Publish standards used for determining how to censor, deplatform, and shadow ban users, and apply such standards in a consistent manner;

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66 The Supply Chain Rule implements Executive Orders 13873 and 14034, titled Securing the Information and Communications Technology and Services Supply Chain (ICTS). Invoking National Emergencies Act (50 U.S.C. § 1601) and citing the International Emergency Economic Powers Act (50 U.S.C. §1701), then-President Trump declared a national emergency because of the threat of foreign adversaries exploiting vulnerabilities in ICTS. In response to this threat, Executive Order 13873 prohibits transactions involving foreign-owned ICTS that present (1) an undue risk of sabotage or subversion to ICTS in the United States, (2) an undue risk of catastrophic effects on the security or resiliency of critical infrastructure or the digital economy in the United States, or (3) an unacceptable risk to U.S. national security or the security and safety of U.S. persons. The order delegates implementation to the Department of Commerce. In June 2021, President Biden issued Executive Order 14034, which directed the Secretary of Commerce to evaluate the risks posed by connected software applications, commonly called “apps.” The order identified additional criteria for Commerce to consider when evaluating transactions involving apps under the Supply Chain Rule. Factors include the app’s capacity to enable espionage and the sensitivity of data collected. In June 2023, Commerce published a final rule (88 FR 39353), effective July 17, 2023, that expressly includes apps in the definition of ICTS and adds app-specific risk factors to the Supply Chain Rule. See Congressional Research Service, *The Information and Communications Technology and Services (ICTS) Rule and Review Process* (June 22, 2023), available at https://crsreports.congress.gov/product/pdf/IF/IF11760 (last visited Jan. 29, 2024).
68 Id.
69 15 CFR § 7.4.
• Inform each user about any changes to its user rules, terms, and agreements before implementing the changes and not make changes more than once every 30 days;
• Notify a user in a specified manner censoring or deplatforming the user;
• Allow a user to request the number of other individuals who were shown the user’s content or posts, and provide such information upon such request by the user;
• Provide users with an option to opt out of post-prioritization and shadow banning algorithms to allow sequential or chronological posts and content;
• Provide users with an annual notice on the use of algorithms for post-prioritization and shadow banning and reoffer annual notice on the use of algorithms for post-prioritization and shadow banning;
• Ensure that posts by or about candidates for office in Florida are not shadow banned;
• Allow a user who has been deplatformed to access or retrieve all of the user’s information, content, material, and data for at least 60 days after the user receives the required notice; and
• Ensure that journalistic enterprises are not censored, deplatformed, or shadow banned.

In s. 501.2041, F.S., “Social media platform” is defined as any information service, system, Internet search engine, or access software that:
• Provides or enables computer access by multiple users to a computer server, including an Internet platform and/or a social media site;
• Operates as a sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity;
• Does business in Florida; and
• Satisfies at least one of the following thresholds:
  o Annual gross revenues in excess of $100,000,000, as adjusted in January of each odd numbered year to reflect any increase in the Consumer Price Index; or
  o At least 100,000,000 monthly individual platform participants globally.

Section 501.2041, F.S., also provides for enforcement by permitting the Department of Legal Affairs to find a social media platform who fails to comply with the requirements stated above to be in violation of the Florida Deceptive and Unfair Trade Practices Act. Additionally, a user may bring a private cause of action against a social media platform for failing to consistently apply certain standards for censoring or deplatforming without proper notice.

Litigation History

Immediately after the bill was signed by the Governor, but prior to the bill’s effective date of July 1, 2021, the plaintiff filed a complaint in the U.S. District Court for the Northern District of Florida challenging the constitutionality of many of the bill’s provisions and exceptions, and immediately moved the Court for a preliminary injunction. The District Court granted the preliminary injunction on June 30, 2021.70

The filed complaint alleges the following:

70 NetChoice, LLC v. Moody, 546 F. Supp. 3d 1082 (N.D. Fla. 2021) (NetChoice, LLC, and the Computer & Communications Industry Association are trade associations whose members include social media providers).
• Count 1 of the complaint alleges the Act “violates the First Amendment's free-speech clause by interfering with the providers’ editorial judgment, compelling speech, and prohibiting speech.”

• Count 2 alleges the Act “is vague in violation of the Fourteenth Amendment.”

• Count 3 alleges the Act “violates the Fourteenth Amendment's equal protection clause by impermissibly discriminating between providers that are or are not under common ownership with a large theme park and by discriminating between providers that do or do not meet the Act's size requirements.”

• Count 4 alleges the Act “violates the Constitution's dormant commerce clause.”

• Count 5 alleges the Act “is preempted by 47 U.S.C. § 230(e)(3), which, together with § 230(c)(2)(A), expressly prohibits imposition of liability on an interactive computer service—this includes a social-media provider—for action taken in good faith to restrict access to material the service finds objectionable.”

The District Court indicated that the law was not clearly settled related to issues about First Amendment treatment of social-media providers: “The plaintiffs say, in effect, that they should be treated like any other speaker. The State says, in contrast, that social-media providers are more like common carriers, transporting information from one person to another much as a train transports people or products from one city to another. The truth is in the middle.”

The District Court determined that strict scrutiny applied as the standard to be used:

“Viewpoint- and content-based restrictions on speech are subject to strict scrutiny. A law restricting speech is content-based if it “applies to particular speech because of the topic discussed or the idea or message expressed.” Laws that are facially content-neutral, but that cannot be justified without reference to the content of the regulated speech, or that were adopted because of disagreement with the speaker's message, also must satisfy strict scrutiny.”

The District Court enjoined the State from enforcing any provision of s. 501.2041, F.S., on preemption and First Amendment grounds.

The State filed an appeal of the District Court’s decision in the U.S. Court of Appeals for the Eleventh Circuit.

On May 23, 2022, the U.S. Court of Appeals for the Eleventh Circuit affirmed the district court’s preliminary injunction in part, and vacated and remanded it in part.

The Eleventh Circuit found the following provisions of SB 7072, to likely violate the First Amendment:
• Section 106.072(2), F.S., which pertains to candidate deplatforming;

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71 NetChoice, LLC, 546 F. Supp. 3d at 1085.
72 NetChoice, LLC, 546 F. Supp. 3d at 1091.
73 NetChoice, LLC, 546 F. Supp. 3d at 1093.
Section 501.2041(2)(h), F.S., which pertains to the use of algorithms for the purpose of post-prioritization or shadow banning candidates;

Section 501.2041(2)(j), F.S., which pertains to journalistic enterprises;

Section 501.2041(2)(b), F.S., which pertains to the consistent application of censorship, deplatforming, and shadow banning standards;

Section 501.2041(2)(c), F.S., which limits the number of changes that can be made to once every 30 days;

Sections 501.2041(2)(f) and 501.2041(2)(g), F.S., which pertain to categorizing algorithms used for post-prioritization and shadow banning, as well as allowing for user opt-outs; and

Section 501.2041(2)(d), F.S., which pertains to notifying a user when their content is censored or shadow banned.

However, the Eleventh Circuit found the following provisions of SB 7072, to likely not violate the First Amendment:

- Section 501.2041(2)(a), F.S., which pertains to the publication of standards used for determining how to censor, deplatform, and shadow ban;
- Section 501.2041(2)(c), F.S., which pertains to informing users to any changes to its user rules, terms, and agreements before implementing the changes;
- Section 501.2041(2)(e), F.S., which pertains to user view counts;
- Section 501.2041(2)(i), F.S., which pertains to user data access; and
- Section 106.072(4), F.S., which pertains to free advertising for a candidate.75

The United States Supreme Court is set to hear oral arguments on February 26, 2024.

**Effect of Proposed Changes:**

The bill creates s. 501.20411, F.S., to be cited as the “Transparency in Social Media Act.” Additionally, the Legislature finds that:

- Social media platforms play a significant role in shaping public discourse and opinions;
- Algorithms used by social media platforms can influence user behavior and content visibility;
- Transparency in the functioning of such algorithms and in political and social advertising is vital for safeguarding democratic values and user privacy; and
- Ownership of social media platforms by foreign entities can raise concerns regarding foreign influence and data security.

The bill provides the following definitions:

- “Social media platform” means a public online service that allows users to create and share or participate in social networking; and
- “Social or political advertising” means any advertisement on a social media platform that discusses social or political issues or is intended to influence public opinion or electoral outcomes.

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75 *Moody* 34 F.4th 1196.
The bill requires each foreign-adversary owned entity operating a social media platform in Florida to publicly disclose the core functional elements of the social media platform’s content curation and algorithms. The disclosures must identify the following:

- Factors that influence content ranking and visibility;
- Measures taken to address misinformation and harmful content; and
- The process of personalization and targeting of content.

The bill requires each foreign-adversary-owned entity operating a social media platform in Florida to make publicly available the source code of its algorithm through an open-source license.

The bill also requires each foreign-adversary-owned entity operating a social media platform to implement a user verification system for each user and organization that purchased advertisements concerning social or political issues. The system must verify key identifying information, including citizenship, residency, and age of the user or the individuals that own the organization, as applicable. Once verified, the identity of the purchaser of each social or political advertisement must be disclosed with the advertisement.

A foreign-adversary-owned entity operating a social media platform that violates the provisions of this bill is liable up to $10,000 for each discrete violation. The Department of Legal Affairs is given enforcement authority.

The bill takes effect July 1, 2024.

### III. 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:

   See the “Present Situation,” in Section II of this bill analysis.
IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Foreign-adversary-owned entities will be required to implement the provisions in the bill, which includes disclosure requirements and a user verification system.

C. Government Sector Impact:

The Department of Legal Affairs will be required to enforce the provisions in the bill.

V. Technical Deficiencies:

None.

VI. Related Issues:

The definition provided in the bill for “social or political advertising,” is potentially unclear and overbroad.

The bill defines “foreign-adversary-owned entity” as a social media company that is owned or substantially controlled by nationals, governments, or corporations domiciled, incorporated, or otherwise holding residence in a country designated as a foreign adversary under 15 C.F.R. s 7.4. It is unclear what amount or level of ownership is intended by use of “owner,” or what “substantially controlled” means as used in the definition.

Lack of clarity in the definitions could lead to problems in compliance and enforcement.

VII. Statutes Affected:

This bill creates section 501.20411 of the Florida Statutes.

VIII. 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.
A bill to be entitled An act relating to transparency in social media; creating s. 501.20411, F.S.; providing a short title; providing legislative findings; providing definitions; requiring foreign-adversary-owned entities operating social media platforms in the state to publicly disclose specified information in a certain manner; requiring foreign-adversary-owned entities operating social media platforms to implement a user verification system for certain entities; providing penalties; requiring enforcement by the Department of Legal Affairs; providing an effective date.

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

Section 1. Section 501.20411, Florida Statutes, is created to read:

501.20411 Transparency in Social Media Act.—
(1) This section may be cited as the "Transparency in Social Media Act."
(2) The Legislature finds that:
(a) Social media platforms play a significant role in shaping public discourse and opinion.
(b) Algorithms used by social media platforms can influence user behavior and content visibility.
(c) Transparency in the functioning of such algorithms and in political and social advertising is vital for safeguarding democratic values and user privacy.
(d) Ownership of social media platforms by foreign entities can raise concerns regarding foreign influence and data security.
(3) For purposes of this section, the term:
(a) "Algorithm" has the same meaning as in s. 501.2041(1).
(b) "Foreign-adversary-owned entity" means a social media company that is owned or substantially controlled by nationals, governments, or corporations domiciled, incorporated, or otherwise holding residence in a country designated as a foreign adversary under 15 C.F.R. s. 7.4.
(c) "Social media platform" means a public online service that allows users to create and share or participate in social networking.
(d) "Social or political advertising" means any advertisement on a social media platform that discusses social or political issues or is intended to influence public opinion or electoral outcomes.
(4)(a) Each foreign-adversary-owned entity operating a social media platform in the state must publicly disclose the core functional elements of the social media platform’s content curation and algorithms.
(b) The disclosure must identify:
1. The factors that influence content ranking and visibility.
2. Measures taken to address misinformation and harmful content.
3. The process of personalization and targeting of content.
(5) Each foreign-adversary-owned entity operating a social media platform must make publicly available the source code of its algorithms through an open-source license.
(6)(a) Each foreign-adversary-owned entity operating a social media platform must implement a user verification system for each user and organization that purchases advertisements concerning social or political issues. The system must verify key identifying information, including citizenship, residency, and age of the user or the individuals that own the organization, as applicable.

(b) Once verified, the identity of the purchaser of each social or political advertisement must be disclosed with the advertisement.

(7)(a) A foreign-adversary-owned entity operating a social media platform that violates this section is liable up to $10,000 for each discrete violation.

(b) The Department of Legal Affairs shall enforce this section.

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